

The Board of County Commissioners met in regular session on August 6, 2007. Those present for the session were Don Batchelder, Chair; Heidi Albritton, Vice-Chair; K. Keith Meinert, 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.**

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.

With no one present for the Call to the Public, the Commissioners proceeded to the next agenda item.

C. 9:00 General Business (originally scheduled for 9:30):

1. Request for approval of warrants:

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve warrants as presented. There was no discussion. Motion passed unanimously.

2. ~~Request for approval of July 23, and 31, 2007 minutes:~~

3. Request for approval and Chair’s signature on Canyon Creek, Phase II Draft Environmental Assessment Report:

Pat Willits, Mayor of the Town of Ridgway, was present. He noted that he had been working on a final report that he gave to Mary Deganhart, County Attorney, to review, and that he would bring a final version to the Commissioners at a later date.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve the Chair’s signature on the “Canyon Creek, Phase II Draft Environmental Assessment Report” as presented. There was no discussion. Motion passed unanimously.

4. Request for adoption of Resolution 2007- 044 concerning Copy and Search Costs:

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve **Resolution 2007-044** concerning copy and search costs [*adopting the Ouray County Policy on Public Requests for Materials/Information*] as presented. There was no discussion. Motion passed unanimously.

5. Request for adoption of Resolution 2007- 045 Amending Resolution 2006-049 concerning Beer and Liquor Licensing Fees:

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve **Resolution 2007-045** amending Resolution 2006-049 concerning Beer and Liquor Licensing Fees as presented. Discussion. Commissioner Meinert clarified that the only changes to the Liquor License Fees schedule were those printed in blue. With no further discussion, the motion passed unanimously.

6. Request for approval of letter of support for the Town of Ridgway’s GOCO Grant Application for the Ridgway Regional Athletic Park, Phase II, and consideration of County Contribution toward the project as a funding partner:

Pat Willits, Mayor of the Town of Ridgway, indicated that the first submittal to Great Outdoors Colorado (GOCO) had been turned down for the first time in a long time. The proposal was to do improvements to the Ridgway Regional Athletic Park. The Town corrected the deficiencies in the first submittal and was reapplying. One of the deficiencies was that the Town had proposed to provide the entire cash match but GOCO wanted to see better partnerships with outside matches, which was why the Town was approaching the County for a \$5,000 cash match. It was pointed out that the park not only serves town residents but benefits county residents, as well. He suggested that the Town of Ridgway would be happy to reciprocate for any County project.

A discussion followed regarding reciprocal propositions. Connie Hunt suggested that it could be incorporated into the Intergovernmental Agreement (IGA) between the Town and the County.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve the letter of support as presented. There was no discussion. Motion passed unanimously.

By consensus, the Board agreed to a County cash match of \$5,000 and instructed Connie Hunt to write a letter to that effect and present options to the Commissioners at a later date. Ms. Hunt noted that there was nothing that she could present other than to ensure reciprocity in the IGA.

9:22 Call to the Public continued:

Sheriff Mattivi spoke to the Board of County Commissioners and requested that they consider revoking the fire ban across the county due to recent rains.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to lift the fire ban in effect in Ouray County [imposed under Resolutions 2007-035 and 2007-038]. There was no discussion. Motion passed unanimously.

9:24 General Business, continued:

- 7. Request for approval of nominations for Sue Carmody and Linda Corwine to the Tri River Area Advisory Committee:** *(This is a ratification of action taken by the BOCC at a previous meeting.)*

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve/support the nominations of Sue Carmody and Linda Corwine to the Tri-River Area Advisory Committee. There was no discussion. Motion passed unanimously.

- 8. Review and examination of Semi-Annual Report by County Treasurer and request for approval of Chair's signature on report:**

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to accept the Semi-Annual Report of the Ouray County Treasurer as presented and approve the Chair's signature on such. Discussion. Commissioner Meinert discussed the lack of receipts from the Fairgrounds fundraising. Connie Hunt explained that the County has a County Fairgrounds Fund and there has been no activity in it during this period. With no further discussion, the motion passed unanimously.

B. 9:25 The Board of County Commissioners convened as the Board of Zoning Adjustment concerning the following item:

1. Request for adoption of **Resolution 2007-046** approving the Phinney Variance: *(This resolution reflects the action taken by the Board of Zoning Adjustment on July 23, 2007.)*

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to adopt **Resolution 2007-046** approving the Phinney Variance as presented. Discussion. Commissioner Meinert discussed particulars of the resolution regarding requirements for footings. Commissioner Batchelder explained that the building code requires adhering to the process, which does not assume any setback only that it supports load. There were more discussions. With no further discussion, the motion passed unanimously.

9:34 The Board of Zoning Adjustment reconvened as the Board of County Commissioners and continued with General Business:

- 9. Request for adoption of Resolution 2007-047 addressing issues concerning "Temporary Structures" in Ouray County:**

Commissioner Batchelder noted that the Commissioners had received a letter from Dan Kiger, who was present.

Sandy Stuller asked about requirements for yurts. Mary Deganhart explained that there have to be provisions for water, sanitation, etc., and with site development permits, more requirements regarding road standards, etc. Ms. Stuller noted that yurts offered an opportunity for people to afford to live in Ouray County and are low impact. She suggested that the Commissioners make it clear that the requirements for yurts were not the same as the requirements for single family dwelling units.

Commissioner Batchelder reviewed that the Board had instructed Staff to look at the definition of temporary structures. This is part of a potential solution for affordable housing. Commissioner Meinert suggested that Staff should look at including yurts as permanent residences, not as temporary structure. Commissioner Batchelder countered that there was nothing to preclude a yurt as a permanent structure if it met the conditions of the Land Use Code and the UBC. Commissioner Batchelder directed that Staff determine, physically, how temporary structures could become permanent, especially yurts or other structures, and to investigate such structures as a piece of the solution to affordable housing.

Sandy Stuller suggested that clarification be made in the resolution that the same standards would not apply as to single family homes.

Emma Kiger discussed how a 200 sq. ft. home would differ and be treated.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve **Resolution 2007-047** as presented. There was no discussion. Motion passed unanimously.

- 10. Designation or re-designation of Commissioner to Colorado Counties, Inc. (CCI) Legislative Committee:**

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Albritton to designate Keith Meinert as the Ouray County representative to the Colorado Counties, Inc. Legislative Council. There was no discussion. Motion passed unanimously.

9:56 Commissioner Batchelder recessed and reconvened at 10:15:

D. 10:15 Commissioner/Administrative Reports:

Mary Deganhart, County Attorney, discussed the following:

- 1) **Noise ordinance** Alan Staehle has been working with the state standards, which are outrageously high. He suggested using a different standard, possibly the industry standard, that is more restrictive than the state. It was the consensus of the Board to follow through with the research.
- 2) **Agreement with Hideout Ranch** She will have something this week regarding a cooperative road agreement for future upgrades and road maintenance.

Connie Hunt, County Administrator, discussed the following:

- 1) **CDPHE letter regarding soils testing** Received a letter from Martin O'Grady with the Colorado Department of Public Health and Environment regarding soils testing in the Panoramic Heights subdivision and asking if the County wanted to have the roads tested, also. Discussion. The Commissioners asked Connie Hunt to consult with the County Attorney and make a determination taking into consideration any liability on the County's part.

Commissioner Albritton had nothing to discuss:

Commissioner Meinert discussed the following:

- 1) **Email from Doug Canright** Doug Canright suggested having an archaeologist on-site during the excavation work for the Courthouse project.
- 2) **Email from Ron Mabry regarding State Weed Board representation** There was discussion regarding who would represent the County. Commissioner Meinert suggested that Ron Mabry would be the logical choice but expressed concerns regarding the impact to the County in terms of time and cost commitments. The Board suggested that Commissioner Meinert speak to Mr. Mabry and revisit at a later date.
- 3) **Note from Cheryl Roberts regarding a Public Health visit** Commissioner Meinert and Connie Hunt will attend the meeting on August 8 at 3 p.m.
- 4) **Letter to Mike Coffman** The Board reviewed a draft reply letter to Mike Coffman, Secretary of State, regarding election equipment and vendors, and decided to send it and copy all of the smaller counties as before and to include San Miguel County.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to sign a reply letter to the Secretary of State. There was no discussion. Motion passed unanimously.

- 5) **Letter from Chip Taylor regarding federal bridge funds** Connie Hunt will give a copy to Chris Miller and, based on the last bridge inspection report, see if there are any County bridges that qualify. Commissioner Meinert asked for a copy of the inspection report.
- 6) **DMEA geothermal conference and tour** He will provide copies for the Board.

Commissioner Batchelder discussed the following:

- 1) **Second Home Study** Coordinated by Region 10 for Ouray County, San Miguel County, and Hinsdale County the study has been completed. The survey results are available on the website: www.survey.org/rten.html. Region 10 did 1,600 surveys in each county with nine questions. The results are the best he has seen.

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

E. 10:49 Discussion/Consideration of proposed 2007 County Ballot Question concerning the issue of removing term limits for County Commissioners:

Commissioner Batchelder recused himself.

Commissioner Albritton introduced the agenda item and explained that a petition had been presented to the Commissioners at the meeting on July 23, 2007 (*Public Exhibit F-1, July 23, 2007*) with 164 signatures requesting that a question be placed before the voters of Ouray County on the November 2007 ballot to eliminate term limits for Ouray County county commissioners.

Mary Deganhart provided a draft resolution for the Board to review.

Commissioner Meinert made suggested changes to the resolution that Commissioner Albritton agreed to. Ms. Deganhart will revise the resolution and present to the Board at the August 20, 2007 Board meeting.

F. 10:58 Walt Rule: *(originally scheduled for 11:30)*

1. Heap Leach Mining Discussion:

Commissioner Batchelder related that the Commissioners had received a letter from the Alliance for Responsible Mining (ARM) suggesting that Ouray County suspend any discussion or action on this item until the Colorado Supreme Court decides whether or not to hear a pending case involving Summit County.

Commissioner Meinert related that Walt Rule would not be able to attend.

Commissioner Meinert suggested asking Staff to research what other counties are doing on the issue as a basis for future action.

Mary Deganhart advised that mining is a use by right in the Ouray County Land Use Code.

Commissioner Albritton acknowledged that it would be better to be more prepared than less prepared.

Commissioner Batchelder suggested that, in order to give Staff appropriate direction, Ms. Deganhart look at a few counties that have a regulatory process so that Ouray County knows its options and look at the broad piece for mining in general, specifically San Miguel County and San Juan County. At some point, the Commissioners could schedule a meeting and invite interested parties.

The Commissioners agreed to pull the item from the agenda per the request by ARM, and would notice any future agenda items on the subject.

11:15 Commissioner Batchelder recessed for lunch and reconvened at 1:15:

G. 1:15 Northern San Juan Initiative:

1. Request for approval of Letter of Support for a San Juan Skyway Large Scale Grant:

Barbara Hawke, Director of the Black Canyon Land Trust (BCLT), and Brandon Hatter, Director of the Northern San Juan Initiative (NSJI), met with the Commissioners.

Ms. Hawke spoke of land conservation projects along the San Juan Skyway. The two groups were hoping that the County would provide support for their efforts. She pointed out that they were not asking for funds, although they may ask the County to partner with them on grant applications in the future. They will be launching a private fundraising campaign for an \$800 to \$900 match. She added that they were excited to be the lead applicant for this effort.

Brandon Hatter discussed the project between Ouray and Ridgway along the Uncompahgre River. He noted that there were potentially eight to ten different properties that would qualify. Should they get the grant, NSJI would have monies for three projects over the next three years. He informed the Board that there were three key things that NSJI was trying to do: 1) promote private land conservation in Ouray County, 2) generate support, and 3) aid landowners in the conservation process. He stressed the importance of protecting agricultural land in Ouray County and what it would mean to the community to keep productive agricultural land in agriculture. It would provide scenic viewsheds, and protect local history and the local economy.

Barbara Hawke asked for the support letter by August 17.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve the Chair's signature on a letter of support for a Great Outdoors Colorado (GOCO) Large-Scale grant to support land conservation projects along the San Juan Skyway. There was no discussion. Motion passed unanimously.

H. 1:33 Friends of the Fairgrounds Discussion:

Susan Long, Fairgrounds Manager, and Dick Bjurstrom, member of the Friends of the Fairground (FOF), were present.

Susan Long discussed a letter she had written to the Commissioners requesting that they dissolve the Friends of the Fairground (FOF) and advising them that she would take on the fundraising effort. She explained that the original goals of the FOF had not been fulfilled. She would like to turn her efforts toward fundraising for a pole barn. Williams Construction offered to donate roofing materials. Ms. Long added that restoration work on the grandstands was on hold for now.

By consensus, the Commissioners agreed to dissolve the Friends of the Fairground and let Staff take care of rectifying with the Secretary of State and the IRS. Commissioner Batchelder asked that former members be thanked for their participation.

1:50 Commissioner Batchelder recessed and reconvened at 2:00:

- I. **2:00 Consideration of Resolutions 2007-048 and 2007-049 approving the Special Use Permits for Heritage Inn and Suites of Kansas City, Inc. and HT Heritage Inn of Erie, LLC concerning action taken by the Board of County Commissioners on July 31, 2007 for the construction of a golf shop facility and a member's club described as Phase I and for construction of spa and restaurant facilities described as Phase II.**

Commissioner Batchelder introduced the agenda item.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve **Resolution 2007-048** approving the special use permit for a commercial use for a golf shop / members club facility for Heritage Inn & Suites of Kansas City, Inc. and HT Heritage Inn of Erie, LLC [*Phase I of The Divide Ranch and Club, formerly known as Fairway Pines*], and **Resolution 2007-049** approving the special use permit for a commercial use for a restaurant/lodge and spa facility for Heritage Inn & Suites of Kansas City, Inc. and HT Heritage Inn of Erie, LLC [*Phase II of The Divide Ranch and Club, formerly known as Fairway Pines*]. Discussion. Commissioner Meinert had a change to the resolution. A discussion followed. Commissioner Albritton amended her motion to include Commissioner Meinert's suggested change and Commissioner Meinert seconded the amended motion. With no further discussion, the motion passed unanimously.

2:12 Commissioner Batchelder recessed and reconvened at 3:00:

- J. **3:00 Public Hearing:**

1. **Applicant: Uncompahgre Land Partners, LLC**

Location: 1128 County Road 23

Request: The applicant is appealing a Notice and Order filed pursuant to Ouray County Ordinance 95-1, prohibiting the accumulation of rubbish on private property

Paul Christensen, Building Official, was present. Joshua Kinne, Applicant, was present.

Commissioner Batchelder opened the public hearing and introduced the request. He explained that the Commissioners were in receipt of a packet of information that included a Staff Report dated August 2, 2007 recommending a 45-day extension; a "Notice and Order" to Uncompahgre Land Partners, LLC (ULP); correspondence from Steven Ingram dated July 17, 2007; a letter dated July 9, 2007 from James Patterson; a note from Jim and Gayle Buske of Lodi, Wisconsin; a letter dated May 17, 2007 from Don and Betty Lacefield; and a handwritten note dated December 31, 2005 from Marcine Webb. The Board also had a copy of Ordinance 95-1 prohibiting rubbish on private property.

Joshua Kinne, Applicant, explained that he and his partners, Uncompahgre Land Partners, LLC (ULP), were looking for a 45-day extension because some of the items on the property did not belong to them. He explained that his partner, Steven Ingram, had issues with taking care of his "stuff." The original agreement when he bought into the property was that the old vehicles were to be removed. He asked the Board if a yurt was considered rubbish. The Commissioners replied that they did not feel that a yurt fell into the category of rubbish. Mr. Kinne asked to have Paul Christensen go through the property with him and his partners to determine what needed to be removed.

Mr. Christensen replied that would not be wise as there could be dissension between him and the partners, and the partners themselves, as to what should be removed. He advised that enforcement of this regulation stated that the offenders comply within the timeframe noted in the "Notice and Order" (Notice) or the County would remove the rubbish and charge the property owners.

Commissioner Batchelder opened the hearing to public comment.

Don Lacefield, 196 Marguerite Drive, Ridgway, asked for the County's definition of trash. He understood when he bought his property that the subject property was designated as a greenbelt area and could not be built on. If it is a multi-owner property, there must be an agreement between the owners to comply with the order issued by the County. For three years the trash has gone from one trash heap to another and he was disgusted with the situation. Mr. Lacefield explained that his house was for sale and that he lost a sale because of it. He noted that he came here for the beauty of the area and that it was up to the Commissioners to maintain it and to maintain the County laws. He spoke to the Commissioners in the past because of a septic system on the property in question. He wanted to know the intent of the property owners for the property.

Jim Nolan, landowner west of the subject property since 1981 or 1982, asked when the citation was given to ULP and how much time was allowed for clean up. Commissioner Albritton advised him that the Notice was dated June 13, 2007 and the Applicants had 30 days from receipt of it to clean up the property; however, they appealed the Notice within 20 days from issuance. Mr. Nolan asked if the 8-acre parcel was an exception to Valley zoning. The County Attorney advised that the former Land Use Administrator had investigated the property and noted that there were no restrictions and that it was not a greenbelt property. Doug Canright explained that the existence of a lagoon imposed restrictions on residences and dwellings and would have the effect of eliminating residential use of the property. Removal of the lagoon would have to be certified by the State and then the 1,000-foot restriction would be removed. Mr. Nolan complained that one of the structures that one of the owners was living in had been red tagged, a motor home was just pulled out prior to moving another structure, a yurt had been given a floodplain certificate (Paul Christensen interjected that the "deck" had been given a certificate), there was a mailbox and a phone line, but no

sanitation or electric power. He asked how people could build a structure and live in it without any compliance for five to seven years. He suggested that they had a long enough time and if the Commissioners gave them more time nothing would happen because of snow. He added that he, too, had been told it was a greenbelt.

Lorraine Nolan, landowner, explained that she and her husband had put up with the junk pile and annoyances for five years and noted that many people stay on the property compared to what she is allowed.

Dave Brunovsky, owner of the KOA Campground, explained that, aside from the way it looks and the trash buildup, the Board of County Commissioners are sworn to protect the citizens of the county and that did not mean to keep extending and getting new permits. He abides by the law and gets the appropriate permits but "...these guys move in and do things until they get caught." He urged the Commissioners to get them out first, and then they could build their structures. He discussed the lagoon. He chided the Commissioners to enforce the ordinance and take care of business.

Joshua Kinne asked about extensions and a heated debate broke out. Commissioner Batchelder regained the floor and asked everyone to wait to be recognized before speaking.

Arsine Wells explained that when he bought his property in 1969 and inquired about the property next to him, he was told that it was a greenbelt and that no one would be living there because of the designation. Next thing he knew someone had bought the property and then came the rubbish and no utilities. His front window and door overlook this. He wrote to the Commissioners who replied that they were watching it. This has been going on for years. He concluded that another extension would not do any good. They need to move the stuff out. If the County granted an extension, he urged the Commissioners to make sure that everything is cleaned up when the extension expires.

Jerry Fink, a landowner who moved in full-time a week ago, noted that he was appalled at what he saw when walking his dog. He scolded, "Shame on the County for letting it get to that point!" Mr. Fink added that the Commissioners had a job to do, and goaded them to do it, adding that the conditions presented a serious problem both health-wise and rubbish-wise.

To a question from Anita Lou Webb, Mary Deganhart explained that the property is owned by an LLC, which is an entity unto itself. Individuals are members but do not individually own pieces of the property.

There were more questions regarding what would happen at the end of the time extension and the intent of the property owners for the land.

Commissioner Batchelder explained that there was no way to answer that nor could the County dictate intent. He ascertained that there were no covenants noting that prior to 1972 Ouray County did not have subdivision regulations.

Joshua Kinne admitted that he was embarrassed, that he had spent a lot of time trying to clean up but one partner owned most of the "stuff."

Chris Alvarez, property owner, observed that Mr. Kinne was the only one who had shown up and that they were asking for a 15-day extension on a 30-day request. He asked why an extra fifteen days would make a difference if the problem lay with one partner.

Mr. Kinne replied that the penalty for this one partner's stuff would be for him, too and that fifteen days would give him time to personally go in and start removing things. He added that he had already gotten rid of some of the stuff. To a question about why he and another partner did not buy the stubborn partner out, Mr. Kinne replied that the stubborn partner had a good heart and was not out to hurt anyone, but had a mental condition.

A discussion followed between the Board, the County Attorney and the Building Inspector regarding the extension request and possible consequences.

Commissioner Meinert expressed concern regarding the other allegations and suggested that the people make Land Use aware of those violations so that enforcement action on each could be taken. Commissioner Batchelder asked that those concerns be written and copied to the Commissioners. He also suggested calling the Sheriff's Office if there was illegal habitation of the buildings. The Sheriff's Office could verify whether there is a Code violation.

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to grant the appeal for the show cause hearing granting 45 days from August 6, 2007 to come into complete compliance with the Notice and Order as dated June 13, 2007. Within those 45 days the building official shall inspect the property and report back to the Commissioners on September 10, 2007. If on that date, in the interpretation of the building official, at least 50% of the property has not been cleaned up, then the approval for the extension of the 20 days as shown in the Notice and Order is revoked. There was no discussion. Motion passed unanimously.

Commissioner Batchelder closed the public hearing.

4:25 Commissioner Batchelder adjourned the regular session:

OURAY COUNTY BOARD OF COUNTY COMMISSIONERS
OURAY, COLORADO

ATTEST:

Don Batchelder, Chair

Heidi M. Albritton, Vice Chair

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

K. Keith Meinert, Member