

The Board of County Commissioners met in regular session on July 28, 2008. Those present for the session were K. Keith Meinert, Chair; Don Batchelder, Vice-Chair; Heidi M. Albritton, Member; Mary Deganhart, County Attorney; and Linda Munson-Haley, Clerk of the Board. Connie Hunt, County Administrator, was on vacation.

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

**A. 9:05 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 this agenda item the Commissioners addressed the next agenda item.

**B. 9:30 General Business:**

**1. Request for approval of warrants:**

**2. Request for approval of July 15, 2008 minutes:**

**3. Review and acceptance of the Ouray County Public Trustee Report for June 2008:**

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Albritton to approve warrants and the July 15, 2008 minutes as presented, and to accept the Ouray County Public Trustee Report for June 2008. There was no discussion. Motion passed unanimously.

**4. Request for A&S Agreement with Debbie Cokes:**

Commissioner Batchelder suggested adding a Task 9 as a catchall to state, “Other tasks as requested by the Trails Group that are acceptable to the contractor and ratified by official Board of County Commissioners action.”

Mary Deganhart referred to Item 3, Term, and noted that the PLP (Public Lands Partnership) had requested the completion date to be October 15, 2008. After further discussion it was decided to add a sentence under Item 2, Compensation, such that as funding became available the total of \$4,500 could be increased, and to have the term of the contract through December 31, 2008. Ms. Deganhart will make the changes.

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Albritton to approve the Independent Contractor Agreement with Debbie Cokes with the following changes: 1) to add a Task 9 – “Other tasks as requested by the Trails Group that are acceptable to the contractor and ratified by official Board of County Commissioners action;” 2) to add a clause to Item 2, Compensation, increasing the funding from \$4,500 if additional funding became available; 3) the term would be from August 1, 2008 to December 31, 2008 subject to available funding; and 4) to change the completion date from November to October 15, 2008; and to authorize the Chair’s signature on the amended contract. There was no discussion. Motion passed unanimously.

**5. Request for adoption of Resolution 2008-041 ratifying action taken on July 15, 2008 by the Board of Zoning Adjustment concerning the Connie Wurst appeal:**

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Albritton to adopt **Resolution 2008-041** sustaining an appeal by Connie Wurst to the Board of Zoning Adjustment of an administrative decision denying a building permit, and ratifying action taken by the Board of Zoning Adjustment on July 15, 2008. Discussion. Commissioner Batchelder commented that the condition placed on the approval created the desired results. Mary Deganhart commented that the appeal would never have made it before the Board of Zoning Adjustment if the applicant had done the research beforehand. A discussion followed as to what was required of applicants for building permits. Commissioner Meinert suggested that a box be placed on the checklist for a building permit indicating that the applicant had demonstrated that the lot was a buildable lot and that all of the proof had been presented. He wanted to make it clear that it was the applicant’s responsibility to obtain all necessary proof, not the Staff’s. Ms. Deganhart noted that the checklist was more of an internal document but that it could be structured for the public. Commissioner Albritton agreed that it would be beneficial to have more information available for the public. Commissioner Batchelder suggested that before the Commissioners instructed Staff to pursue a specific course of action, a copy of the booklet that the building department provides to everyone asking for a permit, “Before you Build in Ouray County,” be reviewed because it may cover that information. Commissioner Meinert agreed. Ms. Deganhart advised that the booklet needed to be updated. An item would be placed on the agenda for the August 11, 2008 Board of County Commissioners’ meeting for follow-up and would include Staff’s comments. With no further discussion, the motion passed unanimously.

**6. Request for adoption of Resolution 2008-042 concerning Mall Road and Vista Terrace access improvements:**

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Albritton to adopt **Resolution 2008-042** concerning Mall Road and Vista Terraces access improvements as presented. Discussion. Commissioner Albritton was pleased that Staff was able pull this together and work with CDOT and

the Town of Ridgway to make it happen. Commissioner Meinert agreed. With no further discussion, the motion passed unanimously.

**C. 9:24 Administrative / Commissioner Reports:**

**Commissioner Batchelder** discussed the following:

- 1) **Ice Park meeting recap** He and Commissioner Albritton attended a meeting with Tanya Henderson with the Forest Service and the City of Ouray to discuss Ms. Henderson's appraisal of the Ice Park property that the City of Ouray was contemplating purchasing. He made it clear at the meeting that it was not in the County's interest to question the Forest Service's procedures but mainly to ensure that the Forest Service had the correct information for making its appraisal. The Forest Service will take the information presented and revisit the appraisal. At that point it would be in the City's hands. Commissioner Albritton surmised that the final amount would probably still be quite a bit higher than what the City would be able to pay. She had been working with the Ice Park board to try to drum up private funds to help. Commissioner Batchelder suggested that it could be possible to leverage the limited funds available to the City for this purchase without additional expenditures. He acknowledged, however, that it was the City's decision. Another item of note from the meeting was the possibility that the special use permit fees for that property, and all Forest Service property, would increase. He was clear to the City that the County would very likely not be able to fund \$15,000 for a special use permit. Commissioner Albritton noted that Tammy Randall-Parker and Charlie Richmond with the Forest Service went to Washington, D.C. to present the possibility of a phased purchase. The Forest Service had never considered that approach in the past but indicated that it would approve a phased purchase in this case. She added that everyone was bending over backwards to make it happen. Commissioner Batchelder clarified that a trade was not an option to the Forest Service.
- 2) **Truck registration snafu** He had a conversation with a citizen who had a small Honda truck with all of the safety equipment but that could not be registered because the VIN had too few numbers. One possible reason for this was that it was an imported vehicle. He suggested issuing SMM (Special Mobile Machinery) tags to travel on the road. It can go only about 55 mph. By consensus, the Commissioners asked the County Attorney to research available options in anticipation of probable future requests.
- 3) **HUTF funding** Vince Rogalski, the area's representative on the State Transportation Board indicated that the HUTF would be bankrupt in 2009 and that all municipalities should expect a 20% decrease. The picture was even bleaker with a current projection of a minimum of 20%, with 40% more likely. The net effect of a 40% decrease for the County would be a 20% decrease in overall revenue for Road and Bridge. The decrease could possibly affect the fourth quarter of 2008. Commissioner Albritton pointed out that the County needed to be very cautious with the budget this fall in assuming that those funds would be available. Commissioner Batchelder explained that the HUTF was funded through fuel taxes but as fuel demand went down the federal government kept the payments at the same level, thereby drawing down the account.

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

- 1) **Fairway Pines BAA hearing** She was leaving this evening for the BAA hearing on Fairway Pines tomorrow in Grand Junction.
- 2) **CCI's decision on amicus brief** She advised the Commissioners that CCI had decided not to request an amicus brief be filed in a dispute involving Mesa County and would post the reasons on its website. The general consensus was that CCI did not want to get crosswise with Mesa County because the brief would be contrary to Mesa County's position. However, Eagle, Boulder and Larimer counties would be filing amicus briefs, and CML would do the same. She talked to the Boulder County attorney who felt that it would be useful if other counties wanted to be named in its amicus brief. She asked if the Commissioners wanted to do so. Commissioner Meinert wanted to see CCI's rationale before making a decision to lend support adding that he was inclined to lend support. Ms. Deganhart informed him that it was a timing issue because opening briefs were due on Friday. Commissioner Albritton was in favor of supporting the brief. Commissioner Batchelder explained that the position Ouray County would be supporting was that local de-Brucing issues were valid and the Denver district court judge was wrong in her analysis. The flip side would be that if the local issues were determined to be invalid, all of the local entities who had de-Bruced would be in the position of having to refund all of the monies retained from the time of de-Brucing, which could be over a period of 10 to 15 years. The accounting would be a nightmare and a costly endeavor, and would be open to challenge. From Ouray County's standpoint and to protect the interests of entities in the county he agreed to support the brief. Commissioner Meinert reconsidered, recognizing the timing implications, and agreed with Commissioners Albritton and Batchelder. Commissioner Albritton added that the County was not taking a position against CCI. By consensus, the Board instructed the County Attorney to pursue the appropriate support of the very narrow issue of the de-Brucing challenge. Ms. Deganhart will communicate Commissioner Batchelder's points to Boulder County as the reason Ouray County decided to participate in the brief.
- 3) **GMUG Ice Cream Social** She attended the event and provided an update to the Board.
- 4) **Helicopters** She sent out an email on the county attorney listserv website and only one county responded to her message regarding regulation of helicopters saying that it regulated and had requirements on flights times, etc. Commissioner Albritton wanted Ouray County to look into regulations. A discussion followed regarding the impetus for the issue and Commissioners Batchelder and Meinert suggested that the concerned citizens should write letters of complaint and then the Commissioners could respond to their concerns.
- 5) **Hideout Lake and activities** Representatives of Hideout Lake called and met with her on Tuesday to talk about special use permits.

**Commissioner Albritton** discussed the following:

- 1) **Child care update** Bright Futures would be sponsoring a childcare meeting on August 20, from 6 to 8 p.m. at the Ridgway Community Center that she planned to attend. They were trying to set up a council on early childcare in Ouray County. Parents were encouraged to get involved. She would forward the information to the press.
- 2) **Potential ballot issues** She received information this weekend on possible ballot issues this fall that she felt would adversely affect small businesses in Colorado. One would do away with at-will employment in Colorado, and another would force small businesses to provide full coverage benefits. There were a few more that could adversely affect small businesses in Colorado.

**Linda Munson-Haley**, Clerk of the Board, discussed the following:

- 1) **Pandemic flu exercise** Commissioners Albritton and Meinert planned to attend the tabletop exercise on August 6. Commissioner Meinert reiterated that he wanted Cheryl Roberts, Public Health Director, to advise the Commissioners before the exercise of their role.
- 2) **CCI Western District Meeting** All three Commissioners would attend the meeting on August 14. Commissioner Meinert noted that Jeannine Casolari, Treasurer, would be hosting the Western Region Treasurers and Trustees meeting at the Ouray County 4-H Event Center on that day and had asked him to say a few words.

**Commissioner Meinert** discussed the following:

- 1) **Camp Bird Road rockfall** He referred to an email sent to the Commissioners about a rockfall on the Camp Bird Road that needed attention. The Commissioners would visit with Chris Miller later in the day.
- 2) **CCI Legislative Committee Representative** CCI asked Ouray County to choose a representative to the Committee. He pointed out that Commissioners Albritton and Batchelder had appointed him for 2008 and that he would be happy to continue. By consensus, the Commissioners agreed that Commissioner Meinert would continue to be the Ouray County representative to the CCI Legislative Committee.

Doug Canright distributed a memo dated July 22, 2008 on ATV operation on CR 361.

**10:33 Commissioner Meinert recessed and reconvened at 10:44:**

**D. 10:44 County Road 361 (Camp Bird Road) Discussions:**

Commissioner Meinert noted that the Commissioners had received a memo from Sheriff Mattivi dated July 8, 2008 at their request with his recommendations regarding speed limit and enforcement suggestions for County Road 361 (CR 361). The Sheriff explained that the speed limit was currently 20 mph but because of the difficulty encountered by motorists of keeping their speed at 20 mph going downhill without riding their brakes he felt that an increase to 25 mph may be beneficial. He would not suggest going lower.

Mary Deganhart recalled that the issue of speed limits had been mentioned at the last Commissioner meeting and the suggestion to adopt the 2003 Model Traffic Code (MTC). As part of that the County could adopt certain speed limits outside of the MTC for certain roads in the county. She planned to meet with the Sheriff to talk about adopting the 2003 code, etc. She suggested that the Commissioners may want more background from the Sheriff on his recommendations, discussing types of traffic, width and grade of the road, etc. Commissioner Albritton noted that she wanted something more thorough from the Sheriff before taking action but for these discussions what he submitted was enough.

Chris Miller, Road Superintendent, explained that he had discussed the issue extensively with the Sheriff before the Sheriff made his recommendations and he was in agreement with them.

Commissioner Meinert opened the discussion to public comment.

John Meltzer exhorted the Commissioners to take the effects of the washboarded portions of the road into consideration as a serious safety issue. He felt that if people used their lower gears they could maintain a slower speed. He suggested not raising the speed limit above 20 mph because it would increase speeds an extra 5 to 10 mph above the posted speed on the road. The problem always returns to the enforcement issue, manpower and dollars. He requested that the Board not raise the speed limit any higher than it is now.

Alan Staehle agreed with Mr. Meltzer. He related that he had just driven over Imogene Pass on his motorcycle and paid a lot of attention as to what was a comfortable, conservative speed. On a motorcycle he could avoid potholes and washboards. He determined that 30 mph was a comfortable speed. 25 mph was a good speed. He felt that it was a reasonable speed and that more people obeyed the speed limit when it was reasonable. He added that there would be times when 25 mph was too fast but it would be obvious. Based on his experience in law enforcement, he recommended putting the speed limit at 25 mph, which was a more realistic speed that more people would tend to obey.

Warren Barker did not disagree. Most people he talked to on the road did not have a clue as to what the speed limit was. It all came back to the enforcement issue. As an aside, he advised the Commissioners that he had clocked a motorcycle doing the all-time speed record on the road of 55 mph.

Commissioner Meinert discussed the issue of conflict between the resolution and what was posted. The resolution adopted a 15 mph speed limit for the road but it was posted at 20 mph. The resolution would need to be changed and if the County decided to adopt a speed other than 20 mph the road would have to be re-signed.

Mr. Meltzer asked if the County was considering the whole road or only the small portion of 1.8 miles from the intersection with Highway 550 to the bridge.

Mr. Barker noted that it took a concentrated effort to keep a vehicle at 20 mph on the way down. He drove it every day. Going up would be different.

Sheriff Mattivi agreed with Mr. Barker. He shifts to low and still goes 25+ mph. Therefore, he felt that 25 mph was a reasonable speed for the hill.

Ms. Deganhart advised that the Board would need to schedule a public hearing to change the speed limit. Commissioner Albritton pointed out that the Commissioners would need to take action anyway because of the discrepancy.

Commissioner Batchelder noted that evidence presented by law enforcement and Road and Bridge would indicate that a reasonable speed would be 25 mph. He suggested drafting a resolution designating it as such on the portion from the intersection with Highway 550 to the Harris Bridge and holding a public hearing to adopt it. He suggested leaving the speed limit at 20 mph beyond that.

Commissioner Albritton advised that the County would need to invest in additional signage.

By consensus, the Commissioners asked Ms. Deganhart to draft a resolution to adopt a speed limit on County Road 361 from Highway 550 to the Harris Bridge of 25 mph, and above the bridge of 20 mph, and to set it for a public hearing.

Warren Barker noted that from the highway there were 3 speed limit signs in each direction to Senator Gulch. CR 26, Imogene Road, was not posted at all so by state law the speed limit is 30 mph. He suggested on that portion of the road that Ouray County be consistent with San Miguel County and San Juan County who had a posted speed limit of 15 mph. He added that the terrain takes care of the speed issues on those roads.

Chris Miller suggested that it be posted for 15 mph at the split of Imogene (CR 26) and Camp Bird (CR 361) Roads.

By consensus, the Commissioners asked Ms. Deganhart to draft a resolution to that effect.

A public hearing was set for 4:30 p.m. on September 8, 2008 at the Courthouse.

Commissioner Meinert turned to the other issue of enforcement on CR 361. He asked if the Sheriff's Office could increase coverage there or have more effective enforcement.

Sheriff Mattivi related that CR 1 and CR 24 had a lot of traffic in the early mornings and later afternoons. He tried to work CR 361 when he could. On weekends he tried to get someone there depending on what was going on. Weekends were thin. During the week he could get someone up there off-and-on throughout the day. It was a matter of priority.

Commissioner Albritton mentioned that, realistically, the duration of time during a twelve-month period for the need for enforcement on that road would be 6 to 8 weeks. She realized that the Sheriff was autonomous but requested that during that time, the height of tourist season, he have deputies patrol there as often as possible to have a presence during the daytime hours.

Sheriff Mattivi noted that in his memo he suggested that deputies hit the peak travel hours in the morning from 8-10 and in the afternoon from 3-5.

Commissioner Meinert asked if law enforcement was not enforcing the speed limit as strenuously as possible. Sheriff Mattivi advised that they gave a lot of warnings to try to educate the public but added that he may have to change his tactic to give more speeding tickets and fewer warnings. He recommended that the Commissioners adopt the new fee schedule for fines that went into effect on July 1, 2008 as soon as possible. Ms. Deganhart advised him that the Model Traffic Code (MTC) allowed for a maximum fine of \$600. A discussion followed regarding writing for higher fines and the Commissioners agreed to the Sheriff's Office writing for the higher fines.

Ms. Deganhart noted that she wanted to adopt the new fee schedule at the same time as adopting the new MTC. It would require a public hearing and be done by ordinance to be in place for next summer. The hearing could be set for September or October of this year.

Commissioner Meinert reiterated other enforcement issues from earlier discussions about having an extra vehicle parked on CR 361 with a manikin officer in it, and the possibility of using a speed trailer. Sheriff Mattivi advised that the Town of Ridgway would loan the County its speed trailer but the City of Ouray was more reluctant. Commissioner Meinert encouraged the City of Ouray to be more receptive to loan it out since CR 361 affected the City of Ouray more than the Town of Ridgway. Chris Miller suggested researching the cost of one of the signs that had a camera to take pictures. Commissioner Batchelder asked Staff and Mr. Miller to research the cost of speed trailers for the County. Commissioner Albritton suggested that it could also be used on CR 1 and CR 24. Commissioner Meinert concurred. By consensus, the Commissioners directed Chris Miller to research the cost of a speed trailer.

Alan Staehle addressed the issue of signs on the portion of the road going through the property at Camp Bird Mine. He suggested that motorized trails grant monies may be a means of paying for the signs.

The Commissioners had scheduled a follow-up meeting on August 4, 2008 at 10:30 a.m. A suggestion was made to contact the Ouray County Historical Society (OCHS) to discuss the issue of signs. Another item for discussion at that time would be whether the road through the Camp Bird property should have one-way or two-way traffic.

Commissioner Batchelder asked Chris Miller to work with OCHS on possible fencing around the property and get the DOC crew to do the work. He could also work with Alan Staehle on the trails grant to get monies for the fencing.

Warren Barker suggested that there would be a lot of monies available in the State Parks OHV fund for grants.

**11:48 Commissioner Meinert recessed for lunch and reconvened at 1:30:**

**E. 1:35 GIS Presentation:**

Jeff Bockes, GIS Technician, was present to update the Board on GIS activities. His first task when he began in March was to assess the state of the GIS system for the County. He organized the data and determined that most of the existing data was a mess but that there were some useful items. The parcel layer was the most useful to the County. Most of the questions that would be asked of the GIS data for the county were based in the parcel layer. It had serious data quality issues specific to the location of ownership parcels in relation to each other and spatial relationship to the ground. There was a gap in time from when it had last been maintained.

Commissioner Batchelder explained that the original data had come from the Bell system and then the Southwest Data Center did a lot of work trying to fit the data into where it belonged.

Jeff Bockes continued to explain that he had gotten other data from entities with more up-to-date data such as the BLM, the Forest Service, 911 dispatch, etc. Working with Michael Elden, they established the primary focus for the GIS department. The main focus for Phase I would be to update the parcel layer. The first step would be to establish a one-to-one match between the Assessor's data and the parcel data while concurrently correcting positional errors of the data. Secondary activities would include establishing contacts with others in the GIS community to include other counties, the BLM, the Forest Service, etc. He tried to address public safety concerns as it related to the GIS system that required coming up with a new road map. While updating the road map he corrected the addressing and infrastructure data. He worked with Alan Staehle to get a grant for GPS equipment.

At the same time, he was fielding requests from other county departments. He remapped voting districts for the Clerk' Office from legal descriptions on record. He has been working with Land Use to provide specific maps for individual projects, clarifying zoning issues, parcel locations, .etc. He has been working with Road and Bridge on addressing. And, he has been working with the multi-agency trails group to assist with mapping and other data needs.

He was approached by Mike Fedel of the City of Ouray and Jen Coates from Town of Ridgway to give guidance in GIS. They have been meeting to talk about collaboration to prevent duplication of efforts and to ensure that the systems worked together.

He spoke to the goals of the GIS Department. The overall goal was to establish an accurate and stable set of data for the County to support other departments and for the public by following the steps outlined below:

- To continue updating the parcel layer of Phase I and achieving those Phase I goals of one-on-one match with the Assessor's data – six month timeframe
- Concurrently he will bring in missing data and correct errors
- To realistically get things in better alignment spatially will take longer than the year he noted for the goal.

He returned to the initial Phase I and pointed out that the parcel map would always represent approximate locations and was not meant as a legal map. It can be reasonably close to be useful for large scale planning.

Upon completion of that process he recognized the need to establish a set of procedures to ensure continual updating and maintenance.

A second goal would be to produce an accurate road map. He would initially concentrate on high risk areas where there is not a lot of data. He could not estimate how long it would take because he had not started it yet. The workflow would be balanced seasonally.

The parcel maps that the Assessor is currently using can be updated as they are completed. All of the other maps will come from the parcel and road layer.

Mr. Bockes also discussed the need to address the website and public availability to the data. The goal would be to provide a public domain of raw data and map projects over the internet to aid the public. He planned to keep data small so as to not use up all of the website bandwidth. The current data that is not from the BLM or Forest Service data, is in a state that it is very preliminary with many errors. He asked if the Commissioners wanted to distribute it to the public in that state. Commissioner Albritton was hesitant to put something out that was not ready for public consumption and could create problems. She preferred to wait until it was as accurate as possible. Commissioner Batchelder agreed.

Commissioner Meinert noted that nothing would ever be perfect and wondered at what point it would be realistic to release to the public. Commissioner Albritton pointed out that Mr. Bockes had a game plan.

Jeff Bockes explained and demonstrated his process and discussed his progress. When he corrected an area and the Assessor's Office had verified accuracy it could be available internally. At that point it could be possible to break it up into township blocks and release as completed to the public. The Commissioners agreed. Susie Mayfield, County Assessor, agreed that getting the basics out and then adding layers as they became available was preferable with a disclaimer that it was not accurate enough to be used for legal descriptions.

The Commissioners agreed that Mr. Bockes was going in the right direction and that the ultimate output would be beneficial.

Mr. Bockes concluded with his preference for handling public requests. He would limit his responses to data requests from other public entities who would take the disclaimer of preliminary data into account. He would create a request list to alert people with specific requests when that data became available for public consumption.

Commissioner Meinert asked Mr. Bockes to update the Commissioners in about six months.

**2:40 Commissioner Meinert recessed and reconvened at 2:46:**

**F. 2:46 Consideration of Resolution 2008-043 concerning the authorization for the Hideout Lake Subdivision to gain access to Dave Wood Road for general usage:**

Mike Kettell and Pat Coleman with Hideout Lake Subdivision were present.

Mary Deganhart advised the Commissioners that the resolution was put together based on June 30 meeting comments.

Commissioner Meinert noted that it adequately addressed a point of concern expressed by the Commissioners. A discussion followed enumerating concerns.

Ms. Deganhart advised the Commissioners that she and Land Use Staff had met with representatives of PDP about their land in Ouray County and talked about a lot of the issues last week. As a result, there were a few minor changes to the resolution. Wording on the first page was changed to say a "draft" of a copy of the Hideout Lake Easement. Because of the possibility of a secondary maintenance access point, language was changed from "gate" to "gates" in two places on the second page in paragraph 3.

Commissioner Meinert asked Mr. Kettell and Mr. Coleman if the resolution suited their requirements to which they replied that it did.

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Albritton to approve **Resolution 2008-043** concerning authorization for the Hideout Lake Subdivision to gain access to Dave Wood Road for general usage as amended by the County Attorney. There was no discussion. Motion passed unanimously.

**2:55 Commissioner Meinert recessed and reconvened at 3:00:**

**G. 3:00 Public Hearing – Petition for Abatement or Refund of Property Taxes:**

Applicant: William D. Hamann  
Schedule Number: R001535  
Property Description: Lot 25, Elk Meadows Filing #1

Susie Mayfield, County Assessor, and Raelene Freier, Chief Deputy Appraiser, were present from the Assessor's Office. The applicant was not present.

Commissioner Meinert opened the public hearing for consideration of a petition for abatement or refund of property taxes for William D. Hamann and noted that the Assessor recommended approval.

Susie Mayfield, County Assessor, explained that Mr. Hamann had questioned the evaluation and requested a reduction in the value of the land. The Assessor's Office agreed with the Petitioner and because the refund was over \$1,000 she had to bring it to the Board. She explained further that the Petitioner had combined two lots into one but that it had still been valued as two, hence the correction.

**M/S/P**—Motion was made by Commissioner Batchelder and seconded by Commissioner Albritton, in conjunction with the Assessor's recommendation, to abate or refund taxes for 2007 on Parcel R001535 in the amount of \$1,013.95. There was no discussion. Motion passed unanimously.

**H. 3:08 Chris Miller, Road Superintendent:**

**1. Report on suggested reductions in the Road and Bridge budget to meet potential 2009 revenue shortfalls:**

Commissioner Albritton explained that she had requested that Chris Miller, Road Superintendent, prepare the report as a result of last year's unsuccessful attempt to secure additional funding for Road and Bridge. The County had other options, all of which involved going back to the voters for a tax increase and/or cutting the Road and Bridge budget and the resultant ramifications as far as cuts in levels of service to the community. Given the HUTF situation, additional funds would only mean status quo for Road and Bridge and not additional levels of service. She added that the Commissioners were not singling out Road and Bridge as cuts would be made in all departments.

Chris Miller presented his report detailing potential budget cuts for 2009 totaling \$298,805 as requested by the Commissioners. He commented that to take that much out of the department's budget would essentially shut down Road and Bridge. It would be reduced to performing only essential grading services, maybe mag chloride on one road, and covering emergencies. In preparing his report he did not cut fuel or employees.

Commissioner Batchelder noted that a decrease in the number of employees at this point would result in snowplowing in the winter becoming an issue and that part of the county would have to wait to be plowed. He also noted that the proposal would essentially eliminate opening the jeep roads. Mr. Miller added that eliminating the jeep roads would save about \$65,000.

Commissioner Meinert suggested that the City of Ouray might find the cost of opening the jeep roads in the spring a modest price compared to the cost of a reduced tourism business from not having the roads open. Commissioner Albritton recommended a conversation with the City of Ouray to see if that was a possibility. Commissioner Meinert added that another consideration was that the Commissioners would not be good stewards of county assets if they failed to maintain the roads.

Commissioner Batchelder distributed a white paper analysis he had prepared titled "Potential Sales Tax Question for Road and Bridge Funding." A discussion followed.

Commissioner Meinert pointed out the need to make some decisions rather quickly on the direction the Commissioners wanted to take and referred to a space saver on the November ballot that could be used for a sales tax question. Commissioner Albritton felt that a work session would be advised with a representative from the City of Ouray present for discussion of the jeep roads and the implications of a sales tax question and how it would affect the municipalities.

Mary Deganhart advised the Commissioners that the ballot language had to be certified to the Clerk by September 5. The Commissioners decided to hold two work sessions with the public to discuss the options. A work session was scheduled for August 11, 2008 at 5 p.m. at the Land Use / Road and Bridge facility, and on August 12, 2008 at 5 p.m. at the Courthouse in Ouray.

Bob Wolford addressed the Commissioners' request for Chris Miller to look at \$300,000 of cuts in the Road and Bridge budget. He advised the Board to decide on an alternate reality other than Road and Bridge. When Mr. Wolford was the Road Superintendent, and before the current Commissioners had been seated, a substantial amount of money was funneled out of Road and Bridge and into the General Fund. He felt that the public had the same perception and that was a reason why the ballot issue failed last fall. He suggested that some of the other departments needed to make cuts, also. Commissioner Meinert assured him that there would be repercussions on the entire budget.

**3:52 Commissioner Meinert adjourned the regular session:**

OURAY COUNTY BOARD OF COUNTY COMMISSIONERS  
OURAY, COLORADO

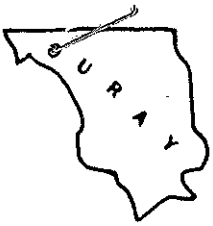
ATTEST:

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K. Keith Meinert, Chair

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

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

\_\_\_\_\_  
Heidi M. Albritton, Member

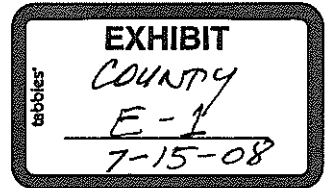


County of Ouray  
**LAND USE ADMINISTRATION**  
P.O. Box 572 Ouray, Colorado 81427

*Wm. S. Suddon*

County Courthouse  
(303) 325-4706

July 23, 1981



Division of Water Resources  
1313 Sherman Street, Room 818  
Denver, Colorado 80203

Attn: Ground Water Section

Re: Well Permit Application  
Robert K. Williams, Receipt No. 15770

Gentlemen:

I have been asked by Robert K. Williams, the referenced applicant, to provide Ouray County's official position concerning the status of the parcel of ten acres more or less for which he has made application for a well permit.

A fee simple right-of-way owned by the Colorado Department of Highways has separated the parcel now owned by Mr. Williams from the property of which it was originally a part since 1938. It is the county's official position in accordance with its current subdivision regulations that two parcels were created and a "subdivision" occurred at the time an owned right-of-way was established. The owned state right-of-way is as much an intervening parcel as if the two were separated by a parcel in private ownership.

I am returning Mr. William's application, herewith. If you require further information, I would be glad to provide it.

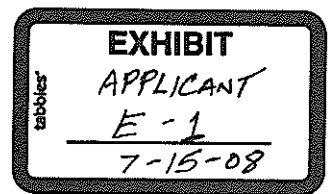
Very truly yours,

Charles G. Rahm, Jr.  
Land Use Administrator

CGR:lkf

Enclosure

cc: Board of Commissioners  
Robert K. Williams



**Highway Acquisitions**

Friday, July 11, 2008 5:12 PM

From: "Harris, Shane" <Shane.Harris@DOT.STATE.CO.US>  
To: Conniewurst@yahoo.com  
Notebook.jpg (3KB)

Connie, you asked for some information and clarification on highway acquisitions.

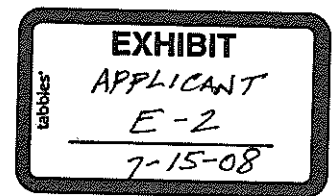
The Colorado Department of Transportation is exempt from following the 35-acres subdivision law when acquiring property for highways and county regulations in general regarding subdivisions.

To my knowledge, the Department severed a tract of land for US highway 550 and left a 22-1/2 acre tract, which you now own. The land was both physically and legally separated from the larger tract. In this particular situation, the County acquire the right of way for the Department in either 1937 or 1938.

I don't believe this should be an issue for you. I can understand if there is a land use requirement of a minimum of 35 acres but I would venture that your tract of land predated the land use designation.

**Shane Harris**  
**Region 5 ROW Manager**  
**(970) 385-1432**

<http://us.mc543.mail.yahoo.com/mc/showMessage?fid=Inbox&sort=date&order=down&st...> 7/14/2008



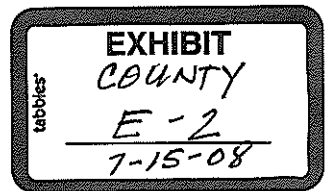
## Appeal to the Board of Zoning Adjustment

Re: 19200 Hwy 550 (22.210 acres; Ouray County Tax Account **R001218**)

### Summary Timeline of Known Property Use

- 1912 Property, owned by James P. Donovan, is part of the **full SW¼ of NW¼** of Section 35 in Township 45 North, Range 8 West of the New Mexico Principal Meridian (Book 95, page 473: Grant of right-of-way to Mountain States Telephone and Telegraph Co.).
- 1926 U.S. Highway 550 created under the auspices of the American Association of State Highway Officials (AASHO).
- 1937 Full quarter containing the property in possession of Fred Scala, also owner of adjacent Eastern half of NE¼ of Section 34 (Book 132, page 507: Grant of right-of-way to Mountain States Telephone and Telegraph Co.).
- 1938 By this year Ouray County has acquired right-of-way for US Highway 550, **“physically and legally” separating** the property (Statement of Shane Harris, Regional Right-of-way Manager, CDOT).
- 1977 Property listed for sale in April by John Potter through Ed and Darcy Wofford of United Country and Farm Realty Co.
- 1979 Property sold to Terrence O’Brien on 4 September: That portion of the SW¼ of NW¼ of Section 35 “that lies east of the eastern right of way line of U.S. Highway 550.” **Independent taxation** confirmed to begin (Book 190, page 787: Warranty Deed).
- 1996 **Property surveyed** on 29 August by Merlin Rawson, Registered Land Surveyor of the State of Colorado in preparation for sale.
- 1997 Rawson survey recorded by Ouray County on 4 February.
- 1997 New Ouray County Land Use Code passed, requiring a minimum of 35-acres for the construction of a single-family residence on property zoned as Valley (Section 3.4.H.1.b and 3.4.H.4.a). Though County Land Use Code is superceded by State legal authority of pre-1938 division, it nevertheless makes clear the exemption of this property under **Section 4.6**: “Non-conforming parcels of record at the time of passage of this Code may be built upon, providing that all other relevant district requirements are met.” No reference to earlier code requirements given.
- 1999 Property sold to James Jecmen. County taxation and assessment as stand-alone property continues.
- 2007 Property sold to Connie Wurst. County taxation and assessment as stand-alone property continues. Ms. Wurst pays for the installation of a water tap, septic engineering, and a new, CDOT-approved road access in order to meet the relevant district requirements for building a home on the property.
- 2008 Building permit denied to Ms. Wurst on the basis of 35-acre minimum regulation in the 1997 Land Use Code.

ARTICLE II  
GENERAL PROVISIONS



SECTIONS:

1. Purpose.
2. Definitions.
3. Application.
4. Actions by interested persons.
5. Violations designated.
6. Penalties for violations.
7. Severability.
8. Repeals.

SECTION 1 PURPOSE. These subdivision regulations have the primary purpose of promoting and protecting the physical well being of the citizens of the County by establishing minimum standards for the design of land subdivision projects through the provision of essential public streets and other forms of access, drainage facilities needed for protection against flooding, public (or private) water supplies as needed to furnish citizens safe potable water and public (or private) sanitation improvements as needed for disposal of wastes. To assure that the facilities provided are operated and maintained in the condition required to perform their function, it is necessary that the subdivision and its improvements be planned in an efficient and economical manner. This article hereby enacts subdivision regulations in accordance with the Senate Bill #35 1972 session laws concerning the division of land into sites, tracts, or lots and providing for the regulation thereof.

SECTION 2 DEFINITIONS. This article is also enacted under the provisions of Chapter 106, Colorado Revised Statutes 1963, as amended.

(a) "Subdivision" or "subdivided land" means any parcel of land in the state which is divided into two or more parcels, separate interests, or interests in common, unless exempted under paragraphs (b), (c), or (d) of this section.

(b) The terms "subdivision" and "subdivided land" as defined in paragraph (a) of this section shall not apply to any division of land which creates parcels of land each of which comprise thirty-five or more acres of land, none of which is intended for use by multiple owners.

(c) Unless the method of disposition is adopted for the purpose of evading this article, the terms "subdivision" and "subdivided land", as defined in paragraph (a) of this section, shall not apply to any division of land:

- (1) Which creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five or more acres per interest;
- (2) Which is created by order of any court in this state or by operation of law;
- (3) Which is created by a lien, mortgage, deed of trust or any other security instrument;
- (4) Which is created by a security or unit of interest in any invest-

from  
SUBDIVISION REGULATIONS  
ADOPTED BY MONTROSE, SAN MIGUEL & OURAY COUNTIES  
AUGUST 1972.

ment trust regulated under the laws of this state or any other interest in an investment entity;

(5) Which creates cemetery lots;

(6) Which creates an interest or interests in oil, gas, minerals, or water which are now or hereafter severed from the surface ownership of real property; or

(7) Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy, or as tenants in common and any such interest shall be deemed for purposes of this section as only one interest.

(d) The Board of County Commissioners may, pursuant to rules and regulations or resolution, exempt from this definition of the terms "subdivision" and "subdivided land", any division of land if the Board of County Commissioners determines that such division is not within the purposes of this article.

(e) "Subdivision improvements agreement" means one or more security arrangements which may be accepted by a county to secure the construction of such public improvements as are required by county subdivision regulations within the subdivision and shall include collateral, such as, but not limited to, performance or property bonds, private or public escrow agreements, loan commitments, assignments of receivables, liens on property, deposit of certified funds, or other similar surety agreements.

(f) "Sketch plan" means a map of a proposed subdivision, drawn and submitted in accordance with the requirements of adopted regulations, to evaluate feasibility and design characteristics at an early state in the planning.

(g) "Preliminary plan" means the map or maps of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of adopted regulations, to permit the evaluation of the proposal prior to detailed engineering and design.

(h) "Plat" means a map and supporting materials of certain described land prepared in accordance with subdivision regulations as an instrument for recording of real estate interests with the county clerk and recorder.

(i) "Evidence" means any map, table, chart, contract, or any other document or testimony prepared or certified by a qualified person to attest to a specific claim or condition, which evidence must be relevant and competent and must support the position maintained by the subdivider.

(j) "Disposition" means a contract of sale resulting in the transfer of equitable title to an interest in subdivided land; an option to purchase an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or any other conveyance of an interest in subdivided land which is not made pursuant to one of the foregoing.

(k) "Subdivider or developer" means any person, firm, partnership, joint venture, association or corporation who shall participate as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision.

SECTION 3 APPLICATION. The regulations established by this Article shall apply to all subdivisions or parts of subdivisions or lands defined in Sections 1 and 2 above, lying wholly or in part within the unincorporated territory of the county, and are declared to be the minimum reasonably necessary to promote and protect the public health, safety, peace, morals, comfort, and general welfare and for the accomplishment thereof.

SECTION 4 ACTIONS BY INTERESTED PERSONS. When any provision of the Colorado Revised Statutes of this Article requires the execution of any certificates or affidavit or the performance of any act by a person in his official capacity who is also a subdivider or an agent or employee thereof, such certificate or affidavit shall be executed or such act shall be performed by some other person duly qualified therefor and designated so to act by the Board of County Commissioners.

SECTION 5 VIOLATIONS DESIGNATED. It is unlawful for any person to offer to sell, to contract to sell, or to sell any subdivision or any part thereof, until a final plat or record of survey may thereof, in full compliance with the provisions of this Article and the Colorado Revised Statutes, has been duly recorded or filed in the office of the county recorder.

SECTION 6 PENALTIES FOR VIOLATIONS.

(a) Any subdivider or developer, or agent of a subdivider or developer, who transfers or sells or agrees to sell or offers to sell any subdivided land before a final plat for such subdivided land has been approved by the Board of County Commissioners and recorded or filed in the office of the county clerk and recorder shall be guilty of a misdemeanor and shall be subject to a fine not to exceed five hundred dollars for each parcel or interest in subdivided land which is sold or offered for sale. All fines collected under this paragraph (a) shall be credited to the general fund of the county.

(b) The Board of County Commissioners of the county in which the subdivided land is located shall have the power to bring an action to enjoin any subdivider from selling, agreeing to sell, or offering to sell subdivided land before a final plat for such subdivided land has been approved by the Board of County Commissioners.

SECTION 7 SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the article. The Board of County Commissioners, hereby declares that it would have passed this article and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more other sections, subsections, clauses, or phrases be declared invalid or unconstitutional.

SECTION 8 REPEALS. All resolutions heretofore adopted by the county relating to subdivision regulations are hereby repealed; provided, however, that such repeal does not affect any right which has accrued, any duty imposed, any penalty incurred, nor any action or proceedings commenced under or by virtue of such previous subdivision regulations.

ARTICLE XXII  
EXCEPTIONS

SECTIONS:

1. Application for exceptions.
2. Exemptions from the definition of subdivision.
3. Findings of fact.
4. Securing objectives.

SECTION 1 APPLICATION FOR EXCEPTIONS. The county planning commission may recommend to the board of county commissioners conditional exceptions to any of the requirements and regulations set forth in this resolution. Application for any such exception shall be made by a verified petition of the subdivider, stating fully the grounds of the application and the facts relied upon by the petitioner. Such petition shall be filed with the preliminary plan of the subdivision.

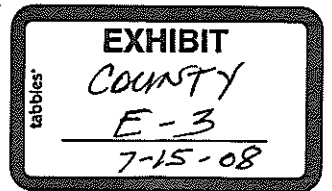
SECTION 2 EXEMPTIONS FROM THE DEFINITION OF SUBDIVISION. The board of county commissioners may, pursuant to rules and regulations or resolution, exempt from this definition of the terms "subdivision" and "subdivided land", any division of land if the board of county commissioners determines that such division is not within the purpose of this resolution.

SECTION 3 FINDINGS OF FACT. In order for the planning commission or the board of county commissioners to recommend or grant any of the above exceptions or exemptions, it shall be necessary that said planning commission or the board of county commissioners shall find the following facts with respect thereto:

- (a) That there are special circumstances or conditions affecting said property.
- (b) That the exception is necessary for the preservation and enjoyment of substantial property right of the petitioner.
- (c) That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

SECTION 4 SECURING OBJECTIVES. In authorizing such exceptions, the board of county commissioners shall secure substantially the objectives of the regulations to which the exceptions are granted, as to light, air and public health, safety, convenience and general welfare.

ADOPTED: 3-4-86



SECTION 4

ZONING PROVISIONS  
NON-CONFORMING USES AND STRUCTURES

4.1 The lawful use of a building or structure or the lawful use of any land, as existing and lawful at the time of adoption of this Code or, in the case of a future amendment of this Code, at the time of such amendment, may be continued, subject to the limitations set forth in the following paragraphs.

4.2 EXPANSION OR ENLARGEMENT

A. The expansion or enlargement of a non-conforming structure shall be considered a structural alteration and, upon completion of such expansion or enlargement, such structure shall conform with all the provisions of this Code.

B. An existing non-conforming activity may be extended throughout any part of a structure if no structural alteration is proposed or made for the purpose of such extension.

4.3 REPAIRS AND MAINTENANCE

The following changes or alterations may be made to a non-conforming structure or to a conforming structure housing a non-conforming use:

A. Maintenance repairs that are needed to maintain the good condition of a building, except that if a building has been officially condemned, it may not be restored under this provision.

B. Any structural alteration that would reduce the degree of non-conformance or change the use to a conforming use.

C. The addition of a solar energy device to such structure.

4.4 RESTORATION OR REPLACEMENT

A. If a non-conforming structure or a structure housing a non-conforming use is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed fifty (50) percent of the cost of reconstructing the activity or structure or, if such restoration involves structural alteration, such structure and the activities in such structure shall conform with all the provisions of this Code.

[4.4(B)]

B. Where restoration of a non-conforming structure or of a conforming structure to a non-conforming use would otherwise be permitted, it shall not be permitted unless the repair or restoration is commenced within twelve (12) months and completed within eighteen (18) months from the date of partial destruction.

#### 4.5 DISCONTINUANCE

Whenever a non-conforming use has been discontinued for a period of six (6) months, it shall not thereafter be re-established, and any further use shall be in conformance with the provisions of this Code.

#### 4.6 NON-CONFORMING PARCELS

Non-conforming parcels of record at the time of passage of this Code may be built upon, providing that all other relevant district requirements are met.

#### 4.7 CHANGE IN NON-CONFORMING USE

No non-conforming use of a building or parcel may be changed to another non-conforming use. A non-conforming use of the building or parcel may be changed to a conforming use.

#### 4.8 COUNTY-OWNED PROPERTY

If the County acquires title to any property by reason of tax delinquency and such property is not redeemed as provided by law, the future use of such property shall be in conformity with the then-current provisions of the County Land Use Code, or with any amendment of such Code, equally applicable to other like properties within the district in which the property acquired by the County is located.

EXHIBIT  
APPLICANT  
E-3  
7-15-08

### Warranty Deed

THIS DEED is a conveyance of real property (including any improvements and other appurtenances) from the individual(s), corporation(s), partnership(s) or other entity(ies) named below as GRANTOR to the individual(s) or entity(ies) named below as GRANTEE.

The GRANTOR hereby sells and conveys to the GRANTEE the real property described below with all its appurtenances (the "property"), and the GRANTOR warrants the title to the property, except for (1) the lien of the general property taxes for the year of this deed (which the GRANTEE will pay) (2) any easements and rights-of-way evidenced by a recorded instrument (3) any patent reservations and exceptions (4) any outstanding mineral interests shown of record (5) any protective covenants and restrictions shown of record, and (6) any additional matters shown below under "Additional Warranty Exceptions".

The specific terms of this deed are:

**GRANTOR:** (Give name(s) and place(s) of residence; if the spouse of the owner-grantor is joining in this Deed to release homestead rights, identify grantors as husband and wife.)  
John H. Potter a/k/a John H. Potter Jr., and  
Willma Potter. Husband and Wife

**GRANTEE:** (Give name(s) and address(es); statement of address, including available road or street number, is required.)  
Terrence F. O'Brien and Jo Anne O'Brien  
2766 "B" Road  
Grand Junction, Co. 81503

**FORM OF CO-OWNERSHIP:** (If there are two or more grantees named, they will be considered to take as tenants in common unless the words "In joint tenancy" or words of the same meaning are added in the space below.)

**PROPERTY DESCRIPTION:**  
That portion of the SW $\frac{1}{4}$ -NW $\frac{1}{4}$  of Section 35, Range 8 W, T45N, N.M.P.M. that lies east of the eastern right of way line of U.S. Highway 550.

State Documentary Fee

SEP 4 1979

~~2.80~~

**CONSIDERATION:** (The statement of a dollar amount is optional; adequate consideration for this deed will be presumed unless this conveyance is identified as a gift; in any case this conveyance is absolute, final and unconditional.)  
\$28,000.00

**RESERVATIONS-RESTRICTIONS:** (If the GRANTOR intends to reserve any interest in the property or to convey less than he owns, or if the GRANTOR is restricting the GRANTEE'S rights in the property, make appropriate indication.)

**ADDITIONAL WARRANTY EXCEPTIONS:** (include mortgages being assumed and other matters not covered above.)  
1979 taxes due and payable in 1980.

Signed on Sept. 1, 1979  
Attest:

John H. Potter Grantor  
John H. Potter Jr. Grantor  
Willma Potter Grantor

STATE OF COLORADO )  
COUNTY OF Ouray ) ss.  
The foregoing instrument was acknowledged before me this  
by John H. Potter a/k/a John H. Potter Jr. and Willma Potter  
WITNESS my hand and official seal.  
My commission expires: 6/16/82

1st day of September 1979  
Notary Public

STATE OF Colorado )  
COUNTY OF Ouray ) ss.  
The foregoing instrument was acknowledged before me this  
by  
WITNESS my hand and official seal.  
My commission expires:

day of , 19  
Notary Public