

The Board of County Commissioners met in regular session on March 24, 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.

Special District Policies, Victim Advocacy, Crime Data

Sue Williamson, Ouray County resident, referenced an April 2017 meeting that she had attended to discuss background checks and issues with special districts. She said that she appreciated that the County had drafted policy requiring background checks; however, she requested that Ouray County accurately report crime data. Williamson further requested that special districts develop policies that protected residents. Additionally, Williamson did not think that the victim advocate program in the County truly advocated for victims.

Commissioner Batchelder said that the Board did not have control over special districts or other elected officials. He asked that Williamson submit in writing her concerns regarding the Sheriff's department and the Board could request that the Sheriff's office respond.

Delinquent Taxes

Jill Mihelich, County Treasurer and Public Trustee, explained that delinquent notices would still be sent in June or July. She said that grace would be given on any payments made in July and August to forgive interest, with the consent of the Special Districts; she expected to contact Special District representatives later in the week. Mihelich explained that partial payments would be accepted in July only. Any payments made in September will include retroactive interest to the date that they were delinquent.

Mihelich said that her office would be limiting in-office personnel to one employee. She requested patience and understanding. She assured the Board that County Treasurers had the authority to accept partial payments for delinquent interest.

The Board thanked Mihelich for willing to be flexible to lessen the impact on tax payers.

County Sheriff Recall Petition

Michelle Nauer, County Clerk and Recorder, reported that she had received a petition to recall the County Sheriff. She said that a bipartisan election judge team would begin verifying signatures. Nauer said that if the petition was found to be sufficient, a mail-ballot election would be held, noting that Colorado was well equipped to handle mail ballot elections; however, as more states were looking to utilize the mail-ballot system, the demand on the vendors was going to increase.

Nauer said that she had two weeks to verify the petition and that she would report back after that had been completed.

Commissioner Peters inquired to the number of signatures submitted. Nauer said it was approximately 1,067.

Commissioner Tisdell asked if the election judge team would be able to adhere to proper social distancing requirements. Nauer said that they could adhere to distancing requirements.

B. 9:18 The Board of County Commissioners convened as the Board of Social Services to consider the following item:

1. **Discussion and possible action regarding use of TANF reserves and fund balance, if needed, during the COVID-19 emergency:**

Carol Friedrich, County Social Services Director, was present.

Friedrich explained that the department had a policy allowing the use of TANF reserves during a declared disaster. She said that the department wanted to be able to support the community and asked for permission to utilize TANF reserves for eligible families. Friedrich proposed utilizing \$68,000 of fund balance and \$50,000 of TANF reserves to serve up to 33 families at the anticipated amount of \$1,500 per family. She said that there were other resources available to non-TANF eligible families and individuals.

M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve the use of TANF reserves and fund balance, if needed during the COVID-19 emergency.

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. 9:27 The Board of County Commissioners convened as the Board of Health to consider the following items:

Tanner Kingery, County Public Health Director, was present.

1. Request for approval of Pre-grant Form for a Rocky Mountain Health Grant to support Women, Infants and Children (WIC) program:

M/S/P – *Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve and authorize Chair's signature on Pre-Grant Form for a Rocky Mountain Health Grant to support Women, Infants and Children (WIC) program.*

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. COVID-19 Update:

Kingery explained that Unified Command was meeting twice daily to report on assigned tasks and recent developments. He said that three public health orders had been issued in Ouray County restricting short term lodging, encouraging social distancing, and closing all bars and restaurants, except for take-out orders. Kingery said that he was working on addressing how to reach the County's senior population and addressing a blood drive request.

Commissioner Tisdel said that he had received a number of calls requesting clarification of a San Juan County order restricting recreational use on Red Mountain Pass. He requested that Unified Command consider implementing a similar policy or guidance requesting that backcountry use be limited. Kingery said that Unified Command had worked with the Ouray County Sheriff to issue a statement encouraging precaution and refrain from risky backcountry activities as it could be unnecessary strain on local first responders.

Commissioner Tisdel said that there was a misunderstanding regarding the shelter-in-place order and the testing that was occurring in San Miguel County. He said that a private company was sponsoring a San Miguel County-wide test for the presence of an antibody; the tests did not necessarily test for the presence of coronavirus.

Kingery explained that the State allocated COVID-19 testing kits based on a formula; he said that as Ouray County did not have any nursing homes or hospitals, it was low on the allocation table for tests. Commissioner Tisdel said that only those exhibiting symptoms and with a doctor's order would qualify for testing.

3. Request for approval and authorization of Chair's signature on Memorandum of understanding for Medical Officer Services:

Kingery explained that the previous Medical Officer was ready to transition out of the role; he said that he had been relying on Dr. Joel Gates with Mountain Medical to provide advice and guidance during the COVID-19 pandemic. Kingery said that he was working with another provider to potentially provide backup services, if needed.

Kingery said that, outside of the COVID-19 pandemic, he anticipated quarterly calls to last 15-30 minutes.

M/S/P – *Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve and authorize Chair's signature on Memorandum of Understanding for Medical Officer Services with Dr. Joel Gates.*

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.

4. Request for adoption of Resolution 2020-008, Amending Resolution 2019-036, Appointing a Public Health Director and a Medical Officer:

M/S/P – *Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to adopt Resolution 2020-008 Amending Resolution 2019-036, appointing a Public Health Director and a Medical Director.*

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 some discussion. Motion passed unanimously.

5. Discussion of Unified Command Structure:

Commissioner Tisdel said that the Board needed to be notified of changes to command and who was responsible for representing the County. He said that it was important for the County Administrator and the Board to be notified of changes so they could help explain how decisions were being made to the public. Commissioner Tisdel felt that the transition to Unified Command was made without input from the Board; he said that he was comfortable with the structure. He encouraged all elected officials to ensure they were up-to-date on ICS trainings, and to do refresher courses. The Board agreed to direct Hunt to get with the County Emergency Manager to ensure that all those involved with incident command and associated policy groups had current certifications.

Commissioner Tisdel suggested that the Board investigate other options for command that had been adopted by counties. He said that he had confidence in the Unified Command system; however, it was important to act quickly if the system was unsatisfactory.

Hunt said that the Board could meet at any time to discuss, as long as notice was provided, and minutes were taken. She had been sharing all meeting recaps and plans with the Board.

The Board agreed to schedule a special meeting on March 20, 2020 for a brief update. The Board directed staff to notify the Board of any changes to the incident command structure.

D. 10:18 Public Hearing – Plat Amendment:

1. Review a recommendation from Staff and the Planning Commission regarding a proposed plat amendment of Fairway Pines Estates Filing 1 – Lot C104:

Mark Castrodale, County Planning Director, was present.

Commissioner Batchelder opened the public hearing and explained the procedures.

Viner stated that the Board had declared a local disaster emergency due to COVID-19 and subsequently passed a resolution to conduct all meetings virtually. She said that the applicant had the right for the application to be heard during an in-person meeting, if they wished; she requested that if the applicant wished to move forward with the virtual hearing, they acknowledge that they were waiving their right to an in-person hearing. Scott Elkins, Authorized Agent, acknowledged that he was waiving the right to an in-person hearing and wished to proceed with the virtual meeting.

Castrodale explained that the request was to clarify whether or not the existing commercial clubhouse had a residential component. Castrodale said that there was clear documentation that the property had always contained a residential component; the plat amendment would solidify the uses for any future owner.

Commissioner Batchelder invited the applicant to make a presentation.

Elkins had nothing else to add.

Commissioner Peters said that he had received several calls and questions regarding what the applicant had planned for the facility. Commissioner Batchelder said that the applicant could respond to the questions, but that it was technically not a part of the application. Elkins said that he was hoping to clean up the property for a local business.

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

MIS/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve a recommendation from Staff and Planning Commission regarding a proposed plat amendment of Fairway Pines Estates Filing 1 – Lot C104.

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.

After the motion carried, Commissioner Tisdel stated that construction was allowed under the Executive Order to shelter-in-place. He said that the Board considering and approving this application demonstrated that the Board encouraged construction activities.

Commissioner Batchelder closed the public hearing.

E. 1040 Parcel Line / Boundary Adjustment:

Application: Parcel Line / Boundary Adjustment pursuant to Section 22 of the Land Use Code

Applicant: Rodger B. Berry, Mary C. Berry, Ken Davis, and Sarah Berry

Location 6867 County Road 1 and S: 14 T: 46 R: 9 NE ¼ NW ¼

Mark Castrodale, County Planning Director, was present.

Castrodale explained that two property owners were seeking to an equal land swap along County Road 1. He said that the action would not affect the current legal non-conforming and legal conforming classification of the parcels. He said that the adjustment was being proposed in order to fix an access issue. Castrodale said staff recommended that the Board approve the request with seven conditions.

Commissioner Tisdel asked if additional provisions were needed to ensure that that County Road right-of-way width was sufficiently wide and addressed in the plat. Commissioner Peters agreed.

Roger Berry, applicant, stated that he did not have any issues defining the County Road right-of-way if needed. He said that he would not have a problem with any adjustments now or in the future. Frank Gabler, representing the applicants, did not anticipate any issues with the right-of-way. He said that he would be requesting that the surveyor revise the plat to include all of the conditions, if the Board approved. Commissioner Peters requested that all easements be located on the plat as well.

The Board agreed to include an additional condition to state: *"The County Road 1 right-of-way, and any known easements, shall be shown on the boundary adjustment plat."* Berry agreed to the additional condition.

Commissioner Batchelder asked if there was any public comment: there was no public comment.

Viner stated that the Board had declared a local disaster emergency due to COVID-19 and subsequently passed a resolution to conduct all meetings virtually. She said that the applicant had the right for the application to be heard during an in-person meeting, if they wished; she requested that if the applicant wished to move forward with the virtual hearing, they acknowledge that they were waiving their right to an in-person hearing. Gabler acknowledged that the applicant was waiving the right to an in-person hearing and wished to proceed.

After a discussion, the Board agreed to amend Condition 6 to change the deadline from two years to one year. The applicant agreed to the amendment.

M/S/P – *Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve a Parcel Line / Boundary Adjustment pursuant to Section 22 of the Land Use Code as applied for by Rodger B. Berry, Mary C. Berry, Ken Davis, and Sarah Berry, located at 6867 County Road 1 and S: 14 T; 46 R:9 NE ¼ and NW 1/4 with an additional condition pertaining to the County Road right-of-way and other easements, and amendment to Condition 6 to reflect a one year deadline.*

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.

11:08 Break:

F. 11:12 **The Board of County Commissioners convened as the Board of Adjustment to consider the following item: (This item was continued from the February 25, 2020 meeting.)**

- 1. Request for approval of a variance from Section 4.2(B) of the Land Use Code for the purpose of construction of two 1,962 square foot dorms or "pods" as applied for by Mountain Top Retreat, OFBC, Inc:**

Mark Castrodale, County Planning Director, was present.

Commissioner Batchelder opened the public Hearing and explained the procedures.

Viner stated that the Board had declared a local disaster emergency due to COVID-19 and subsequently passed a resolution to conduct all meetings virtually. She said that the applicant had the right for the application to be heard during an in-person meeting, if they wished; she requested that if the applicant wished to move forward with the virtual hearing, they acknowledge that they were waiving their right to an in-person hearing. Steve Johnson, representing the applicant Steve Reeves, acknowledged that he was waiving the right to an in-person hearing and wished to proceed with the virtual meeting.

Castrodale explained that the County had approved the use as a summer youth camp in 1979; the use was currently legal non-conforming as it was created legally, but did not comply with current zoning. Castrodale said that the applicant was seeking to construct two 1,962 square foot stick-build "dorm" structures for the purpose of providing overnight / temporary housing for campers and staff. As there was no "retreat" uses allowed by Special Use Permit or Land Use Code the Camp was considered legal, non-conforming, and could not be expanded; therefore the building permit had been denied by staff.

Stephen Johnson, representing Mountaintop Retreat, described the Retreat's location. He explained that the geography and location put the camp in a significant wildfire danger risk. He said that the current structures were very fire prone; the proposed new structures would increase the chance of survival should there ever be a fire. Johnson cited a review from the West Region Wildfire claiming that replacing the current structures would likely result in a potential reduction to the risk of a structure ignition. Johnson said that the request did not propose any expansion or change from the existing non-conforming use.

Steven Reeve, applicant, explained the cost of each unit and said that it was his hope to begin construction in the summer.

Commissioner Tisdel asked if the buildings were tents or buildings. Reeve said that they were stick built buildings.

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

Commissioner Batchelder asked if the Board agreed to the finding that due to the fire danger and existing structures, an exceptional and undue hardship was present; reconstruction of the structures with fireproof buildings would mitigate the danger and hardship. The Board agreed.

Commissioner Tisdell asked if the facility could be classified as a guest ranch or PUD conference center under the Land Use Code. He was concerned that the Board was allowing the conversion of a long-term non-commercial enterprise into a permanent camping structure. Castrodale explained that to classify as a guest ranch, the primary use of the property needed to be as a working ranch, in addition to having 150 contiguous acres. He added that the property did not qualify as a PUD conference center as it did not contain a hotel, restaurant and other outdoor recreational usage.

Commissioner Batchelder said that Commissioner Tisdell's concern regarding setting a precedent was valid as the use was originally approved as a legal use under the existing Land Use Code at the time. The use was now considered legal non-conforming and that use could continue regardless of the structure. He said that there were very few other places where a similar situation existed. Commissioner Peters agreed that the original intent of the facility was identical to how it was being operated currently.

The Board agreed to the following three findings: 1) the application was unique to the County, with continuous use since 1979; 2) the fire danger presented by the state of the current structures and location was an extraordinary and exceptional hardship that could be remedied by replacement with fire-proof structures; and, 3) the authority that granted the use in 1979 was no longer available under the existing Land Use Code.

Viner said that the use would continue to be a legal non-conforming use, even if the variance was approved.

M/S/P – *Motion was made by Commissioner Peters and seconded by Commissioner Tisdell to approve the application for a variance from Section 4.2(B) of the Land Use Code for the purpose of construction of two 1,962 square foot dorms or "pods" as applied for by Mountain Top Retreat, OFBC, Inc with the five conditions proposed by staff, given the three findings agreed to by the Board.*

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.

G. 11:51 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. Request for approval and authorization of Chair's signature on Intergovernmental Agreement and Memorandum of Understanding between Ouray County and Montrose County for Public Road Maintenance for approximately 7.00 miles of Dave Wood Road:

M/S/P – *Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve and authorize Chair's signature on Intergovernmental Agreement and Memorandum of Understanding between Ouray County and Montrose County for Public Road Maintenance for approximately 7.00 miles of Dave Wood Road.*

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.

3. Request for approval and authorization of Chair's signature on 2020 Addendum to Commercial Lease Agreement between Ridgway Fire Protection District (RFPD) and Ouray County [EMS]:

M/S/P – *Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve and authorize Chair's signature on 2020 Addendum to Commercial Lease Agreement between Ridgway Fire Protection District (RFPD) and Ouray County [EMS].*

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.

4. Request for ratification of adoption of Resolution 2020-007 setting forth a Virtual Meeting Policy during a Local Disaster Emergency: (This resolution was approved during the March 17, 2020 meeting.)

Viner suggested that the Board consider modifying paragraph 7 to address quasi-judicial matters. The Board agreed to add the language “*unless the applicant agrees to proceed with the matter in a virtual meeting on the record or in writing.*”

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to ratify approval of Resolution 2020-007 setting forth a Virtual Meeting Policy during a Local Disaster Emergency 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.

5. Request for approval and authorization of Chair’s signature on a Letter of Support for the Ouray County Historical Society’s Museum Rehabilitation Project – Phase 2:

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve and authorize Chair’s signature on a Letter of Support for the Ouray County Historical Society’s Museum Rehabilitation Project – Phase 2.

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. Discussion and request for approval to provide authorization to the Charles Cunniffe Architects, Inc. to proceed with the ordering of window treatments for the Ouray County Courthouse Complex:

Commissioner Tisdel asked if the award could be made to one of the companies in Ouray County, given the economic hardship from the COVID-19 pandemic. Commissioner Batchelder understood Commissioner Tisdel’s point, but said that the lowest bid from an Ouray County-company was 30% higher than the low bid. He said that if the bids were closer, he would be inclined to accept Commissioner Tisdel’s suggestion. Commissioner Peters agreed.

M/S/P – Motion was made by Commissioner Peters and seconded by Commissioner Batchelder to provide authorization to Charles Cunniffe Architects, Inc. to proceed with the ordering of window treatments for the Ouray County Courthouse Complex and authorized the County Administrator’s signature on the order form.

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

Commissioner Batchelder voted in the affirmative.
Commissioner Tisdel was present but declined to vote.
Commissioner Peters voted in the affirmative.

There was no discussion. Motion passed.

7. Request for approval and authorization of Chair’s signature on Amendment No. 2 to Owner/Engineer Agreement for Professional Services with Short Elliott Hendrickson, Inc. (SEH) for Interim Road and Bridge Superintendent Services and on the Fiscal Impact Form:

Hunt said that she had solicited for recruitment firm services to help fill the vacant position. She said the Board could authorize another round of advertisements. The Board agreed.

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve and authorize Chair’s signature on Amendment No. 2 to Owner / Engineer Agreement for Professional Services with Short Elliott Hendrickson, Inc (SEH) for Interim Road and Bridge Superintendent Services 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.

H. 12:13 Commissioner/Administrative Reports:

Commissioner Peters discussed the following:

- 1) **Ouray County Website** – Commissioner Peters discussed the need for a central location for all COVID-19 related updates. The Board agreed to request that Unified Command utilize the County's website as a central location.

12:26 The Board of County Commissioners adjourned the regular session.

Attest:



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 Tisdal, Vice Chair

John E. Peters, Commissioner Member