

The Board of County Commissioners met in special session on August 30, 2004. Those present for the session were Tom Hollenbeck, Chairman; Don Batchelder, Vice-Chairman; Bill Ferguson, Member; Connie I. Hunt, County Administrator, and Linda Munson-Haley, Deputy Clerk of the Board.

- **Note – This meeting was recorded for reference purposes.**

9:30 Chairman Hollenbeck called this session to order:

A. 9:30 Public Hearing:

1. Regarding the Organization of Cornerstone Metropolitan District Nos. 1 and 2 (the District), County of Ouray, State of Colorado:

Those present are listed in Exhibit A.

Gary White, representative for the proponents of the district, presented a packet of material (Applicant Exhibit A-1) that included an executive summary of the district and the final revised version of a service plan. The new revised service plan is a result of a meeting last week with Chris Fellows who is assisting the County in reviewing the service plan. Mr. White explained that there are still some open issues but because of a requirement that the District file a petition in District Court by September 22, 2004 for the November election, he is requesting approval of the service plan with the condition that it would not become effective until such time as an IGA (Intergovernmental Agreement) is drafted and approved by the Board of County Commissioners. He explained that any issues that still need to be addressed could be addressed in the IGA. Sue McIntosh was present and explained that there were not many changes, only changes suggested by Pat Crossley, Ouray County Attorney, and that nothing new had been added. Mr. White also noted that the District would be having a public hearing next week before the Montrose County Commissioners. He reiterated that time is of the essence.

The Board collectively felt that they needed more time for review and to consult with Chris Fellows. Commissioners Ferguson and Batchelder claimed that Mr. Fellows detailed many changes to the service plan in conversations they had with him, and they would not only like to consult with him but have him present at a future meeting.

Sue McIntosh offered several suggestions as to how the Board might proceed while taking into consideration the immediacy of Board action so as not to prejudice the District's ability to get the metro districts set up and at the same time addressing Board concerns. Commissioner Batchelder stated that he would like to see a copy in the form of a resolution, which was presented to him (Applicant Exhibit A-2). Mr. White explained that once the Board approved the service plan any changes that are material in nature would have to go through the public hearing process again. He reiterated that the only issues remaining are minor issues that can be addressed in an IGA and encouraged the Board, once again, to approve the service plan today.

Connie Hunt, County Administrator, suggested continuing the Public Hearing until Tuesday, September 7, 2004 in the morning to give the Commissioners and the County Attorney time to review and meet with Mr. Fellows. The Commissioners suggested a brief recess and asked Ms. Crossley to call Mr. Fellows for direction and to see if he could be present at the continued hearing.

10:00 Commissioner Hollenbeck declared a brief recess and reconvened at 10:15:

Ms. Crossley reported that she spoke with Mr. Fellows and based on their conversation she felt it would be in the best interest of the County to continue the hearing until next Tuesday to allow time for further review.

Commissioner Hollenbeck opened the hearing at this time for public comment.

Heidi Comstock, President of La Tierra Ditch and Reservoir Company, ascertained that water issues addressed in the development agreement were also addressed in the service plan. Ms. McIntosh assured Ms. Comstock that the language regarding the metro district's limitation on condemnation of water rights – that the metro district cannot condemn the water rights – has been incorporated into the service agreement. A discussion followed on water issues.

With no further comment the Board made the following motion.

M/S/P—Motion was made by Commissioner Ferguson to continue the public hearing to 9:30 a.m. on September 7, 2004. Commissioner Batchelder confirmed with Pat Crossley that Chris Fellows would be able to attend. Discussion. Commissioner Batchelder seconded the motion. Motion passed unanimously.

Ms. McIntosh informed the Board that she had made a request for JVRE and John Kuijvenhoven to receive a release of obligation under the development agreement from the County, as provided for in the agreement. If the Board has no objection she will work with Pat Crossley to that end.

Ms. McIntosh introduced Mike Badger, who is the onsite project manager of Cornerstone. She also notified the Board that Brian Wallin is now the Assistant Project Manager for Cornerstone.

10:30 Pat Crossley, County Attorney, requested an executive session with the Board:

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Ferguson to move into Executive Session pursuant to C.R.S. Section 24-6-402(4)(b) for the purpose of receiving legal advice and Section 24-6-402(4)(e) for the purpose of determining positions relative to matters that may be subject to negotiations. Motion carried.

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.

Pat Crossley, County Attorney

Tom Hollenbeck, Chairman

The following were present for the Executive Session: Chairman Hollenbeck; Commissioner Batchelder; Commissioner Ferguson; Connie Hunt, County Administrator; Pat Crossley, County Attorney; Greg Moberg, County Planner; Doug Carright, County Building Inspector; and Linda Munson-Haley, Deputy Clerk of the Board.

M/S/P—Motion was made by Bill Ferguson and seconded by Don Batchelder to adjourn this executive session and return to regular session. Motion carried.

10:40 Chairman Hollenbeck declared a brief recess and reconvened at 10:50:

B. 10:50 General Business:

1. Request for approval of warrants:
2. Request for approval of August 23, 2004 Minutes:

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Ferguson to approve warrants and August 23, 2004 Minutes as presented. Motion passed unanimously.

3. Request for approval and certification of proposed County EMS ballot question:

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Ferguson to approve and certify the proposed County EMS ballot question as presented. Motion passed unanimously.

4. Request for approval of Consulting Agreement with Fellows Financial, Inc., Ouray County, and Montrose County for review of the Cornerstone Metropolitan District Nos. 1 and 2 (*ratification*):

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Ferguson to enter into a Consulting Agreement with Fellows Financial, Inc. and Montrose County for review of the Cornerstone Metropolitan District Nos. 1 and 2 as presented. Motion passed unanimously.

5. Request for adoption of Surplus Property **Resolution 2004-039** disposing of 1992 Ambulance:

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Ferguson to adopt Resolution 2004-039 for the disposal of a 1992 ambulance as surplus property. Motion passed unanimously.

6. Request for approval of Intergovernmental Agreement between the Ouray County Clerk and Recorder and Loghill Village Paving District concerning the administration of the Coordinated General Election for proposed ballot question:

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Ferguson to approve an Intergovernmental Agreement between the Ouray County Clerk and Recorder and Loghill Village Paving District concerning the administration of the Coordinated General Election for a proposed ballot question as presented. Motion passed unanimously.

7. Request for approval and certification of proposed Loghill Village Paving District ballot question and adoption of **Resolution 2004-041**:

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Ferguson to approve and certify the proposed Loghill Village Paving District ballot question and to adopt Resolution 2004-041 as presented. Motion passed unanimously.

8. Request for approval of contract documents for the proposed 2005 paving of certain roads located within the proposed Loghill Village Local Improvement District (LID):

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Ferguson to approve the contract documents for the proposed 2005 paving of certain roads located within the proposed Loghill Village Local Improvement District as presented, and noted that there is language such that if the ballot question does not pass the contract is void. Motion passed unanimously. Ed VonDelden, Loghill Village representative, notified the Board that new maps and a new table were issued and should become part of the original contract and noted in the minutes. At this point Commissioner Batchelder withdrew his motion until the Board has all of the pertinent information they need.

Marvin Sager, resident of Loghill Village, asked for clarification of who is determined to be an eligible voter, how many votes each landowner has, and what constitutes a majority of the vote on the Loghill Village Paving Project.

Dickson Pratt, Loghill Village representative, explained who is eligible to vote and presented a flow chart simplifying the determination of eligible voters (Exhibit B-8a). Each natural person in the district receives one vote, not only property owners but also renters, adult children, etc. who are registered to vote in the state of Colorado. He further explained that the term "natural" refers to a person and not a corporation, trust, or entity.

Mr. Sager questioned the fact that if he owns three lots and is assessed three times the amount, why he has only one vote. Commissioner Batchelder explained that this is determined by the LID as set forth by state law.

Dickson Pratt continued to explain the voting process for out-of-district voters (those who own a lot in the District but live outside of the District), which is different.

A discussion followed regarding assessment of lots that are subdivided after the formation of the District. Commissioner Batchelder said that the issue becomes drafting of legislation that fits within the Land Use Code, because it will have to be adopted as part of the Land Use Code, and a mechanism for tracking it. He suggested that if members of the District think this is viable and reasonable, they ask Paul Sunderland to draft language to put into the Land Use Code to address the issue.

Mr. Sager appealed to the Commissioners to simplify the ballot language so that the average layperson could understand it. It was explained to him that a certain degree of the language is dictated by the Tabor Amendment and cannot be changed.

9. Request for approval and signature on amended Joint Funding Agreement with the USGS (U.S. Geological Survey) for the Uncompahgre River Quality Project:

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Ferguson to approve the Chair's signature on the amended Joint Funding Agreement with the USGS for the Uncompahgre River Quality Project as presented. Motion passed unanimously.

11. Discussion and possible consideration of grant opportunity for wildfire:
(*This item was taken out of order.*)

Alan Staehle was present to discuss a grant opportunity, but wanted to update the Commissioners on other items first.

1. Jack Rowe completed list of wildfire meetings with homeowners and has been recruiting for a group called CERT (Citizen Emergency Response Team).
2. Mr. Rowe has also completed HAZMAT WMD training for six people under the EMS program. They are signed up to be observers at a western region major exercise on September 18 in Montrose.
3. More HAZMAT equipment has been ordered, paid for by the last dollars of the 2003 FEMA grant.
4. He is working on an access contract with the owner of the blowout radio site in anticipation of installing a third repeater there. He is also working with Verizon to share their facility.
5. Boulder County donated a microwave system to Ouray County that was not adequate for them and is technically obsolete but works. He picked it up last week and this will link the repeaters.
6. He discussed a grant opportunity for fire planning and mitigation that closes on September 10, 2004. He will rewrite a previous grant and submit it. Commissioner Batchelder determined that there are in-kind funds but no matching funds.
7. Began issuing radio equipment. He has coordinated volunteers to help with hands-on training of the equipment.
8. Notified the Board of a regional training/planning event in Montrose on September 1, 2004 for CARTSART (County Animal Response Teams and State Animal Response Teams) that he will try to attend.

Mr. Staehle then moved on to the main topic of his discussion: a major fire planning grant opportunity. Federal dollars have been made available through the Department of Homeland Security for wildfire planning and mitigation. Applications are being accepted through the month of September. He continued to explain the details of the grant and how it would affect Ouray County.

He concluded by requesting that the County commit \$8,000, explaining that he does not need the money for 2004, that it could be included in the 2005 budget. Administrative issues were discussed. Commissioner Batchelder stated that the County could obligate up to \$6,000 with a potential for \$8,000 depending on the 2005 budget. Prior to formally entering into this agreement Commissioner Batchelder stated that he would like to have the Board of County Commissioners' approval on the contract, which would allow for further review before finalizing it.

10. Consideration of GOCO Grant Application for Fairgrounds Grandstands and adoption of **Resolution 2004-042**:

Shelli Banks, Fairgrounds Manager, submitted a copy of the GOCO grant application for Commissioner review (Exhibit B-10a). The Commissioners had questions regarding in-kind match from the County and the Community Cash Match, expressing concerns about raising the community matching portion of the grant. Ms. Banks said that an extension could be filed for up to three years if need be.

More discussion was had involving different portions of the Grandstand Replacement Project and possible phasing of the project. The Board suggested that the concession stand and restrooms could be done at a later date.

Heidi Comstock, consultant to the County assisting Ms. Banks, suggested that CDOT at one time had a program to apply for funds for public restrooms at key spots on the highway system. Commissioner Batchelder said that it was worth looking at but would only exacerbate operational maintenance costs.

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Ferguson to adopt Resolution 2004-042 as presented with the understanding that Resolution 2004-042 does nothing to circumvent the concerns and restrictions that were discussed previously and processes that they have to go through. Motion passed unanimously.

12:20 Commissioner Hollenbeck adjourned this regular session:

**Numbered exhibits are maintained separately in the County Administrator's office.*

BOARD OF OURAY COUNTY COMMISSIONERS

ATTEST:

Tom Hollenbeck, Chairman

Michelle Nauer, County Clerk and Recorder

Don Batchelder, Vice Chairman

By: _____
Linda Munson-Haley,
Deputy Clerk of the Board

William Ferguson, Member