

The Board of County Commissioners met in regular session on July 28, 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 and in person pursuant to Resolution 2020-007 Setting Forth a Virtual Meeting Policy During a Local Disaster Emergency.**

**A. 9:02 Call to the Public:**

*The "Call to the Public" agenda item is a time when the public may bring forth items of interest or concern. No formal action may be taken on these items during this time due to the open meeting law provision; however, they may be placed on a future posted agenda if action is required.*

**Ridgway Dark Sky Community Designation, Dust Suppressant, Backcountry Use**

Rob Datsko, Ridgway resident, was present to thank the Board for supporting Ridgway's Dark Sky Community Status with a letter of support. He said that Ridgway was successful in the designation. Datsko also thanked the Board for the work regarding dust suppressant on County Rod 12.

Datsko wished to discuss recreational use of Yankee Boy Basin. He requested better signage regarding the prohibition on camping in Yankee Boy Basin. He said that he had destroyed six fire rings and packed out several bags of trash in the last week alone. Datsko requested a larger "No Camping" sign be installed in the area.

Commissioner Tisdell said that the area was managed by the United States Forest Service (USFS) and that people may be camping on privately owned mining claims. He requested that the USFS be asked to increase patrols and education.

The Board agreed to direct staff to follow up with the USFS, and to contact Six Basins Project for possible purchasing of the sign.

Commissioner Tisdell said that the area saw an ever-increasing number of visitors and that continuing to encourage responsible recreation was important to preserve the asset.

**Ballot Initiatives and MS Support Marijuana Cultivation Facility**

George Kerber was present to discuss the Board's intentions to place questions on the November 2020 Ballot and enforcement issues regarding the MS Support marijuana cultivation facility.

First, Kerber recalled that he had asked the Board during the July 14, 2020 meeting if they intended to place a question on the ballot. He said that the Board had entered into the Election Services Agreement as a placeholder. During the July 14, 2020 meeting, Kerber said that the Board had indicated support of the Colorado River Water Conservation District (CRWCD) placing a mill levy increase question on the ballot. Additionally, Commissioner Tisdell had discussed adding a question to "de-Gallagherize" Ouray County.

Second, Kerber said that the MS Support marijuana cultivation facility was out of compliance with the screening requirements of their license. Kerber reported that he noticed the camo netting was falling down on July 23, 2020. He recalled that in October of 2019 the Board met to discuss the screening provisions of the license; as a result, the Board gave the facility 90 days to complete the screening requirements. Kerber said that after the 90 days had expired in January 2020, he informed Land Use staff that the facility was still not screened to the satisfaction of the neighbors. Kerber said that Commissioner Peters had expressed his concern about repeated failures to comply with the screening regulations and eventually voted against the facility's request for an extension due to issues with screening. Kerber said that in June 2020 he had reported that MS Support was in violation of the conditions of their license due to the state of the camo netting. Kerber said that the Board had dismissed his concerns as it had been very windy. Kerber said that the Board's failure to enforce the conditions of the license had resulted in MS Support believing that the County would continue to not enforce the conditions.

Kerber said that the Board would be considering Resolution 2020-023 approving a major modification of premises for MS Support to build out 2,500 square feet of an existing 5,000 foot greenhouse for the purpose of marijuana cultivation. Kerber said that the Resolution offered no protections to prevent the facility operators from requesting more cultivation area or a higher tier license. He asked if the Board would approve the Resolution given the history of non-compliance with the screening requirements.

Commissioner Batchelder asked if Kerber had contacted Land Use Staff regarding the screening compliance complaint. Kerber said that he had not. The Board instructed Hunt to contact the Planning Director with Kerber's complaint.

Commissioner Batchelder said that the CRWCD ballot initiative that Kerber referenced was not a County ballot question. The de-Gallagher question was only briefly discussed by the Board and that there was no County ballot questions under consideration currently.

**Yankee Boy Basin**

Bob Olivier, Six Basins Project, was present to give an update regarding education efforts in the area. He said that the -Yankee Boy Conservation Association (YCBA) was being absorbed by Six Basins Project, but would still continue to provide educational brochures for recreational use in the area. He requested that dust suppressant be applied in the Thistledown Campground area, as usage was high. Olivier noted



that there was an increase in illegal camping and flower picking on public and private land owners. He said that many people claimed they had permission from private landowners to pick flowers or to camp. He suggested that the Board consider adopting an ordinance requiring people camping on private property to have written permission of the property owner.

The Board agreed to direct Hunt to include Olivier's concerns in her notification to the USFS.

Olivier recognized the importance of working with the USFS, but noted that the majority of the property that adjoined County Road 361 and 26 was private.

### **Stage 1 Fire Restrictions**

Commissioner Tisdel said that the County had received a fair amount of rain and that it might warrant lifting the Stage 1 Fire Restrictions currently in place. The Board agreed and deferred the decision to the recommendation of the County Sheriff.

### **More MS Support Marijuana Cultivation Facility Concerns**

Eric Havelick, Melody Lane resident, was present to make comments regarding MS Support. He agreed with George Kerber's points. Additionally, he said that he was present at the home of another Melody Lane resident when a County Land Use staff member made a site visit recently and had pointed out the torn camo netting. Havelick said that the property owners near the cultivation facility would be purchasing equipment and training in order to ensure the facility was in compliance. Havelick said that he had previously measured the noise from the fans at 70 decibels at his driveway.

Scott Bridgman, County Road 22 resident, added that he had been involved in the creation of a website where the neighbors in the area could provide a platform to others in order to inform them of what was going on and the challenges faced.

### **Sheriff Update**

Justin Perry, County Sheriff, said that the County and the USFS had historically collaborated doing patrols of recreational areas. Hunt said that the forest patrols were contingent upon available deputies.

### **B. 9:36 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. Earned Revenue and Expenditures, May 2020:**
  - b. Expenditures through Electronic Benefit Transfers, June 2020:**
  - c. Check Register, June 2020:**
  - d. County Allocation / MOE Report, MAY-20:**

**M/S/P** – *Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve the Earned Revenue and Expenditures, May 2020; Expenditures through Electronic Benefit Transfers, June 2020; Check Register, June 2020; and County Allocation / MOE Report, May-20, and authorized Chair's signature on the certification page.*

*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.*

### **2. Caseload Report:**

The Board agreed that increased usage of Social Services programs was to be expected.

- 3. Request for approval and authorization of Chair's signature on a Purchase of Service Agreement with Uncompahgre Board of Cooperative Educational Services (UnBOCES) for Collaborative Management Coordination and on the Fiscal Impact Form:**

**M/S/P** – *Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve and authorize Chair's signature on a Purchase of Service Agreement with Uncompahgre Board of Cooperative Educational Services (UnBOCES) for Collaborative Management Coordination 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 Tisdel voted in the affirmative.  
Commissioner Peters voted in the affirmative.*

*There was no discussion. Motion passed unanimously.*

Friedrich provided an overview of how CARES Act funding was being utilized within the Social Services Department.

**C. 9:53 Ouray County Public Health Agency Fiber / Broadband Project Update:**

**1. Doug Seacat, Deeply Digital:**

*Jeff Bockes, County IT Manager, and Casey Irving, Deeply Digital, were present.*

Irving reported that Deeply Digital was over 50% completed with blowing the fiber through the conduit. He said that there were remaining items on the punch list to complete. He recognized that there were compacting issues to be resolved on Log Hill Mesa, but that Deeply Digital was working with the County Road and Bridge Inspector to resolve any outstanding issues.

Bockes confirmed that Deeply Digital would be conducting a walk through to develop a final punch list for acceptance of Phase 1 of the project.

**D. 10:06 The Board of County Commissioners convened as the Local Licensing Authority to consider the following item:**

**Request: Request for approval of a Retail Marijuana Store**

**Applicant: JaxCove, LLC (Landowner) Kind Colona, LLC, dba The Kind Castle**

**Location: 55 Hotchkiss Avenue, Colona, CO**

*Bryan Sampson, County Associate Planner, was present.*

Sampson gave a brief history of the property. He said that the Local Licensing Authority had approved a retail marijuana store license for the property in 2015; however, the store never opened. After the previous applicant elected to cease renewal, the license was revoked in January 2019. He said that a new applicant was seeking approval for a retail marijuana store license in the same location. He said that Colorado Department of Transportation (CDOT) had provided some comments regarding the operation, but that the State agency may not have the jurisdiction to comment on the application, as it was accessed by a County Road. Sampson said that if the Board approved the request, staff was recommending the approval of six conditions, as listed in the staff report.

Commissioner Tisdell said that the application materials indicated that the signage for the facility would be addressed through a separate sign permit. He said that it did not appear that the proposed signs would be in compliance with the County's sign regulations due to the fact that they were 32 and 22 square feet. He said that if the proposed square footage was larger than what was allowed, it would have to be changed. Commissioner Peters said that the entry sign appeared to be a free standing sign. Sampson said that there may be a conflict between the various drawings; he noted that the entry sign that resembled a castle would need to be attached to the building.

Commissioner Tisdell said that the sewer system had last been inspected in 2015. He asked if a new inspection was needed. Sampson did not think that new inspection was needed.

Commissioner Peters asked how the number of parking spaces for the facility was determined. Sampson said that the Land Use Code referred to the International Building Code (IBC), which required handicap accessible spaces, but did not require a specified ratio for parking spaces.

Commissioner Batchelder inquired about the jurisdiction issue with CDOT. Viner said that the Colorado State Highway Access Code required a permit if the facility connected to the highway. Viner did not believe that CDOT had jurisdiction over the application as the property was accessed via County Road.

Commissioner Batchelder said that the application included a traffic study done for the previous application. He said the application packet included conflicting number of parking spaces. Additionally, the application referred to the parking area at the back of the building to be accessed by an alley. Commissioner Peters asked for the width of the alleyway. Sampson estimated it was 20-24 feet, as it was a platted alleyway within the Colona Zone.

Commissioner Batchelder invited the applicant to make a presentation.

Chris Hawkins, representing the applicant, stated that the alleyway referenced by Commissioner Batchelder was 20 feet wide. Hawkins said that the access plan showed that patrons would access the facility by entering from County Road 1 and either parking in front or utilizing the alley to park in the back. He said that the remaining area was private property.

Hawkins said that the castle sign at the front of the building was attached to the building. He said that the sign was 32 square feet, as allowed by the sign regulations in the Ouray County Land Use Code. He said that the intent was for the facility to be as visible as possible from the highway.

Hawkins recognized that there had been an issue with a background check with a previous manager. He attested that the individual had been removed from the management structure and would not have a presence at the facility.

Hawkins said that the retail marijuana store was a legal use in the Colona Zone. He explained mitigation techniques regarding odor and ventilation. Hawkins said that the taxes generated from retail sales would benefit the County.

Commissioner Peters inquired to how many employees the facility would have. Hawkins deferred to John Dyet, the owner of the business.

Commissioner Tisdell asked about the signs. He said that it appeared the signs would be illuminated. John Dyet, owner, said that all signage would be attached to the building. He said that the square footage was compliant with the Land Use Code. Dyet said that there would be six employees, and that some planned to live in Colona. Dyet said that employees would carpool to limit impacts on available parking. Dyet added that he was working on some residential leases for employees. Dyet addressed the facility's security plan and odor mitigation.

Commissioner Tisdell clarified that the lease for the facility had not been finalized. Dyet said that a base lease had been completed, but some final details remained, including the renewal term and site improvements.

Commissioner Batchelder asked for public comment.

Commissioner Peters asked if the property owner could clarify the alleyway access.

Craig Jackman, property owner, said that per the terms of the lease, the patrons of the store could utilize the alleyway to access the east and north sides of the building.

Commissioner Batchelder noted that the Local Licensing Authority had received written public comment from Dean Soderquist.

Brian Hoops, Buckhorn Road resident, opposed the application. He did not believe that it met the requirements of Section 7(C)(2) and (12) of Ordinance 2019-001. Additionally, he believed the property to be located in Montrose. Hoops said that Colona was located in Montrose County.

Scott Bridgman, County Road 22 resident, was encouraged by the increase in development in Colona; however, he was concerned about the proposed castle motif, as well as the increase in traffic. He thought that the traffic pattern was going to create an issue. Bridgman said that the area was not designed for parking or traffic related to marijuana businesses. He was also concerned about the impact on the school bus stop located nearby.

Raymond Hotchkiss, Montrose County resident, said that he lived one mile away from the proposed business. He said that Colona had a lot of history and currently housed the Colona Community Church, the Colona Grange, and other businesses. He urged the Board to think about how a marijuana retail store would impact the current uses. He added that there was a medical marijuana retail store just down the road from Colona. He did not think that the proposed business would help the community.

Brian Hoops said that that business would have a negative impact on the community.

Carolyn Dresler, Wild Poppy Drive resident, said that she drove County Road 1 all the time. She echoed Hoops and Bridgman's concern regarding traffic, noting that a large number of drivers currently did not obey the speed limit in the area. Dresler said that it was a significant safety risk. Dresler recognized that while there may be a legal right for the business to exist in the Colona Zone, she would be disappointed if it was approved. She questioned how many marijuana retail stores were needed to satisfy the need in the County.

Hearing no other public comment, Commissioner Batchelder closed public comment.

Commissioner Peters said that he had concerns regarding the parking scheme. He thought that additional information was needed regarding expected traffic, access and parking. Commissioner Batchelder said that the testimony indicated that there were ten parking spaces: five spaces in the front, and five spaces in the back. He said that there may be spaces utilized by employees. Commissioner Peters reiterated that more information was needed. The Board agreed that the 2015 traffic study may be outdated.

Commissioner Tisdell said that additional clarity was needed to how patrons would access parking in the back of the building. Commissioner Tisdell was also concerned about the compatibility of the proposed signage with the Ouray County Land Use Code, particularly regarding the castle motif entrance sign.

The Board agreed to include an additional condition to state that "*Applicant shall be required to pay all applicable sales taxes.*"

The Board agreed that more information was needed regarding the location of the school bus stop in relation to the facility and the parking spaces. Hawkins said that the bus stop was located at the Colona Community Church. Hawkins said that the applicant was accepting of a condition to eliminate the castle structure and would work to come up with a new proposal for signage attached to the building. Furthermore, Hawkins said that the applicant would accept an additional condition to work with the property owner to find an appropriate location offsite for employee parking. Hawkins said that the applicant had no issue maintaining the alleyway.

Jackman said when the traffic study was conducted five years ago it was for the purpose of determining site distance and speed limits; it was not to determine the number of vehicles that could park. Jackman said that the conditions that were present when the study was conducted remained the same currently. Jackman said that the lease specified that the business had the right to utilize the alleyway through Lot 17 for the duration of the lease.

Commissioner Peters suggested that an additional condition be considered specifying that offsite employee parking would be provided and that access through Lot 17 be included in the lease.

The Board discussed the conditions and agreed to review the amended conditions at a future meeting.

**M/S/P** – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to continue consideration of the application to August 4, 2020 at 10:30AM.

*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.*

**11:38 Break:**

**E. 11:43 The Board of County Commissioners convened as the Local Licensing Authority to consider the following item:**

- 1. Request for adoption of Resolution 2020-023 approving an application for “Major Modification” of premises at an existing marijuana cultivation facility located at 255 Melody Lane and owned by MS Support, LLC: (*This application was approved during the June 23, 2020 regular meeting.*)**

Commissioner Batchelder said that some members of the public had expressed dissatisfaction during Call to the Public; however, he noted that the action had already been approved by the Local Licensing Authority, and that the resolution simply memorialized the action.

Commissioner Peters asked if a deed restriction could be considered to limit expansion of the cultivation area. Viner was not sure that it was doable.

Commissioner Batchelder said that the language in the resolution was such that future boards should hesitate to consider changing the restriction. He thought it was a strong statement that the public could rely upon in the future. Commissioner Tisdel agreed. He added that it would restrict future owners from expanding as well.

Commissioner Tisdel did not think that a deed restriction was necessary, as marijuana cultivation was an activity permitted by license.

**M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to adopt Resolution 2020-023 approving an application for “Major Modification” of premises at an existing marijuana cultivation facility located at 255 Melody Lane and owned by MS Support, LLC.**

*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.*

**F. 11:56 The Board of County Commissioners convened as the Local Liquor Licensing Authority to consider the following item:**

- 1. Request for approval and authorization of Chair’s signature on Hotel and Restaurant Liquor License Renewal for Porter & Chessie LLC, DBA County Line Roadhouse:**

**M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve and authorize Chair’s signature on Hotel and Restaurant Liquor License Renewal for Porter & Chessie, LLC, DBA County Line Roadhouse.**

*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.*

**G. 11:57 General Business:**

- 1. Request for award of Excavator Bid:**

**M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to award the Excavator bid to Bobcat of the Rockies for a Bobcat I-85 compact excavator with mulcher attachment in the amount of \$113,599.00, as recommended by staff.**

*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.*

- 2. Review and authorization for County Administrator to work with a financial institution or company for lease purchase financing of heavy equipment:**

Hunt requested that the item be included on a future meeting agenda. The Board agreed.

- 4. Request for approval of warrants:**

**M/S/P** – Motion was made by Commissioner Tisdel 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 Tisdel voted in the affirmative.  
Commissioner Peters voted in the affirmative.

There was no discussion. Motion passed unanimously.

**5. Review and examination by the Board of County Commissioners of the Semi-Annual Report of the Ouray County Treasurer (January 1, 2020-June 30, 2020):**

The Board reviewed and examined the Semi-Annual Report of the Ouray County Treasurer (January 1, 2020-June 30, 2020).

**5. Request for approval of the following minutes:**

- a. June 9, 2020 Minutes – redline:
- b. June 23, 2020 Minutes:
- c. June 30, 2020 Minutes:

The Board agreed to minor amendments to the June 30, 2020 Minutes.

**M/S/P** – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve the June 9, 2020 minutes, June 23, 2020 minutes, and June 30, 2020 minutes as amended.

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.

**6. Request for approval and authorization of Chair's signature on the Ranch at Kettle Creek Boundary Adjustment Plat pursuant to Resolution 2020-015:**

**M/S/P** – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve and authorize Chair's signature on the Ranch at Kettle Creek Boundary Adjustment Plat pursuant to Resolution 2020-015.

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.

**7. Request for approval and authorization of Chair's signature on the Final Plat Amendment of Fairway Pines Estates, Village 6A, Lots V612 and V613 pursuant to Resolution 2020-016:**

Bryan Sampson, Associate Planner, was present.

Commissioner Peters had concerns regarding the plat, including how the general common elements (GCEs) were depicted. He thought that some information had been omitted from the plat. Commissioner Peters requested that the language be standardized, specifically pointing out the references to "non-buildable" and "no build". The Board agreed.

Sampson said that he would direct and review the changes to the plat.

**M/S/P** – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve and authorize Chair's signature on the Final Plat Amendment of Fairway Pines Estates, Village 6A, Lots V612 and V613 pursuant to Resolution 2020-016, as amended with the condition that the plat notes conform to the resolution and that the elements and dimensions are clearly defined, and reviewed by County Planning Staff.

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.

**8. Review/Discussion/Action on CCI Legislative Issue Form Submission(s):**

The Board agreed to the topics as presented and the order in which they were listed for priority.

12:28 Lunch:

- I. 1:02 **The Board of County Commissioners convened as the Board of Appeals to consider the following item (*This item was continued from July 14, 2020*):**
- Applicant:** Noble Heller
- Location:** 1048 Pleasant Valley Drive (Lot #1, Pleasant Valley Vista #2)
- Request:** **The applicant is appealing a decision by Land Use Staff to deny an application to construct a solar array outside of the designated building envelope as shown on the plat recorded at Reception Number 163007:**

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

Commissioner Batchelder reopened the continued public hearing from July 14, 2020. He explained that a copy of the homeowners association (HOA) covenants, conditions and restrictions (CCRs) had been included in the packet, along with a letter from the HOA approving the proposed construction of the solar array. Commissioner Batchelder said that Land Use Staff had provided an updated memo clarifying that the term "building area / designated building area" and "non-building area / designated non-building area" were included in the 1995 version of the Land Use Code and that the terms were synonymous with "building envelope." Commissioner Batchelder said that it was staff's interpretation that no building permit could be issued for structures to be located outside the building envelope. Sampson confirmed that was correct. Commissioner Batchelder said that the solar array would need a building permit as it was considered a structure.

Commissioner Tisdell said that there was uncertainty regarding what the cross hatched area on the plat indicated. He said that the HOA had provided a letter attesting that the solar array was acceptable.

Commissioner Peters referred back to the plat and said that it appeared that the cross hatched area on the plat indicated that it was not included in the buildable area. He agreed that it was not clearly defined.

Commissioner Batchelder said that staff was appropriate in their action to deny the building permit and noted that there were many other similar situations in the County. He said that it was not the Board's intention to set a standard.

Commissioner Batchelder asked Heller if the location specified for the solar array was the best site on the property for the installation. Heller said that it was based on the contractor's suggestion. The Board agreed that, due to the topography of the lot, the location specified was the best location for the array.

Commissioner Peters noted that the plat did not declare where the setbacks were. He said that there were a number of ambiguities on the plat.

Viner pointed out that the plat contained a two acre building envelope. She questioned why the Board believed it could make the building envelope larger than what it was depicted on the plat.

Commissioner Batchelder said that it was his interpretation that the Board was reviewing where buildings could be placed; outside of the designated building envelope no structures could be constructed. He said that the plat lacked specificity regarding whether or not a structure could be built in the specific area. Viner said that Heller had purchased the parcel with a two acre building envelope and that the area could be utilized in any way the owner saw fit, as long as it was within the building envelope. Viner cautioned the Board from creating unintended consequences as there were other plats in the County with similar issues.

Heller confirmed that the PUD process allowed for variations to the underlying Land Use Code when originally platted. Viner confirmed that was correct. Viner said that the HOA could amend the CCRs and Heller could come back to the County and apply for a building permit. Commissioner Batchelder said that it would also require a plat amendment as CCRs could not supersede County Land Use Code.

Heller said that he could not install the solar array on the existing home, as it did not allow for good solar gain; placing the array on other portions of the blue area on the plat would require too much disturbance. He said that the property's legal non-conforming status may affect his ability to sell the property.

After a short discussion, the Board agreed that the appropriate process was to re-plate the area in order to clean up some discrepancies.

Commissioner Batchelder said that while the Board was supportive of the request, it could not be granted.

**M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to deny a request by Noble Heller to construct a solar array outside of the designated building envelope as shown on the plat recorded at Reception Number 163007.**

*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. 2:02 Commissioner/Administrative Reports:**

**Carol Viner, County Attorney, discussed the following:**

- 1) Hot Springs Variance –** Viner reported that the County's variance application to the State for increased capacity at Ouray County area hot springs had been denied.

**Connie Hunt, County Administrator**, discussed the following:

- 1) **COVID-19 Updates** – Hunt said that a part time custodian position was being advertised to assist current County staff with disinfecting at County facilities. She said that she was planning to meet with the Public Health Director to discuss employee needs in that department.

**Commissioner Tisdel** discussed the following:

- 1) **Atlas Mills Remediation Project** – Commissioner Tisdel said that there may be some changes to the Atlas Mills Tailings Remediation project based on comments from the EPA.
- 2) **Opioid Settlement Discussions** – Commissioner Tisdel said that the State had indicated a preference for a regional approach for the funding. He was staying apprised on the discussions.

**Commissioner Batchelder** discussed the following:

- 1) **County Road 24 Speeding** – Commissioner Batchelder reported that he had received several calls regarding speeding vehicles on County Road 24. He said that he had contacted Sheriff Perry and provided some background on the ongoing issue. He requested that Administrative staff follow up to schedule a meeting with local residents.
- 2) **Idardao Houses** – Commissioner Batchelder asked if the Board would be willing to waive the building permit fee associated with the tear down of Idarado House 3. The Board agreed.
- 3) **Mosquito Control** – The Board authorized Hunt to reply to a County resident with information regarding the County's contribution to the Town of Ridgway's mosquito control program.

2:13      **The Board took a short break:**

**J. 2:15      The Board of County Commissioners convened as the Board of Health concerning the following items:**

1. **Request for approval and authorization to issue Public Health Order No. 10 (OCPHA ORDER NO. 10) repealing Ouray County Public Health Agency Order No. 9, and following the Governor's Executive Order D 2020 138, and adding an additional requirement that all persons shall be required to wear a Face Covering while waiting in line to enter any Public Indoor Space or when congregating outside of any Public Indoor Space within Ouray County:**

*Tanner Kingery, County Public Health Director, was present.*

Kingery said that Order No. 10 mirrored State orders, with the added requirement for face covering while waiting in line to enter a public indoor space or when congregating outside any public space within the County.

Commissioner Tisdel said that he was inclined to keep the County's face covering order in place as the State could change its orders. Commissioners Peters and Batchelder understood Commissioner Tisdel's concern, but said they were more inclined to defer to state orders.

Viner said that having the County follow state orders would result in increased compliance, in addition to reducing the burden on County staff.

Commissioner Tisdel requested that the State orders be included as an exhibit. The Board agreed.

Commissioner Batchelder asked for public comment.

Carolina Brown, Ouray County Plaindealer, asked for clarification regarding the face covering on children. Commissioner Batchelder said that children aged ten or older would be required to wear masks.

Bette Maurer, Ouray resident, asked if the face covering requirement changed. Commissioner Batchelder said that masks were still required.

**M/S/P** – *Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve and authorize issuance of Public Health Order No. 10 (OCPHA ORDER No. 10) repealing Ouray County Public Health Agency Order No. 9, and following the Governor's Executive Order D 2020 138, and adding an additional requirement that all persons shall be required to wear a Face Covering while waiting in line to enter any Public Indoor Space or when congregating outside any Public Indoor Space within Ouray County, as amended.*

*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.*

**K. 2:28      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 Attorney to receive legal advice regarding Montrose District Court case, 2019cW3098:**

**M/S/P** – *Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to convene into Executive Session pursuant to C.R.S. 24-6-402(4)(b) for a conference with the County Attorney to receive legal advice regarding Montrose District Court case, 2019cW3098.*

*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.*

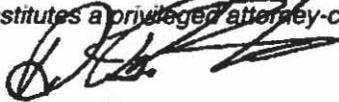
*There was no discussion. Motion passed unanimously.*

**2:29 The Board of County Commissioners convened into executive session:**

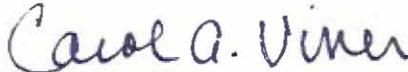
**2:39 The Board of County Commissioners exited executive session:**

Commissioner Batchelder stated that the Board had just exited an executive session; no direction was given and no decisions were made.

*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.*



Don Batchelder, Chair



Carol Viner, County Attorney

**2:40 The Board of County Commissioners adjourned the regular session.**



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

BOARD OF COUNTY COMMISSIONERS  
OF OURAY COUNTY, COLORADO



Don Batchelder, Chair



Ben Tisdel, Vice-Chair



John E. Peters, Commissioner Member