

The Board of County Commissioners met in special session on December 18, 2006. Those present for the session were Heidi M. Albritton, Chair; Don Batchelder, Member; Kristi R. Westfall, Member; Mary Deganhart, County Attorney; Connie I. Hunt, County Administrator; and Linda Munson-Haley, Clerk of the Board.

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

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.

Section 30 Input for Planning Commission

Ken Lipton presented a letter to the Board of County Commissioners relative to a draft of Section 30 of the Land Use Code, and asked that it be attached to the Board’s recommendation to the Planning Commission. The letter requested that the Commissioners direct Planning Commission to review and consider the points presented in the letter.

Commissioner Batchelder explained that the Commissioners would submit the letter with the understanding that it is from Mr. Lipton and does not necessarily represent the sentiment of the Commissioners.

Commissioner Westfall added that Mr. Lipton’s comments were premature but that she had no problem passing them along to the Planning Commission. She encouraged Mr. Lipton to present his ideas at the more appropriate public hearings and work sessions that would be held by the Planning Commission.

Letter regarding Land Donation to the Log Hill Mesa Fire Protection District (LHMFPD):

Mel Bower, whose family has property on Loghill Mesa on CR1, presented a letter to the Board. He urged the Commissioners to read the letter before the noticed Executive Session at noon [see Agenda Item H for formal submittal].

B. 9:08 Certification of Mill Levies for 2007:

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to certify the mill levies for 2007 as presented. Discussion. Commissioner Batchelder questioned the increase for the Town of Ridgway. Connie Hunt explained that the figures came directly from the Town. She took what the Town gave her, checking only the math. There was no further discussion. Motion passed unanimously.

C. 9:35 General Business:

1. **Request for approval of warrants:**
2. ~~Request for approval of December 11 and 12, 2006 minutes:~~
These minutes will be presented at the next regularly scheduled Commissioner meeting.
3. **Request for adoption of Resolution 2006-097 setting the amount of the sureties for the Ouray County Treasurer and Public Trustee:**
4. **Request for adoption of Resolution 2006-098 approving the Sheriff’s bond:**
5. **Request for adoption of Resolution 2006-099 approving Amendments to the Ouray County Land Use Code, Sections 3, 24, and 15, ratifying action taken by the Board on December 12, 2006:**
6. **Request for approval and authorization of Chair’s signature on the Elk Mountain Resort Hotel and Restaurant Liquor License renewal:**
7. **Request for approval of Facilities Manager’s signature on Water Service Line Thawing Agreement with the City of Ouray:**
8. **Request for approval of letter concerning the naming of the new Boulder County Communications Center (ratification of Chair’s signature):**
9. **Request for approval and authorization of Chair’s signature on County Road 14 Agreement:**

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to approve Agenda Items C-1, and C-3 through C-9 [warrants; Resolution 2006-097 setting the amount of sureties for the Ouray County Treasurer and Public Trustee; Resolution 2006-098 approving the Sheriff’s bond; Resolution 2006-099 approving amendments to Sections 3, 15 and 24 of the Ouray County Land Use Code ratifying action taken previously; authorization of the Chair’s signature on the Elk Mountain Resort Hotel and Restaurant Liquor License renewal; the Facilities Manager’s signature on a Water Service Line Thawing Agreement with the City of Ouray; a letter of support regarding the naming of the new Boulder County Communications Center; and authorization of the Chair’s signature on a County Road 14 Agreement] as presented. Discussion. Commissioner Westfall asked if there had been any discussion on Item 9 and Ms. Deganhart explained that she drafted the agreement based on conversations with Chris Miller earlier in the year. The agreement has been forwarded to Mr. Gilham. Ms. Deganhart advised that the Board could approve and sign the agreement

with the understanding that there may be changes once Mr. Gilham reviews it. There was no further discussion. Motion passed unanimously.

10. Request for approval of letter to Planning Commission regarding review of proposed amendments to Section 30 of the Ouray County Land Use Code:

Commissioner Batchelder drafted a letter dated December 18, 2006 with recommendations to the Planning Commission regarding Section 30 of the Land Use Code.

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to approve the letter to the Planning Commission as presented. There was no discussion. Motion passed unanimously.

~~11. Request for adoption of Resolution 2006-100 regarding disbursement of Federal and Motor Vehicle Funds Monies:
This item will be presented at a future Commissioner meeting.~~

12. Request for adoption of Resolution 2006-101 authorizing the County Administrator to approve and sign county housekeeping items:

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to approve Resolution 2006-101 authorizing the County Administrator to approve and sign County housekeeping items not to exceed \$2,500. There was no discussion. Motion passed unanimously.

D. 9:20 Wayne Cooley, Area Director, CSU Cooperative Extension: (Initially scheduled for 10:00)

1. Introduction and distribution of survey:

Wayne Cooley introduced himself and asked the Board to complete a statewide Commissioner satisfaction survey. The deadline for completion is January 19, 2007.

Mr. Cooley discussed the revised organizational chart and noted that the Cooperative Extension Office, which had always been under the Dean of Agriculture, is now under the Vice President for Outreach & Strategic Partnerships. The Vice President for Outreach & Strategic Partnerships announced his intention to visit every extension office in the state. He will be in Montrose County on January 27, 2006 from 2-4 p.m. and wants to meet with the Commissioners and key personnel of the area serviced by the Extension Service. Mr. Cooley will send a follow-up letter.

9:25 The Call to the Public was continued:

Letter regarding Land Donation to the Loghill Mesa Fire Protection District:

Randal Fischer addressed the Board and read the letter previously presented by Mr. Bower. According to the letter, Mel and Brenda Bower were withdrawing their request to donate property to the Loghill Mesa Fire Protection District.

The Commissioners decided to continue with the agenda item scheduled for 1:30 p.m. because it had been noticed; however, they canceled the executive session that had been scheduled to discuss the issue. The letter will be presented formally at the scheduled time [see Agenda Item H for formal submittal].

Mary Deganhart asked Mr. Bower if he had notified Mr. Hockersmith or the fire district of his withdrawal to which he replied that he had not.

Mailboxes in Loghill Village

Dickson Pratt explained to the Board that the current mailbox structure in greater Loghill Village would have to be abandoned. He discussed that it may require siting the structure in the County right-of-way and asked who he would need to address to accomplish the move. The structure consists of 26 units comprised of 416 mailboxes.

Mary Deganhart added that the United States Postal Service requested a letter from the County certifying that it is okay to deliver mail.

Commissioner Westfall felt that the issue needed further discussion.

Commissioner Batchelder suggested that there would be more mailboxes added in the future but Mr. Pratt explained that the 416 mailboxes take into account future build-out so that there should be enough for a long time.

The mailboxes are currently located on private property. Commissioner Westfall was concerned about putting the mailboxes in the County right-of-way.

Mr. Pratt noted that there had been a Memorandum of Understanding with the Fire District to locate the mailbox complex on the easternmost portion of the Fire District land; however, the Fire District had reneged on the agreement. Therefore, the only reasonable solution would be the County right-of-way. He pointed out that there was an 80-foot right-of-way on Ponderosa.

Connie Hunt suggested that Mr. Pratt confer with Chris Miller regarding the maintenance aspect. She suggested that the item be placed on a future agenda.

E. 9:35 Commissioner/Administrative Reports:

1. Update on County Road 4-A issue:

Commissioner Albritton postponed discussion of this item until Greg Moberg, Land Use Administrator, arrived.

2. Update on Amendment to IGA with the Town of Ridgway, and the River Sage Annexation:

Mary Deganhart acknowledged that she had received a draft of the amendment to the IGA with the Town of Ridgway, which will be on the January 8, 2007 agenda for approval. She discussed the amendment and asked if the Commissioners would like to see a Staff report regarding the actual annexation of the property and impacts. The Commissioners replied that they would.

Mary Deganhart, County Attorney, discussed the following:

- 1) Ms. Deganhart discussed a Court of Appeals opinion regarding oil and gas regulations in Gunnison County and advised that the Commissioners may want to revisit Ouray County regulations. The opinion suggested that regulations must track with COGCC (Colorado Oil and Gas Conservation Commission) regulations.
- 2) Ms. Deganhart spoke of the County Road 13 rubbish issue and suggested putting the item on a future agenda.

Connie Hunt, County Administrator, discussed the following:

- 1) The Commissioners' accomplishments and goals.
- 2) Received the final sales tax check for the year. The revenue represents a 7.5% increase over last year.
- 3) A letter from MEDC [*Montrose Economic Development Council*] and the Montrose Air Service steering committee informing the Board of a meeting on January 18, 2007 at noon at the Community Center in Ridgway. The letter asked for a representative from each county to attend to discuss regional transportation needs.
- 4) Request from CCI for a proxy designation for 2007. The Commissioners said to continue as is.
- 5) Evaluation in January
- 6) Will be taking vacation starting on Thursday and through the following week.

Commissioner Albritton discussed the following:

- 1) Complimented Susan Long and Amanda Flowers on two nice events at the Ouray County 4-H Event Center: the ERC luncheon and the Holiday Open House
- 2) Thanked Kristi Westfall for her service to the County.

Commissioner Batchelder discussed the following:

- 1) He has been receiving significant amounts of pressure from the CSIAC for the County to provide some sort of administrative help. Given that the County is relying on that group to spearhead an effort, it is not in the County's best interest to create an adversarial situation. He suggested that the County offer to do the minutes only. If County staff is not available, he suggested looking at potential options as far as a part-time situation. Commissioner Albritton volunteered to take minutes. If CSIAC requires more support than that, the group needs to bring the request to the Commissioners. Because Commissioner Albritton cannot make the next CSIA meeting, Linda Munson-Haley will take the minutes.
- 2) At the Region 10 meeting, the executive board approved selling the existing building and approved the purchase of a different building. He explained that this would be a financial benefit to the organization.

Commissioner Westfall had nothing to discuss:

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

10:00 Commissioner Albritton recessed and reconvened at 10:15:

E. 10:15 Commissioner/Administrative Reports, continued:

1. Update on County Road 4-A issue:

Greg Moberg updated the Board and informed them that he needed a signed copy of a lease agreement between Gail Grossman and Deb Evans and a list of stipulations from the Division of Wildlife.

Mr. Moberg had a question regarding application fees and Commissioner Batchelder stated that he considered the application an amendment to the previously approved Evans Special Use Permit, which would not require an application fee.

10:23 Commissioner Albritton recessed and reconvened at 10:30:

F. 10:30 Continuation of the Fairway Pines Estates Planned Unit Development Revocation Hearing: (This item was continued from July 24, 2006)

Commissioner Albritton reopened the hearing.

Greg Moberg, Land Use Administrator, noted that the Applicant dropped off an application on Friday, December 15, 2006. It had not been reviewed yet for completeness. The motion made at the July 24, 2006 hearing only stipulated that an application be submitted by December 18, 2006. He requested that Staff be allowed to continue with the application process and securing the required two-thirds approval.

Mary Deganhart advised the Commissioners of their options. If satisfied that things are moving forward they could take action today. Alternatively, they could hold the application open to monitor progress and continue the revocation hearing for 90 days.

Commissioner Batchelder indicated that he would be inclined to continue the hearing for 90 days because of past experience.

Commissioner Albritton asked the Applicant to speak.

Dave Burnham Project Manager with the Strategic Real Estate Group for Fairway Pines Estates (Applicant/Developer) confirmed that he had submitted an application that he feels is complete and would work with Greg Moberg on anything further. He indicated that the Developer would like to move as quickly as possible with the submission of the preliminary development plan. At the same time, they are trying to get an application in for a special use permit for the clubhouse. Plans were submitted to the ARC [*Architectural Review Committee*] for conceptual plan approval. In terms of the application for the clubhouse, the Developer hoped to have it filed in the next couple of months to run concurrently with the preliminary development plan review.

Mr. Burnham advised the Board that the Developer had begun clean up of the pond at the Estates. Almost all of the gravel had been moved out and the trash had been cleaned up. He explained that he had been coordinating with the Fairway Pines homeowners' association to meet twice a month to discuss any items they would like addressed. Mr. Burnham noted that he had three meetings with different homeowners' associations regarding the design of the clubhouse and would work to incorporate their ideas in the plans. He has also begun looking for a new location for the mailboxes for the Fairway Pines homeowners. The mailboxes have been ordered. He has been working with updating the CC&Rs. The Developer has also been working with the sanitation district on a bimonthly basis to resolve issues. In summary, Mr. Burnham pointed out that the Developer has accomplished quite a bit in the past six months and is anticipating moving forward with the process and beginning construction. He expressed appreciation to the Commissioners for continuing the process and allowing the Developer time to submit an application.

Commissioner Albritton opened the hearing to public comment.

Connie Hunt submitted a copy of the minutes of the October 30, 2006 Fairway Pines Architectural Review Committee regarding the proposed Clubhouse at Fairway Pines (Exhibit Public F-1).

Rene Tegtmeier noted that reaction had been favorable to the direction the Developers are taking and he was encouraged by the action taken today. However, nowhere could he find a commitment by the Developer to build a clubhouse nor a date certain for completion. Neither could he find a date for completion of final platting of the development. Both of these dates were part of the 1998 agreements. He suggested that there needs to be some type of commitment and date certain when the clubhouse would be completed and final platting would be completed. In addition, a number of inconsistencies and clarifications need to be addressed in the submission. One plat that was filed with the application shows another cottage type of development that is not mentioned elsewhere or on other maps. The bonding requirements on the Clubhouse are not clear. There were questions raised by the sanitation district. There is no agreement for service there yet. Water supply questions remain unanswered.

Mary Deganhart explained that a condition of approval is that the Developer complete the clubhouse and allows for three years in getting a temporary certificate of occupancy.

Mr. Tegtmeier countered that three years is a long time for completion of the clubhouse. Ms. Deganhart added that it is a working draft.

Randal Fischer, property owner adjacent to Fairway Pines, talked about consequences and interactions. Visual impact will be a big part of where the fire station is located and has to be considered. There is no fire protection at present and the Fairway Pines development needs to deal with it.

Dick Allison expressed confusion with the letter that was sent out and that the deadline for responses was Dec 21. He asked how people could respond with little or no detail; people did not have enough to vote on.

Greg Moberg explained that the Land Use Code requires that for an amendment to occur, a letter must go out explaining the amendment and giving owners in the development thirty days to respond. The letter is sent out certified mail, return receipt requested. If there is no response, it is deemed as approval. There is not much detail explaining what is to be in the letter. In this case, the Developers did what they thought most appropriate. If they do not get a two-thirds vote for approval, they cannot move forward. Mr. Moberg noted that he had not heard concerns as to what was deficient in the letter. There is nothing in the Code that would direct the Developer as to what needs to be in the letter. The Developer complied with what was required by the Code. If the homeowners do not agree, they should vote no. If someone does not respond, which is deemed acceptance, that person could still voice concerns.

Commissioner Westfall asked about the substance of the letter that went out.

Greg Moberg explained that the letter was a general statement of the proposal, not detailed drawings of the proposal or conceptual design of the Clubhouse.

Commissioner Westfall questioned if it was based on an amendment of the preliminary plat that had already been filed or an amendment to another plat; what were the citizens voting on? Mr. Moberg replied that they were voting on amending the preliminary plat, which was specifically stated in the letter.

Barbara Gallagher, on Ponderosa North, neighbors of Fairway Pines, expressed concern about the gravel road that had been used to haul gravel and asked if the Developers would be using that same road as a construction entrance.

Mr. Burnham explained that the Developers would work with the neighbors to find an appropriate place for the construction road.

Rene Tegtmeyer addressed visual impact concerns and the proposed fire station.

Randal Fischer, encouraged the Commissioners to listen to the Gallaghers and others. Neighbors around the site should be spoken to, also.

Greg Moberg discussed the process. With recent Board approval of the procedural guide, he basically has two weeks to acknowledge if the application is complete. The problem that always arises in going through the checklist is that the Code is specific to certain things that need to be submitted that may not be what has been promised. Staff has been bringing up other issues for some time such as visual impact, the sanitation district, and water for the golf course. In two weeks he will send a letter out stating whether the application is complete or not. Then the process will begin. At that time these issues will be included in the Staff Report. The citizenry will continue to bring up issues of concern. At the time of decision, if the Commissioners do not believe that the owners have met what is expected of them, the Commissioners can decide to deny the request. Hopefully, by the time it gets to the Commissioners, issues will have been worked out.

Commissioner Batchelder suggested a meeting date of March 26, 2007 at the Ouray County 4-H Event Center. Mr. Moberg indicated that he may not be ready in ninety days if issues hold up the Planning Commission or referral process. Commissioner Batchelder countered that he was inclined to look at the ninety days fully understanding that the possibility exists of continuing the meeting at that time. Given the history of this project, and with the full understanding that new players are involved and are more responsive than the old players, it is incumbent upon the Commissioners to maintain a motivational procedure to ensure that the project moves forward.

Commissioner Westfall asked what criteria the Board would be looking for in ninety days.

Commissioner Batchelder was not aware of any specific criteria. He did not think that the Commissioners should push the Developer to the degree of setting dates because the process is moving forward, but it does not preclude him from saying that by March he would need to see certain accomplishments. He reconfirmed that he wants to see progress by then.

Commissioner Westfall agreed.

Mr. Burnham submitted a timeline to Mr. Moberg for his review. He indicated that the Developers want to move quickly and that ninety days would be fine.

Mary Deganhart clarified that the proposed meeting would be just to monitor progress.

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Westfall to continue the hearing until March 26, 2007 at 10:30 a.m. Discussion. Commissioner Batchelder explained that the meeting would be simply a mechanism to keep pressure on the Applicant to get some resolution. There was no further discussion. Motion passed unanimously.

Commissioner Albritton continued the public hearing.

G. Executive Session with County Attorney to receive legal advice pursuant to C.R.S. 24-6-402(4)(b) pertaining to the Log Hill Fire Protection District Exemption Request:

This item was discontinued due to information received in the Call to the Public that rendered the executive session unnecessary.

11:15 Commissioner Albritton recessed for lunch and reconvened at 1:30:

H. 1:30 Land Use Item continued from December 11, 2006:

1. Log Hill Fire Protection District Exemption request:

Applicant/Owner: Mel and Brenda Bower
Authorized Agent: Log Hill Mesa Fire Protection District
Request: Request for an exemption from the definition of a subdivision in order to gift a two-acre parcel to the County. The property would then be conveyed to the Log Hill Mesa Fire Protection District for the purposes of erecting a new fire/safety station.
Location: SW¼, SE¼ of Section 36, Township 46N, Range 9W, N.M.P.M., Ouray County, Colorado

Commissioner Albritton discussed continuation of the Land Use item. She informed those present that the Commissioners received a letter during the Call to the Public from Mel and Brenda Bower dated December 17, 2006 rescinding their request for Exception/Exemption with respect to the two-acre parcel (Applicant Exhibit H-1). She

explained that even though there was now no application to discuss, the Commissioners realized that several people were present who had intended to make public comment and, so, the Board would allow their comments.

Fred McKnight asked to set the record straight from the fire district's point-of-view. The district sold two lots and raised some money. From that money, the district spent \$43,000 for development costs, road, utilities, etc. A design committee was formed that was chaired by John Boughner to work out the specifications for the proposed fire station. The committee marked out the parameters at the location where they were going to build and set a budget of \$1 million. Mr. Boughner met with the Log Hill Village ACC (Architectural Control Committee aka Architectural Review Committee) and discussed the details of the proposed fire station. The ACC stressed at that time that the building would have to stay within the CC&Rs for height that had been in force for quite some time. The district felt that it could work within those parameters.

Mr. McKnight continued. Last May, district board members and the fire chief went to Phoenix for a fire station building seminar. First off, they learned that they could not afford to build what they thought they could afford. The cost for a 3-bay station would be twice that amount. It was estimated that they could possibly build a 2-bay station for \$1.4 million but may not be able to meet the height requirements. During this time, the committee met with the architectural firm that is the leading designer of fire stations and, in particular, the new fire station in Montrose. The committee recited what the district was trying to accomplish and the architects said that the district would have to raise more money. The committee came away from the meeting knowing that they would have to raise more money and would have problems with the CC&R height requirements. At that time the district was not looking at any other location.

In late June, according to Mr. McKnight, the district hired Buckhorn Geotech who initially dug three test holes and went down 9 to 11 feet. Another test hole was dug closer to the fire station site. The observation was made that it looked like expansive clay. In the first week of July, they realized that there were problems with the location and Laurie Hauptman with Buckhorn recommended that they find another site. Although the district has 50 acres, they presented other problems with the CC&Rs. On July 3, Mr. Boughner met with the Log Hill Village ACC and apprised them of the problems with the lower meadow site, stressing that the geologist had recommended finding another site. During the meeting Mr. Boughner discussed alternate sites. One site was closer to the existing fire station and a strip of land from the access road to the turnaround berm, and members of the ACC told Mr. Boughner that they would entertain that location site. One member of the ACC suggested that the district look at the upper meadow site. The ACC later contacted Mr. Boughner saying that they would approve the original site but would disregard the site closer to the road and the upper meadow site.

In July, Mr. McKnight explained, the district board met to discuss the problems with the location and talked about what they should do. They were building a fire station that would last for 50 years. They decided to write a DOLA (Department of Local Affairs) grant requesting an additional \$300,000 to help get them closer to the amount they would need. Mr. McKnight explained that at this time the district did not know that the site prep would run \$98,000. In August, the district submitted an application for a \$300,000 DOLA grant along with a letter of support from the Ouray County Board of County Commissioners.

At that same time Fairway Pines changed hands and Mr. McKnight met with Paul Stashick, President of Strategic Real Estate Group Resorts & Hotels, LLC, the new owners of Fairway Pines. Mr. Stashick, according to Mr. McKnight, said that he wanted to help with the fire station and expected nothing in return. Mr. McKnight also met with Dozer Dan who determined that the site prep would cost close to \$98,000. The district decided that the project could not be done on the budget they had. Mr. McKnight had several consultations and discussed a number of alternatives but ultimately determined that the district would have to look for another location. It was not in the best interest of the taxpayers to spend \$98,000 on an unstable environment. Mr. McKnight knew that the district could not conform to the CC&Rs, could not build on the upper meadow, and could not get a variance, so the district began to look outside of Log Hill Village.

The district first looked at the Woodruff site, a mid-mesa site. This site presented major problems the worst of which was the 4.5-mile response time, a response time that in the wintertime would be multiplied by two. He discussed the logistics of using the site, which were not good, but they looked at it anyway. Mr. McKnight related a story of a gentleman in Waterview Knolls whose fire insurance had been cancelled because of the 20-minute response time. Mr. McKnight ran the route and was able to cut it down to 10 minutes and the man's insurance was reinstated.

On August 17, 2006, the Strategic Real Estate Group donated \$100,000 for the facility.

So that it would not be said that the district did not do due diligence, they looked at a second site. The new site was in Fairway Pines and fronted CR1A at the old site where Mr. Willey stored heavy equipment. It was ultimately determined that the site was unacceptable because the road is not paved and would not accommodate the heavy equipment. Mr. McKnight also met with Bob Mehl, president of Fairway Pines, to ask for input to this location. Mr. Mehl said it would not work because Fairway Pines is exclusively residential.

The district continued the search for yet another site. Mr. McKnight looked at the intersection of CR1 and Ponderosa, which is south of Mr. Fischer's property. He took it to the fire district board who voted to pursue it. Mr. McKnight identified the owner, Mel Bower, told him of the problem, and asked if he was interested in donating a parcel of the land to the fire district. Mr. Bower discussed it with his family and attorney. After a time, Mr. McKnight and Mr. Bower went to look at the property and Mr. Bower explained that this was the family homestead. He suggested looking at another location, the site in question today. Mr. McKnight told Mr. Bower that the alternate site was okay but that he preferred the initial site. Mr. Bower said that he could not deed the homestead site but would consider the other site. Janet Pritchett with the Log Hill Mesa Fire Protection District, sent Mr. Bower an email saying that the district would prefer that if Mr. Bower deeded property to the district, it be the south property so as not to cause visual impact to Mr. Fischer. The district received an email back from Mr. Bower who insisted on the alternate site. Mr. Bower asked Mr. McKnight for anonymity in the proceedings and suggested that the district do a soils test first and if it worked out then

go from there. Mr. McKnight was committed to protecting Mr. Bower's identity. The district contacted Buckhorn Geotech and dug test holes. They had good news. The site did not have expansive clay and the soil would percolate. It was an acceptable piece of land to the district. The district consulted with Mike Hockersmith and decided to go forward.

Mr. McKnight summarized and concluded that he did not know where to build a fire station. Everyone has said that they really support the fire department, but not in their backyard. The public and community need a fire station. The problem is that all of the firefighters live at the south end of the mesa, which makes for poor response time now. He has no solution.

Laurie Hauptmann, a geologist with Buckhorn Geotech, spoke to her involvement with the tests at the Ponderosa Drive site. She detailed the findings. As a result of the findings of the report, she suggested that the district look at another site. Drainage is a major issue with the site. A building would have to be elevated, which would affect the height requirement. She suggested three options and put it back in the fire district's court to make a decision. She evaluated a second site, the site on CR1, in October and wrote a short report in November noting that the only issue would be seasonal shallow groundwater but a foundation could be put on bedrock and water would flow around it.

Tom Griepentrog with Buckhorn Geotech added that probably the cheapest scenario would be over-excavation. However, this would be unacceptable for a commercial application, especially for a fire district. There would be problems with drainage and cracks in the slab, and the station would not last 50 years. The other two options were very expensive and were fraught with problems, also.

John Nelson advised the people to wake up as to the need for a second fire station. He has been a firefighter for eleven years and he understands response time and aesthetics. What good would aesthetics do when wildfires burn most of the mesa or someone dies in a fire? There is no basis for animosity and distrust.

Sue McIntosh, counsel for Randal and Deborah Fischer, asked to introduce an exhibit into the record [*this exhibit was never received*]. She provided a response to Mr. McKnight's chronology and statements that had been made. Part of her clients' concern was an apparent deceitfulness marking the application and the request. Her clients had two overarching concerns. The district proposed a fire station immediately outside their bedroom window. The second concern was that there was no fire station of the type that needs to be constructed in the district at this point. The concern that has developed since the time that her clients heard about the request for exemption, the first meeting and now, is that the district is no closer at this point to having a fire station than in 1999. Ms. McIntosh pointed out that according to Ms. Hauptmann, when she first called Mr. McKnight to alert him to the fact that they were dealing with a very small site with very expansive soils and suggested moving the site, the single response from Mr. McKnight was that the district did not have another site and was stuck with the site according to the ACC. Ms. McIntosh offered into evidence a copy of an email from Jim Kennedy [*this exhibit was never received*] on behalf of the ACC dated July 6, 2006 to John Boughner. According to the email, the ACC did not approve sites 2 and 3. If for some reason site 1 "is unbuildable," the ACC stated that they would have to reconsider other locations. Regarding the DOLA grant, the district did approach DOLA by application in July 2006, Mr. McKnight stated that at the time the district submitted the DOLA application, they did not know that the site prep would cost \$98,000. She distributed copies to the Commissioners of the DOLA grant application (Public Exhibit H-1) requesting \$300,000. According to the narrative that accompanied the grant application, the district requested that \$100,000 be earmarked to address the soil problem. Ms. McIntosh pointed out that the district has already received \$100,000 to address the soil problem.

Secondly, Ms. McIntosh addressed a minor point, but suggested that it was a major point when looking at the totality of the circumstances. In Mr. Hockersmith's letter of November 28, 2006 to the Board of County Commissioners, he represented that the district had been approached by a private landowner on CR1 who proposed donation of two acres of his property for a fire station. Mr. Bower stated in his letter rescinding his offer of donation that the district had approached him.

Commissioner Albritton interrupted Ms. McIntosh at this point, explaining that, where Ms. McIntosh and her clients had raised their issues both in written form and verbally, she wanted to allow others an opportunity to speak. She noted that she did not feel that further comments would be productive and that the discussion was not helpful in getting a fire station built. Commissioner Albritton explained that she did not want to facilitate a meeting that was not productive. She urged anyone who had something productive to say to submit it in writing to the Commissioners.

Mary Deganhart agreed that this was the appropriate approach since there really was no hearing today, and, therefore, no record to enter into.

Commissioner Batchelder agreed adding that if somebody had something constructive to say to resolve the overriding issues on the mesa it would be worthwhile.

Commissioner Westfall concurred. She acknowledged that the district is an important district and that there is a tremendous need that everyone on the mesa is aware of, and she encouraged the homeowners to work together. If that means that the ACC needs to change requirements to get a fire station, they need to work it out. If it means more donations, then people need to come together to get the fire station built. She added that she would like everyone to leave on a positive note to get a station built.

Commissioner Albritton quashed several more comments. She noted that from the Commissioners' perspective it would be up to the homeowners to get together to bring something back to the Board for a productive discussion.

Commissioner Batchelder encouraged those who wanted to give something to the Commissioners at this meeting, to send it to the Board. However, if the communication would be best sent to the fire district, make sure that the district gets it. Nothing would preclude copying the County. The communication needs to be between the parties, and the Commissioners are in no position to tell the parties what to do.

2:30 Commissioner Albritton adjourned the special session:

2:40 Commissioner Albritton reconvened the special session for one more item:

Susan Long, Fairgrounds Manager, related that she had been approached by a gentleman wishing to have an exclusive, dedicated contract for catering at the Ouray County 4-H Event Center. Even though Ms. Long advised the caterer that she could not do that, he continued to push the subject and sent a brief proposal.

Not accepting Ms. Long's decision, he spoke to an acquaintance of a County employee, insinuated that this was a political decision, and asked what he should do to get it through politically. He was told that the only politics involved were legality issues.

Commissioner Batchelder suggested that Ms. Long ask for a more in-depth proposal to present to the Commissioners.

Commissioner Albritton noted that she would not consider an exclusive catering agreement.

A discussion followed.

Commissioner Westfall added that a dedicated caterer is no different from any other contractor and needs to go through the proper procedures.

Connie Hunt discussed having Ms. Long refer the gentleman to the Call to the Public, or to get on the Commissioners' agenda.

2:50 Commissioner Albritton adjourned the special session:

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

OURAY COUNTY BOARD OF COUNTY COMMISSIONERS
OURAY, COLORADO

ATTEST:

Heidi M. Albritton, Chair

Don Batchelder, Vice Chair

Michelle Nauer, County Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board

Kristi R. Westfall, Member