

The Board of County Commissioners met in regular session on July 17, 2006. Those present for the session were Heidi M. Albritton, Chair; Don Batchelder, Vice Chair; Kristi R. Westfall, Member; Mary Deganhart, County Attorney; Connie I. Hunt, County Administrator; and Linda Munson-Haley, Deputy Clerk of the Board.

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

**9:00 Commissioner Albritton called this session to order:**

**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.*

No members of the public were present to address the Board.

Connie Hunt, County Administrator, notified the Board that Agenda Items C-2, C-11 and G-2 had been removed from the agenda for today and would be placed on the agenda for next week.

**B. 9:05 Commissioner/Administrative Reports:**

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

- 1) Tri-River Extension is scheduling a Shared Budget Meeting on August 31. Commissioner Batchelder said that he could attend.
- 2) Asked the Commissioners what information they would need for the joint public meeting to discuss the possible Road and Bridge mill levy ballot question. Commissioner Albritton asked to have Chris Miller available to answer questions and to have the engineers available to make a presentation. Besides detailing the need for the mill levy, include what the tax burden would be per scenario broken down between residential and commercial. Connie Hunt will prepare an agenda.
- 3) Handout from Snowy Peak Subdivision asking to make it part of the County maintained road system. Will be placed on a future meeting agenda.
- 4) Mr. Wojciechowski suggested putting names of members of the citizen committees on the County website.
- 5) Commissioner Albritton is the current County contact for CCI and it is time to either reappoint her or appoint someone else. The item will be placed on the July 24, 2006 agenda.

**Linda Munson-Haley**, Clerk of the Board, had nothing to discuss:

**Mary Deganhart**, County Attorney, discussed the following:

- 1) Followup from other meetings. Procedure for dissenting opinion on Planning Commission. She suggested that the opinion be made at the meeting and placed into the record. She will discuss this with the Planning Commission. She also discussed the Loghill Mesa fire tower.

**Commissioner Westfall** discussed the following:

- 1) After last week's discussion on maintenance of the Courthouse she received another call from a member of the public voicing concerns over the lack of care of the Courthouse and grounds. Connie Hunt, County Administrator, explained that action was being taken to remedy the situation.
- 2) Received an email from Brian Kolowich. It will be placed on the July 24, 2006 agenda for discussion.

**Commissioner Batchelder** had nothing to discuss:

**Commissioner Albritton** discussed the following:

- 1) Letter from Charlie Richmond regarding a Western Slope Road Managers Workshop on July 25 at the Holiday Inn Express in Montrose from 8:30-3:30. Eight counties will attend.
- 2) She received a call from Linda Ingo with the Planning Commission concerned about packets. The County Attorney explained why the meeting had been cancelled last week.
- 3) The Build-Out Study presentation by Dr. Theobald. She was confused about the format of the meeting and the process the County is following. The scenarios are not what she was contemplating and she questioned where two of the scenarios originated. She wanted to stress the importance of cluster scenarios and open lands concepts, and to stress the importance of citizen input to Dr. Theobald. She asked to make it clear that the Commissioners want public participation and directed that the Stakeholders Meetings be noticed for the public. A discussion followed. Dr. Theobald will be advised of the concerns and asked to return to discuss the direction of the study with the Commissioners. Sue McIntosh urged the Commissioners to have the dialogue in a public session. Commissioner Batchelder expressed the need to get copies of the draft information at least five to six days prior to the meeting for public and Commissioner review.

**C. 10:10 General Business:**

- 1. Request for approval of warrants:**
- 2. Request for approval of July 10, 2006 minutes:**

The July 10, 2006 Minutes were unavailable and will be presented for approval at the July 24, 2006 meeting.

- 3. Request for adoption of Resolution 2006-050 ratifying the lifting of the Fire Ban:**  
*(Removal of the fire ban was requested by the Sheriff at the July 10<sup>th</sup> Board of County Commissioners meeting. The Board of County Commissioners approved the lifting of the fire ban and is ratifying its decision at the July 17<sup>th</sup> meeting.)*
- 4. Request for adoption of the following resolutions.** These items were considered and approved at the July 10<sup>th</sup> Board of County Commissioners meeting:
  - a. Resolution 2006-051 and 2006-054 – Grant Walker – Lincoln Trust TTEE FBO** (Waterview Cove Preliminary Development Plan and Final Development Plan)
  - b. Resolution 2006-052 – Staton Visual Impact Appeal**
  - c. Resolution 2006-053 – Special Use Permit to install and operate a portable hot mix asphalt plant, Cornerstone Montrose LLC**

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to approve Agenda Items 1 (warrants), 3 (Resolution 2006-050), 4.a. (Resolutions 2006-051 and 2006-052), 4.b. (Resolution 2006-052), and 4.c. (Resolution 2006-053) as presented. There was no discussion. Motion passed unanimously.

- 5. Request for approval of Letter of Intent to the County Clerk and Recorder to place a question on the November 2006 ballot:**

Commissioner Batchelder recommended approval but asked to be clear that the County is proceeding with the Letter of Intent without having made a decision as to whether there will be a ballot question or not. The Commissioners are still investigating the need.

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to approve the Letter of Intent acknowledging Commissioner Batchelder's comment. Discussion. Commissioner Batchelder requested that the language be changed to say that the County "may" submit a ballot question on the November ballot. The motion was amended to approve with the language change. There was no further discussion. Motion passed unanimously.

Mary Deganhart asked to revisit Agenda Item C-4.a. There were blanks that needed to be completed. On Resolution 2006-054 the date for submittal of a performance bond is no later than seven days from the date of action (today), which would be July 24. On the Addendum to Planned Unit Development Agreement for Waterview Cove PUD the amount for the cash bond is \$25,042 on or before July 24, 2006.

The previous motion approving Resolution 2006-054 was amended to include the information detailed above. There was no further discussion. Motion passed unanimously.

- 6. Request for approval of the Hotel and Restaurant Liquor License Renewal for Cowboys Grill:**

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to approve the Hotel and Restaurant Liquor License Renewal for Cowboys Grill as presented. There was no discussion. Motion passed unanimously.

- 7. Request for appointment of Doug Canright to the Road and Bridge Committee:**

Doug Canright was present.

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to approve the appointment of Doug Canright to the Road Committee as presented. There was no discussion. Motion passed unanimously.

- 8. Request for approval and Chair's signature on project change order with HART for additional election equipment. These dollars were budgeted for in the 2006 budget.**

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to approve the Chair's signature on the project change order with HART for additional election equipment as presented. Discussion on the reason for the request. There was no further discussion. Motion passed unanimously.

**9. Request for approval of Amendment to the Letter of Agreement for professional services with KRH Group and Ouray County for the courthouse mini grant:**

**M/S/P**—Motion was made by Commissioner Westfall and seconded by Commissioner Batchelder to approve the amendment to the Letter of Agreement for professional services with the KRH Group for the Courthouse mini grant as presented. There was no discussion. Motion passed unanimously.

**10. Request for approval and Chair's signature on Modification No. One to Participating Agreement with USFS for weed management:**

Ron Mabry was present.

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to approve the Chair's signature on Modification No. One to Participating Agreement with the USFS for weed management as presented. There was no discussion. Motion passed unanimously.

**11. Request for award of Land Use / Road and Bridge Addition Proposal and approval of contract:**

Removed from the agenda and placed on the July 24, 2006 agenda at the County Administrator's request.

**10:17 Commissioner Albritton took a brief recess and reconvened at 10:38:**

**D. 10:38 County Attorney – Six Month Review:**

Mary Deganhart, County Attorney, was present. She asked to place this on the agenda to get feedback from the Commissioners.

The Commissioners were all pleased with Ms. Deganhart's work, her interaction with the public, her input and legal opinions at meetings, her attendance and availability, and asked her to continue to review and make suggestions regarding Land Use Code discrepancies and ambiguities.

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Commissioner Albritton had discussions with Linda Ingo with the Planning Commission regarding intrafamily planned unit developments. Doug Canright noted that references to it had been removed from the Code because there was nothing in the Code other than the references. Commissioner Albritton asked to have more discussions on the viability of putting it back in the Code. She explained that the County is doing housekeeping but not eliminating items.

**10:55 Commissioner Albritton recessed until the next agenda item and reconvened at 11:15:**

**E. 11:15 Montrose, Cornerstone LLC – Wildlife Management Plan Update:**

Sue McIntosh, Environmental Coordinator, and Brian Wallin, Project Manager, were present. Greg Moberg, County Planner, was present.

Ms. McIntosh indicated that the update is a requirement of the Wildlife Management Plan (Plan). The Plan is the same for Ouray County and Montrose County. Cornerstone is in the process of putting together a community ecology and conservation plan, the umbrella document for the Wildlife Management Plan. The intent is to ensure that owners and contractors are educated and understand, as well as are aware of and practicing, green building. Cornerstone has a multifaceted environmental plan. She will be coordinating an environmental team culled from scientists and professionals from across the country and possibly around the world. Cornerstone has worked with Green Space out of Vermont on an integrated golf course management plan and undertaken baseline water quality sampling last year to be monitored on a regular basis. Pesticide use will be minimal and as least toxic as possible. The team is engaged in stream drainage and wetlands restoration work.

Ms. McIntosh discussed the wildlife implementation plan and that it is incumbent upon the Board to monitor and review it on a regular basis. She explained that Boy Scouts will be working with the Cornerstone team on trails to earn merit badges. The team has painstakingly identified building envelopes to avoid riparian areas, wetlands, etc. to avoid habitat fragmentation as much as possible.

She discussed weed management and noted that the weeds on Government Springs Road are not invasive or noxious and will not be treated until the paving is completed. At such time, Cornerstone will revegetate disturbed areas. She will work with Ron Mabry, County Weed Coordinator, to put together a good weed management plan. Cornerstone planted 1,000 Ponderosa pine seedlings this year.

Ms. McIntosh discussed the requirements for motorized vehicles on trails and that Cornerstone will disallow ATV use for purely recreational use. ATVs will be authorized for trail use only to allow residents to take advantage of the amenities of the property.

As far as equestrian management, Cornerstone has modified the Development Agreement to allow a minimal use.

Sara Coulter with the San Juan Corridors Coalition commended Cornerstone for doing an excellent job. She discussed that the annual reporting should be in writing and should include a financial report. Ms. Coulter divulged that she had recommended to Ms. McIntosh that she provide a summary of the credentials of the professionals who would be doing the monitoring and urged an independent review of the results of the data. Cornerstone could provide a model for future developments.

**12:05 Commissioner Albritton recessed for lunch and reconvened at 1:30:**

**F. 1:30 Land Use Items:**

Greg Moberg, County Planner, was present for the Land Use items.

**1. Fisher Canyon North PUD:**

Owner's Name: Fisher Creek Canyon Partners, LTC  
Owner's Agent: John Peters and Associates  
Request: The applicants are requesting approval of a Final Development Plan.  
The proposal is a 12-lot development on approximately 72 acres north of Fisher Canyon South in the South Mesa Zone.  
Location: Sections 24 and 25, Township 46 North, Range 9 West, NMPM, Ouray County, Colorado

John Peters, representative, and Eric Lederer, developer, for Fisher Creek Canyon Partners, LTC, were present.

Greg Moberg discussed the Staff Report and accompanying documentation. He reported that all four conditions of Resolution 2005-051 had been met. The request is for approval of a final plan. He explained that the process requires a developer to apply for a preliminary plan and when it is approved to then apply for a final plan. After completion of construction, the Applicant can apply for final plat. The Planning Commission had five recommendations for approval. The fee in lieu of dedication has been paid. Mr. Moberg recommended that the Board of County Commissioners approve the request with three conditions of the Planning Commission.

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to approve the final development plan for Fisher Creek Canyon Partners as presented with three conditions: (1) The Applicant shall execute a cash bond in the amount of ten (10) percent of the estimated cost of the development; (2) Prior to recording the final plat, all requirements of Section 6.10.D(8) of the Ouray County Land Use Code concerning construction of the PUD shall have been met; and (3) Prior to recording the final plat, all requirements of Section 6.10.D(9) of the Ouray County Land Use Code concerning final PUD approval shall have been met. The cash bond is to be in the amount of \$22,591.61. Discussion. The Applicant asked for a reduction of the amount of the bond since the project is partially completed. Commissioner Batchelder indicated that he was not inclined to give relief of the bond amount. Commissioner Batchelder clarified that issuance of the bond would be within seven days after action taken on the request. There was no further discussion. Motion passed unanimously.

**2. Fairway Pines Estates Filing 4A:**

Applicant: Fairway Pines Sanitation District  
Applicants' Agent: John Moss  
Request: Request to amend the final plat for the previously approved Fairway Pines Estates PUD Filing 4A to correct a technical oversight.  
Location: This portion of the Fairway Pines development is along South Badger Trail and located in Section 31, Township 46 North, Range 8 West and Section 36, Township 46 North, Range 9 West, NMPM, Ouray County, Colorado

John Moss, representative for Fairway Pines Sanitation District, and Carl Conti were present.

Commissioner Westfall asked for a history of the request.

John Moss explained that the Sanitation District (District) had planned to provide service to a group of properties who were interested in having the service and the District was interested in expanding its capability. Because of a misunderstanding and failure on the part of the District to exercise proper oversight, sanitation lines were not installed in the proper easements.

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to approve the amendment to final plat such that the amendment is consistent with all requirements of Section 6 of the Land Use Code, that it is in full compliance with the procedures specified by Section 6 for Planned Unit Development approval, and includes improvements in the proposed alterations or amendments that are consistent with the provisions of Section 7. Discussion. Motion passed unanimously.

**G. 2:06 San Juan Mountain Guides:**

Clint Cook was present.

1. Update:

Clint Cook provided the Board with an update.

2. Request for renewal of Contract:

The contract was withdrawn from the agenda and will be rescheduled for the July 24, 2006 meeting.

Commissioner Batchelder noted that the contract needs to be transferable because of negotiations with the City of Ouray to take over the administration of the Ice Park at some time in the future. He also requested that, prior to finalizing the contract, the County Attorney review it with the City to ensure that the terms are amenable.

Connie Hunt, County Administrator, requested an executive session. Commissioner Batchelder suggested a recess.

**2:15 Commissioner Albritton recessed until 2:30:**

**2:30 Commissioner Albritton reconvened and entertained a motion to go into executive session:**

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to move into Executive Session pursuant to C.R.S. Section 24-6-402(4)(b) for the purpose of receiving legal advice from the County Attorney on a potential litigation matter. 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.*

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Mary Deganhart , County Attorney

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Heidi M. Albritton, Chair

The following were present for the Executive Session: Commissioner Albritton; Commissioner Batchelder; Commissioner Westfall; Mary Deganhart, County Attorney; and Connie Hunt, County Administrator.

The Board has just concluded an executive session during which a discussion occurred relative to C.R.S. Section 24-6-402(4)(b) for the purpose of receiving legal advice from the County Attorney on a potential litigation matter. No formal action was taken during such session.

**2:45 Commissioner Albritton recessed until next agenda item:**

**H. 2:55 Discussion and decision concerning Bob Pohl Parking Proposal:**

Bob Pohl was present. Chris Miller, Road Superintendent, was present.

Chris Hahn, Ridgway resident, spoke in support of the parking area noting that he uses it regularly and feels that it is a wonderful amenity.

Connie Hunt, County Administrator, discussed that the liability would be covered under the County's property and casualty insurance policy.

Mr. Pohl ascertained that the County would plow to the parking area. He offered to donate a 16' cattle guard. He continued to discuss the safety issues that would arise without a parking area when recreationists parked along the sides of the roadway.

A discussion followed regarding fencing and cattle guards.

Chris Miller discussed project priorities.

Commissioner Westfall explained her concern that this would impact the Road and Bridge budget. She added that she was not opposed to the extremely generous offer by Mr. Pohl but was opposed in terms of the budget.

Joe Ryan suggested a phased system to accommodate the budget and the erection of a thief-proof donation box to raise funds.

A discussion followed regarding gravel options to lower the cost, phasing of the project to accommodate budget constraints, and reevaluating the material needs for Road and Bridge to complete scheduled projects.

Chris Miller expressed concern of possible public perception of favoritism. The Board explained that the County was receiving property in exchange for the materials and work.

Commissioner Batchelder discussed that the Code allows for a road maintenance impact fee and a road construction fee. The road construction fee allows, by resolution, the charging of a higher fee when getting a building permit. This would require, however, a Code amendment.

The Board directed the County Attorney to draft an agreement that would stipulate that in accepting the property the County would accept the cattle guard and use pit run gravel only this year and allow for the additional material in the 2007 budget. The work done by Road and Bridge should not negatively impact the work scheduled for the remainder of the summer. Commissioner Batchelder suggested a base of 16" as opposed to 20." The agreement should address the need for signage, County liability, continued maintenance of the parking area, no recreational amenities, a timeframe and the man hours required, and a scope of work. Evidence presented to the Commissioners convinced them that by not taking this step they would create a health and safety issue along the sides of County Road 5. Commissioner Batchelder suggested that the County would maintain the parking area to the same standards as the road. The County Attorney countered that the County should maintain it to a safe level for liability concerns.

Greg Moberg discussed the transference of the property. Mr. Pohl said that he would do the plat.

Paperwork and formal approval was scheduled for July 24, 2006.

**4:00 Commissioner Albritton adjourned the regular session:**

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

OURAY COUNTY BOARD OF COUNTY COMMISSIONERS  
OURAY, COLORADO

ATTEST:

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Michelle Nauer, County Clerk and Recorder

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Heidi M. Albritton, Chair

\_\_\_\_\_  
Don Batchelder, Vice Chair

By: \_\_\_\_\_  
Linda Munson-Haley,  
Clerk of the Board

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Kristi R. Westfall, Member