

The Board of County Commissioners met in special session on December 21, 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. 9:03 Certification of Levies and Revenue:

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

B. 9:05 Reorganization of the Board:

1. Appointment of Chair for 2008:

M/S/P—Motion was made by Commissioner Batchelder and seconded by Commissioner Albritton to appoint Keith Meinert as Chair for 2008. There was no discussion. Motion passed unanimously.

2. Authorization for Chair to make and second motions:

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Batchelder to authorize the Chair to make and second motions. There was no discussion. Motion passed unanimously.

3. Appointment of Vice-Chair for 2008:

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to appoint Don Batchelder as Vice-Chair for 2008. There was no discussion. Motion passed unanimously.

4. Authorization for Vice-Chair to sign warrants and other official Board of County Commissioner approved documents in the absence of the Chair:

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to authorize the Vice-Chair to sign warrants and other official Board of County Commissioner approved documents in the absence of the Chair. There was no discussion. Motion passed unanimously.

5. Appointment of Connie Hunt as Budget Officer pursuant to C.R.S. 29-1-104:

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to appoint Connie Hunt as Budget Officer pursuant to C.R.S. 29-1-104. There was no discussion. Motion passed unanimously.

6. Designation of the Ouray Plaindealer as the Legal Paper of Record for Ouray County for 2008:

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to designate the Ouray County *Plaindealer* as the Legal Paper of Record for Ouray County for 2008. There was no discussion. Motion passed unanimously.

7. Designation of exterior bulletin board located on the County Courthouse as the official posting place for all public notices, agendas, etc., for 2008:

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to designate the exterior bulletin board located on the front of the Ouray County Courthouse as the official posting place for all public notices, agendas, etc. for 2008. There was no discussion. Motion passed unanimously.

C. 9:11 General Business:

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 and Chair's signature on the following contracts and agreements:

a. Professional Services Contract for Social Services Attorney Services:

There was no discussion of this item.

b. Independent Contractor Agreement for Special Projects Management:

There was some discussion among the Commissioners regarding liability insurance requirements and it was decided that due to the nature of the services provided for in the contract and the low degree of risk involved, it would be too costly for the County to require the contractor to carry liability insurance and, therefore, did not require it.

c. Contract for Registered Nursing Services:

Commissioner Meinert corrected the contract to add the words "per hour" after \$24.64 under 6.a.

d. ESRI Maintenance Agreement for ArcInfo, ArcEditor and ArcGIS:

Commissioner Meinert initiated a discussion on the pros and cons of service contracts on software.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve the Professional Services Contract for Social Services Attorney Services as presented; the Independent Contractor Agreement for Special Projects Management as presented; the Contract for Registered Nursing Services with Charlotte Patterson with the addition of "per hour" after \$24.64 in 6.a.; and the ESRI Maintenance Agreement with ArcInfo, ArcEditor and ArcGIS as presented. There was no discussion. Motion passed unanimously.

3. Request for approval and acceptance of donations of vehicle and sand:

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve and accept donations of vehicle and sand as presented. Discussion. Commissioner Albritton and Commissioner Meinert thanked Don Batchelder publicly for his donation of the vehicle and asked that a thank you letter be sent to Rick Weaver, the donor of the sand. With no further discussion, the motion passed unanimously.

4. Request for approval to enter into a letter of agreement for Microsoft Access training for Land Use Staff employees in amount not to exceed \$400:

Commissioner Meinert asked why the County was not using a standard work contract and the County Attorney explained that the contract was for such a nominal amount and such a short period of time that it was more expedient to draft something simpler.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve and enter into a letter of agreement with Jane Bennett for training on Microsoft Access for Land Use Staff in an amount not to exceed \$400 as presented. There was no discussion. Motion passed unanimously.

5. Request for approval and Chair's signature on Pre-Grant application for USSTC Operation Ranger Grant for a Polaris Ranger Utility Vehicle to be used for emergency responders:

Norm Rooker, Chief Paramedic, and Ron Mabry, Weed Manager, met with the Board to discuss the application.

Norm Rooker informed the Board that the U.S. Smokeless Tobacco Co., through its Operation Ranger, a Polaris® Ranger Donation Program, donates about 80 Polaris® Ranger 6x6 Utility Vehicles per year to the nation's emergency responders.

Commissioner Batchelder ascertained that the applied for use was specific to EMS for places where traditional vehicles could not access. It would be housed at the Land Use office under the control of the Weed Department. Mr. Rooker and Mr. Mabry explained that they had not discussed housing nor maintenance responsibilities yet.

Mr. Rooker added that he had a broader vision to include use by Mountain Rescue and the Sheriff's Office.

The Commissioners liked the idea of shared resources but wanted to ensure that one department would be responsible for maintenance. Mr. Rooker said that he felt that the better storage would be in Ouray, possibly with Mountain Rescue.

The discussion turned to the need for a trailer to transport the Ranger. The Commissioners had previously approved \$5,000 for an ATV for the Weed Department. Mr. Mabry advised them that he had spent \$3,500 of that and asked to use the remaining \$1,500 for a trailer. The Board agreed. Mr. Rooker interjected that there could be a possible Home Depot grant for a trailer that he would check into.

Mr. Mabry noted that while EMS already had tow packages on all of its vehicles, the Sheriff's Office would need to do so in order to utilize the trailer and Ranger.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve the Pre-Grant application for USSTC Operation Ranger Grant for a Polaris Ranger Utility Vehicle to be used for emergency responders with the condition that the final grant application be submitted to Connie Hunt and that all departments "play together." There was no discussion. Motion passed unanimously.

Norm Rooker advised the Commissioners that in April of 2007 he had pursued a Department of Homeland Security grant. He just received word from Senator Salazar's office that Ouray County had been awarded the grant in the amount of \$33,000.

6. Request for approval and Chair's signature on Access Security for Certification of Levies and Revenues Online Application and authorization of County Administrator as a designated account representative to access and manage Ouray County's data:

There was some discussion on this issue concluding that the signature would be that of the incoming Chair who could then designate the County Administrator as the account representative.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Batchelder to approve the application with the incoming Chair's signature. There was no discussion. Motion passed unanimously.

7. Request for approval and Chair's signature on Colorado Department of Human Services (CDHS) Certification of Compliance concerning the County Merit System for Year 2008:

Connie Hunt explained that this item was approved annually by the Board of County Commissioners.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve and authorize the Chair's signature on a CDHS Certification of Compliance concerning the County Merit System for 2008 as presented. There was no discussion. Motion passed unanimously.

8. Discussion and possible action on Colorado Counties Inc. (CCI) 2008 Steering Committee Proxy:

The Commissioners discussed proxies and Commissioner Batchelder recommended that Allan Gerstle be appointed as proxy for the Health and Human Services steering committee.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to appoint Allan Gerstle as proxy for the Health and Human Services steering committee. Discussion. The Commissioners acknowledged that they could participate as they wanted without having to designate themselves on the form. With no further discussion, the motion passed unanimously.

9. Consideration of early closure of county business hours on Monday, December 31, 2007:

Commissioner Batchelder suggested that the Commissioners authorize County departments to close at noon on December 31, 2007.

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to close at noon on December 31, 2007. There was no discussion. Motion passed unanimously.

10. Request for approval of Chair's signature on Social Services budget, which was adopted on December 10, 2007:

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve the Chair's signature on the Social Services budget as presented. Discussion. Commissioner Meinert ascertained that this was included in the County budget that had been adopted. With no further discussion, the motion passed unanimously.

D. 9:45 Items for Discussion and Possible Direction:

Commissioner Meinert asked to discuss items D-2 and D-4 together.

1. Brief update on weed management for Jacobson Easement property for Ice Park:

Connie Hunt, County Administrator, advised the Board that Mr. Jacobson had asked if the County could help with the treatment of noxious weeds on the property. She and Ron Mabry, Weed Manager, met with Mr. Jacobson. The meeting culminated in a general feeling that the County could offer assistance. A management plan was presented that had been prepared by Sheila Grother.

Ron Mabry explained that in his view the suggested weed management plan was too generic. Mr. Mabry informed the Board that he had met with Mr. Jacobson in June or July and had given him a book on how to write a weed management plan. Mr. Jacobson then went to Sheila Grother who gave him a generic plan that the Forest Service accepted.

Connie Hunt noted that Mr. Jacobson had provided a nice community service for the Ice Park over the past years. She would like to look at helping him out. She acknowledged that there would be some cost involved but that Mr. Jacobson felt that the County should help since he had leased the land to the County.

Commissioner Meinert rationalized that this would be different from providing County services to a private individual. The County would be providing weed management services on property that Mr. Jacobson had leased to the County for the Ice Park and the County should have some obligation for weed control. However, he asked what would happen when the land goes to the City of Ouray.

Commissioner Batchelder suggested that the Commissioners could make a motion authorizing Staff to perform duties for as long as the County had control of the property. Once the County no longer controlled the property, that obligation would no longer exist and a new agreement could be negotiated.

Mr. Mabry informed the Commissioners that the area in question was a large area, 60 acres, and there were some major weed problems. He estimated that it would cost between \$1,500 and \$2,000 to treat.

Commissioner Albritton agreed to pursue an agreement but asked that Staff work with the Forest Service where the land crossed Forest Service land.

Ms. Deganhart asked to clarify if Commissioner Albritton meant all of the property or just the piece the County was leasing. Commissioner Albritton replied that she was speaking only about the piece being leased for the Ice Park.

Ron Mabry interjected that Mr. Jacobson was under the impression that the County was leasing the entire acreage.

By consensus, the Commissioners agreed that it would be reasonable for the County to control weeds on the property that the County had control over. Beyond that, in the spirit of dealing with a property owner who provided public benefit to the county, the Commissioners authorized Staff to work with Mr. Jacobson, but added that any expenditure of funds beyond time would need specific Board approval. Commissioner Albritton suggested that the County also approach the City of Ouray and the Ice Park board to contribute funds.

Mr. Mabry will verify the Forest Service section after the first of the year.

Commissioner Meinert asked to visit the site and see the weeds before Mr. Mabry begins treatment.

Commissioner Batchelder offered, as direction from the Commissioners, that where it was a practical difficulty to identify the exact lines on the ground of the land leased by the County, they ask the Weed Department to use discretion and go a little outside of the boundaries so that the County knows without question that it has controlled the weeds within the leased area.

2. Review and discussion of proposed resolution concerning County Road 361 closure:

4. Review and discussion of Winter Maintenance Agreement for Mount Sneffels Mining Company:

Commissioner Batchelder explained that the Commissioners had before them a draft resolution for closure of County Roads 361 and 26, and a revised winter maintenance agreement with Mount Sneffels Mining Company (Mount Sneffels).

Mary Deganhart discussed the agreement with Mount Sneffels Mining Company in detail. She explained that she felt that the agreement was close to being finalized.

Commissioner Albritton met with the Forest Service regarding the road and explained that the Forest Service preferred that the County close the upper road to motorized public access, noting that the County had not been maintaining it anyway. The Forest Service indicated that if Ouray County considered keeping the road open, that would change the Forest Service's perspective quite a bit.

Discussions of the agreement continued. Chris Miller, Road Superintendent, asked that Mount Sneffels be responsible for putting up the road signs with County approval of the language. By consensus, the Commissioners agreed.

The discussions turned to avalanche control. Commissioner Batchelder suggested that without avalanche control, the agreement was moot. The only factual information presented was through Mary Deganhart from Mount Sneffels's attorney that the permitting process with the Forest Service was going well.

Mary Deganhart indicated that no avalanche work would occur until Mount Sneffels supplied the County with copies of all appropriate permits.

Commissioner Meinert wanted to see the agreement in place and not wait to sign the agreement until things were ironed out with the Forest Service.

Commissioner Albritton and Commissioner Meinert made it clear that they would not be going through with the agreement if they did not recognize the benefit to the county.

Finally, the Commissioners discussed how notification would be made of avalanche control on the road. Commissioner Batchelder was concerned with requiring 24-hour notice to the public and whether signs only were sufficient. Commissioner Albritton suggested sending notification to the eight organizations on the Forest Service list. Commissioner Batchelder agreed with the intent but suggested sending a copy of the resolution to Kathy Peckham with the Forest Service and asking her to distribute it.

Mary Deganhart proposed making the suggested changes and getting a final agreement signed as soon as possible. Commissioner Batchelder suggested that the Commissioners take the position that there is a signed agreement, approve the amendments as discussed and ratify it at the next meeting.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve the Winter Maintenance Agreement with Mount Sneffels Mining Company as amended and to ratify approval at the next Commissioner meeting. There was no discussion. Motion passed unanimously.

Mary Deganhart next discussed the resolution on the road closures explaining that she was looking at it as an interim solution for this year.

Commissioner Albritton agreed because of health, safety and welfare issues.

M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve a resolution establishing guidelines for the temporary closure of portions of Ouray County Roads 361 and 26, to be ratified

at the next Commissioner meeting. Discussion. Ms. Deganhart changed the title of the resolution to refer to the temporary closure of "portions" of Ouray County Roads 361 and 26. With no further discussion, the motion passed unanimously.

3. Review and discussion of proposed resolution concerning snowmobiles:

Commissioner Batchelder explained that the Commissioners had before them a draft of a resolution concerning regulations for the use of snowmobiles on Ouray County roads. He suggested that the Commissioners not take action today but place the resolution on a future agenda in order to resolve the issue of which roads would be impacted.

A discussion followed regarding speed limits; safety issues with skiers, pedestrian traffic and other nonmotorized users; and enforcement.

Alan Staehle, former Ouray County Commissioner, offered that County Road 5, in particular, was not a transportation route in the winter but used mainly for recreation. The Commissioners would be destroying the recreational experience by requiring slower speeds. He pointed out that the County did not want snowmobilers as adversaries. They did, however, need to understand the responsibility of sharing the road.

Commissioner Meinert argued that county roads were transportation routes, not recreation routes, and he did not feel the need to cater to recreationists on county roads.

Commissioner Batchelder asked where speed limits were posted on roads, was that not the speed limit for any vehicle. Ms. Deganhart replied that snowmobiles were not defined as either a vehicle or a motor vehicle.

Ms. Deganhart noted that it was important to remember that this was an interim means of addressing the issue this year and that the Commissioners may want to look at an ordinance to address the problem in the future.

Commissioner Meinert offered that the resolution was acceptable to him as an interim solution and would be complaint driven. When asked about who would field the complaint, Ms. Deganhart replied that the Sheriff's Office would be the recipient of complaints.

Commissioner Meinert pointed out that, as drafted, the resolution referred to all of County Roads 5, 7 and 9. He suggested that the resolution state unmaintained portions and state that the operation of snowmobiles is permitted not exclusively on these roads, and that the resolution applied to these only.

Commissioner Albritton stated for the record that the Ironton roads were included because the issue had already been addressed and this just made it official. She suggested that the resolution include the language of the conservation easement.

It was suggested that the resolution be silent on County Road 31 so as not to jeopardize or undermine ongoing negotiations there. All were in agreement.

Commissioner Batchelder asked to have the final version of the resolution at the next Commissioner meeting and to be clear on the title of the resolution on the agenda.

Commissioner Meinert discussed the issue of signage. Commissioner Batchelder asked that Chris Miller, Road Superintendent, be present at the meeting for the signage discussion.

Alan Staehle offered that he had 8-foot steel posts that he would donate, and that there were 8-foot wooden posts at the County shop in Ridgway.

Alan Staehle advised the Commissioners that he had a CD draft of county maps that was produced by Southwest Data Systems and the Montrose Emergency Telephone Service Authority. He discussed the cost of having the first copy of the draft printed. Commissioner Batchelder advised him to work with the County Administrator to find funds to pay for the printing.

11:25 Commissioner Batchelder recessed and reconvened at 11:38:

5. Review and discussion of election equipment certification:

Michelle Nauer, County Clerk and Recorder, met with the Board to discuss the history of the certification of election equipment and what had transpired to date. To begin with there is Title 1 (Elections) in the Colorado Revised Statutes. Then there are Rules. The Secretary of State makes "rules" to clarify gray areas in the statutes. In the past, these were the only two areas that county clerks had to be concerned with. Five years ago, the federal government became involved and instituted HAVA (Help America Vote Act). DREs (Direct Recording Electronic [voting device]) were required to accommodate the disabled community. Security and ID requirements and procedures were addressed, and a statewide database, VR (VR – Voter Registration System), was created by the EAC (Elections Assistance Commission). This resulted in more legislation to modify Title 1 and new Rules were implemented by the Secretary of State. Then, to further complicate the issue, a court case claiming that the DREs were not good enough and did not count votes correctly even though the EAC had certified them and allocated funds for their purchase, resulted in the

judge issuing an order for the recertification of the DREs and security in August 2006. As a result, Ms. Nauer was required to install cameras in her office.

The Secretary of State issued Rule 45 as a result of the court order requiring that before 2008 the Secretary of State would recertify equipment within a more rigid and stringent testing environment than was even required by the EAC.

HART is the election equipment vendor that Ouray County uses and is in 47 counties statewide. It was previously certified. Premier (formerly Diebold) is fully certified.

Ms. Nauer informed the Commissioners that she had received a press release from all clerks in the state recommending an all mail ballot election for 2008. She admitted that this would not solve the problem but that the County would have less DREs to have to worry about for the certification process. The clerks are looking for legislation to override or remove the certification and to take it out of the Secretary of State's hands, or they are asking for an extension to 2010. The Secretary of State still has \$13 million of HAVA money. If the clerks ask to have the money distributed to the counties to bring them into compliance there will not be enough money for the voter registration system, which is a federal requirement.

To bring the Commissioners up to date, Ms. Nauer explained that HART and the Secretary of State had a communications breakdown regarding certification. The optical scanner (OS) was completely decertified. The Secretary of State found that it did not count correctly, that there were tears, wrinkles, etc. However, during the certification process the same ballots were being used over and over again.

At this point, Ms. Nauer was totally exasperated and explained that she had no solutions. The DREs had been conditionally certified. She had attempted to read the conditions and gleaned from them that the Secretary of State was requiring more locks and seals and labels, and the purchase of UPS (power supplies) to sustain power for twelve hours. The software that Ouray County bought just recently, Tally Servo, was conditionally certified. It is necessary for both the DRE and the OS. She had recommended that the County purchase it because initially HART was to provide it and then jacked up the prices. Now, she has learned, she needs to purchase BOSS (ballot creation software). At this point, the County will be 100% self-sufficient. However, if the ballot is too big, the software will not work.

To sum up, Ms. Nauer offered options being considered by the county clerks: override certification by the Secretary of State and a mail ballot with a hand count. However, she still needed to get the DREs working. The best option would be to get the state legislature, who trumps the Rules and the judge's order, to change it.

The Commissioners discussed the issue. Commissioner Meinert suggested that the Commissioners send a letter to Senator Gordon who would possibly be carrying the legislation in the Senate, stating Ouray County's position of supporting the clerks' recommendations as interim solutions to the problem on an emergency basis.

Ms. Nauer concluded that she would visit again with the Commissioners after the first of the year to update them on what action was being taken by the bigger counties. At that time, she would ask the Commissioners to draft a letter.

Commissioner Albritton, the County Attorney and Ms. Nauer will meet in the meantime to decide upon a plan of action.

Connie Hunt discussed a few items. She reminded the Commissioners that the next Tri-County meeting was set for January 8, 2008 and that Ouray County was the host. She provided a handout for an upcoming work session. She discussed a workshop being presented by the Ouray County Building Inspector. And she advised the Commissioners that Ouray County had received an award from CTSI (County Technical Services, Inc.) for Most Improved Loss Experience for 2007.

Mary Deganhart updated the Commissioners on the JV Real Estate lawsuit. She advised them that the changes to the plat had been forwarded to the law firm and she had received communications from them. She would be filing the first pleading in January.

12:30 Commissioner Batchelder adjourned the regular meeting:

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