

The Board of County Commissioners met in special session on September 14, 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. 9:01 The Board of County Commissioners convened into an Executive Session pursuant to C.R.S. 24-6-402(4)(b) and (e) for a conference with the County Attorney to receive legal advice and to determine positions relative to negotiations regarding Ouray District Court, Case 2019CV30000:**

Commissioner Batchelder requested that Viner explain the purpose of the executive session. Viner said that some members of the public had raised a concern regarding the sequencing of the settlement, and what would happen when. She wanted to give the Board some legal advice regarding the process.

**M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to enter into Executive Session pursuant to C.R.S. 24-6-402(4)(b) and (e) for a conference with the County Attorney to receive and to determine positions relative to negotiations regarding Ouray District Court, Case 2019CV30000.**

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

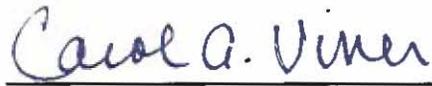
- Commissioner Batchelder voted in the affirmative.
- Commissioner Tisdell voted in the affirmative.
- Commissioner Peters voted in the affirmative.

There was no discussion. Motion passed unanimously.

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

**9:05 The Board of County Commissioners entered into Executive Session:**

**10:15 The Board of County Commissioners exited Executive Session:**

Viner said that the Board had just concluded an executive session: the topic discussed was as announced in the motion.

**B. 10:16 Discussion and Possible Action concerning the following County Road 5 items: (This item was continued from August 26, 2020 and September 1, 2020. Action may be taken on item(s) or may be continued to another meeting date.)**

**1. Partial Settlement Agreement for County Road 5 litigation being Ouray District Court Case No. 19CV30000:**

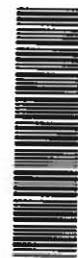
Commissioner Batchelder said that the executive session centered primarily on the components of the agreements and how to ensure that the easements were enforced long term. Viner said that she had advised the Board that, upon acceptance of the settlement, the County and property owners would dismiss the claim. She said that adoption of the Settlement Agreement would result in it becoming an order of the court and the court would retain jurisdiction over enforcement of the terms. She said that if the MMRT was not completed, the property owners would be in contempt of court and would take appropriate action.

Commissioner Batchelder said that the documents would need minor amendments in order to clarify the enforcement. He invited questions or comments from the public.

Tom McKenney, Ridgway resident, asked if and how the documents could be amended in future years. Commissioner Batchelder said that there was a provision in the agreement for modification. Viner said that the documents included a mediation process and the judge would decide; regardless of any changes, the MMRT would continue to exist.

Lynn Padgett, Loghill resident, questioned why the discussion of how the agreement would be enforced had to be done in executive session. Commissioner Batchelder said that the Board had received legal advice and that it was appropriate to do so in an executive session.

Padgett requested that the terminology to grantor, grantee, and parties be standardized. She was concerned about the potential for unintended consequences if a party was misstated.



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Michelle Nauer, Clerk & Recorder

Ouray County, CO

11-18-2020 08:06 AM Recording Fee \$0.00

Viner said that it was unlikely there would be unintended consequences; she said that the parties in the easement were either the grantor or the grantees. She said that the agreements were sophisticated and complicated. Commissioner Tisdel agreed that the documents were complex and that the possibility for mistakes should be avoided. Padgett said that it was very difficult to understand when the names were inconsistent throughout the document. She did not think the documents were sophisticated, but she agreed they were complicated.

Padgett said that there was a reference to real estate law in the Settlement Agreement and asked why it was not a reference to Colorado Revised Statute (CRS). Viner said that the citation was a reference to Colorado Rules of Civil Procedure (CRCP), not real estate law. She explained that it was rule of procedure when people or entities were filing suits against each other. Viner attested that it was procedure and the citation was correct.

Padgett asked what would happen if the County no longer had the resources or elected to not maintain the MMRT. Commissioner Batchelder said that that the current Board was committed to maintain the MMRT, but that it would be necessary for future Boards to elect to do so as well. Commissioner Batchelder said that there would likely be significant community pressure for the County to maintain it. He understood Padgett's point, but said that maintenance of a trail like the MMRT would likely not be hugely expensive; he said that the point of the trail was to simply have a dedicated recreational trail that would remain snow covered.

Padgett asked if it was typical for the County to require a \$10,000 bond for a private party to plow 3.3 miles of road. Commissioner Batchelder said that the County Engineer had indicated that the bond amount was adequate for the activity and the road. Commissioner Batchelder said that mitigating any damage to the road that was caused by plowing would be the responsibility of the Road Association. In the case that the Road Association failed to perform the repairs, the bond would be utilized.

**M/S/P** – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to continue consideration of the item to September 22, 2020 at 1:00PM.

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

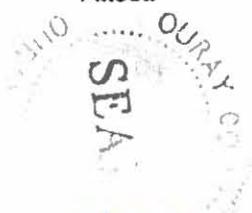
Commissioner Batchelder voted in the affirmative.  
Commissioner Tisdel voted in the affirmative.  
Commissioner Peters voted in the affirmative.

There was no discussion. Motion passed unanimously.

**10:37 The Board adjourned the special session.**

BOARD OF COUNTY COMMISSIONERS  
OF OURAY COUNTY, COLORADO

Attest:



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

Don Batchelder, Chair

Ben Tisdel, Vice-Chair

John E. Peters, Commissioner Member