

The Board of County Commissioners met in a special session of the Ouray County Board of County Commissioners and the Ouray County Planning Commission on July 27, 2009. Those present for the session were County Commissioners Heidi M. Albritton, K. Keith Meinert and Lynn M. Padgett, and Planning Commission Members Carl Cockle, Ted Collin, Mark Howe Ken Lipton, Robert Luttrell and Linda Ingo. Linda Munson-Haley, Clerk of the Board, took minutes.

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

**7:01 p.m. The Board of County Commissioners of Ouray County and the Ouray County Planning Commission held a Town Hall style meeting to hear public comments and concerns about whether new regulations may be appropriate or necessary in the southern end of Ouray County. The Board and the Planning Commission recognized the importance of public input into the process and strongly encouraged the public to attend and voice their concerns and/or make recommendations.**

*[The Board of County Commissioners received written comments from Melissa Johnson, Jane Nash, Glynn Williams, Frank & Penny Starr, Andras Maros, Robert and Donna Green, Albert J. Berni, Stephanie and Joe West, Hans and Lisa L. Schenk, Randolph and Jennifer Parker, Elizabeth Kelsey, Allen and Judy Cockle, Pam Kraft, Frank Robertson, Dean Anderson, Alan Staehle, Denise Gendreau, Sara and Will Coulter, David & Maryanne Miss, Jill Markey and Leif Juell, Kate Kellogg, David G. Conrad, David Vince and Dottie Miller, Don Kellogg, Lance Barker, Walter W. Rule, Jr., Jeff Litteral, Debra Hynes, Carolyn L. Kircher, Norman (Butch) Clark, Aaron Calhoon, Abigail S. Lang, Ron Barrett, Rein and Jan van West, Shawn McKearnan, Paul Hebert, and Tom McKenney. The following submitted written comments at the meeting: David Tippit and F.W. Baumgartner, Ronald F. and Jewel Williams, Ron Barrett, Randolph E. Parker, Jennifer Parker, Joe Calhoon, Rosemary Esty, Jon Esty, Dave Calhoon for a group of patented mining claim owners, and Bob Risch for the Red Mountain Project. Correspondence received after the meeting was from Dennis F. and Christine Reece, and David Vince.]*

Commissioner Albritton explained that the purpose of the meeting was first and foremost for the Commissioners to explain why they were talking about residential development on mining claims. The second purpose of the meeting was to take the pulse of the community on the issue. She stressed that it was not a public hearing. The Commissioners would be talking about whether or not the County should be pursuing regulations on residential development on mining claims. The Commissioners would make a presentation and then take public comment limited to whether or not the public agreed that the County should pursue regulating residential development on mining claims.

Commissioner Albritton narrated a PowerPoint presentation *“To Regulate or Not to Regulate – That is the Question...”* that is included with the materials from the meeting.

At this time Commissioner Albritton asked for public comment. *[The following comments are paraphrased.]*

**Michael Cassidy**, resident from Loghill Mesa: Absolutely. The current board has the foresight and has raised a lot of good questions. Congratulations on getting ahead of the game and there needs to be regulations. The very issue of looseness or tightness may suggest appropriate compromise. If we destroy this then why will anyone live here?

**Denise Gendreau**: The county needs reasonable regulation in the zone. She read a quote from a letter by Sara Coulter who cited the two studies, the Theobald Study that identified 9,300 acres of mining claims in Ouray County, and a study funded by the Telluride Foundation, “Telluride in 2030.” Coulter stated, “If we fail to persevere in this effort of regulation the County will become just another beautiful Western community compromised into mediocrity by poor land use planning.” The conclusion of both studies was “to increase protection for parcels of high visual value.” *[Both Denise Gendreau and Sara and Will Coulter had previously submitted correspondence to the BOCC.]*

**George Kernan**: For restrictions. He had been here 14 years going on 15. The area was very beautiful and he and his wife agree they don’t want a lot of development without a lot of consideration because people have a tendency to overbuild, etc. He was for restrictions but need to consider very carefully what they are building.

**Troy Abel**: We own 31 mining claims up Camp Bird Road. They came here nine years ago with their son Jake. They did due diligence and went to the County who said that they could build on them and they have been working for nine years to build a road to them. They have worked to build a bridge that you cannot see from Camp Bird Road and a housing site that you cannot see from Camp Bird Road. If you want to protect a view, then take people who own and give incentives. He’s a registered Democrat. He has a lot of Republican friends that he cannot talk with about politics because they disagree. This was one issue that did not come down on party sides. He did not want to limit private property. If he cannot build, the County took his land and his dream away.

**Bob Wolford**: He is a 4<sup>th</sup> generation Ouray County resident. The PowerPoint presentation asked, “to regulate or not.” In his opinion it is already regulated in the Land Use Code, the road standards, a grade of 12%, have to go through various things for avalanche danger – the County doesn’t need more layers of bureaucracy on top of what we already have. We don’t even have a number on the amount of claims, particularly those “over the side.” We have a Code that is working now and don’t need further regulations.

**Frank Clomberger**: It comes down to a matter of property rights. The letter written by David Tippett, president of the Revenue Virginus Mine. These regulations taken together as a whole have the effect of depriving rural landowners of the use of their lands without compensation and as such constitute a taking that would be remedied in court. The proposed regulations would deprive landowners from the most basic right of access to their property. He cited Land Use Code Section 30.14 that states that all winter plowing of roads and driveways in the zone shall be prohibited, and Section 30.4.C.2 (a) that prohibits construction of driveways in the zone except where the property abuts a Ouray County

or Forest road. It was his understanding that U.S. patented mining claims were granted with the implicit right of access to public land notwithstanding the proposed South Alpine Zone regulations. Many of the proposed regulations prevent meaningful development or constructive use of their lands. The County may also wish to consider the effect of such regulations on the tax base. He discussed purchases of open space and such programs.

**Daniel DeFreval:** Against any more regulations. As it is now if you apply the rules of the County plus the rules of the BLM, rules of CDOT, and rules of the Forest Service, there are already so many rules to comply with and if you want to do the right thing there are enough encumbrances of what you can do with your piece of land. Plenty of rules already. Many of the people who own the claims are as concerned about the beauty of the landscape and integrity of the county as the people who want to make more restrictions.

**Liana Clarkson:** Thanked the Planning Commission for a lot of work. She is against regulation. They just built under the existing regulations of the County and it was work. CDOT has more regulations on roads on ingress and egress than you can think of. And you need to meet the demands of the Forest Service. Ouray County has visual impact regulations, and all kinds of regulations that they worked hard to meet. 95% of the mining claims are not buildable. It was alarmist to assume that there would be 1,100 cabins out there. Have to prove there is water, a power source, etc. No to regulation. If you regulate more than you are now, it will all go away. Just say you don't want any more homes.

**Bud Zanett:** His family's roots go back to 1918 in Ouray, primarily in mining and many other things. One of the quotes on the PowerPoint presentation, to protect private property rights, that is the issue they must continue to remember. There are property rights. His family had over 150 patented and unpatented claims with only one building site that was so hidden you couldn't see it.

**Randy Loftis:** He has lived in the Alpine Zone on Camp Bird Road for 12 years. They feel like it is a minority / majority thing, the property owners in the Alpine Zone versus the minority. He supports controls, good design, all of the things we like. He likes open spaces. Private property rights should rule in the compromises that have to be reached to achieve the goals that we all want.

**Donna Green:** Bob and she have lived in a home on Log Hill for 14 years. They are here in support of development of regulations.

**Randy Parker:** He is a taxpayer in Ouray County. One of the basic tenets of Land Use planning is that private property rights of the individual are not superior to the rights of the general public to a healthy, safe, economically viable community. The need to balance the rights of the individual property owners with the rights of the public has been established in Ouray County for more than thirty years and is the foundation of our Land Use Code. The right of these substandard lot owners to convert their mining claims to a residential lot is not, should not, and cannot be unregulated. Especially true when the conversion is in direct conflict with the stated policy of this county to promote limited, low density in the Alpine Zone.

**Reg Cridler:** He has been here since 1960. He has no mining claims but has friends who do. He has been involved in Land Use planning in other counties for over 25 years. He was quite surprised to read the proposed Section 30.2. It appeared that it may have been lifted right out of Pitkin County or Routt, obviously not Mineral County or Saguache. Nowhere does it say that the general Mining Law of 1872 patenting process was for mining, not residential purposes. He realized that new homesteaders feel that our ranches, homesteads, and mining claims are their open spaces but they are not owners of these private properties and he believes that we have the right to change the use. What active mining claim did not have a residence on it? It is better in his opinion to draft regulations that are appropriate for the current lifestyle. It was better for their private property rights to let something happen once and then take action to correct it rather than create a maze of regulations that may be unneeded in the future. The current regulations are adequate. You need to bring your assessed value up and many of those claims will come back for tax sale.

**Michael Covington:** He has five claims in the Paquin district. He felt a little excluded because his intent was to mine on them but he was sympathetic to those who wanted to build. If he does not find anything he may want to build. With regard to roads, he felt that the 12% grade compromised a lot of the visual aspects. If there is a preexisting road regardless of its condition and it's been there for over 100 years and you respect it, it fits right in. If he was to convert to real estate and comply with the 12% grade he would put a huge slash right across the hillside and it would not annoy anyone as much as it would annoy him. There are so many rules and regulations now it was hard to do anything. Just do it case by case. Have a rule that says that people should spend at least one year on their property in a yurt, or a tipi or a tent or something, before moving in. He was tired of insurance companies ripping them off. When you put insurability into these remote areas someone will come along and want the insurance claim. These areas are uninsurable. If it goes up in smoke, it goes up in smoke.

**John Hollrah:** He wanted to make a point that the argument that private property rights needed no government regulation was misguided. It assumes that private property rights are one-directional and that there aren't private property rights that are affected when certain action is taken. This argument is always two-directional. If Dave Calhoon or Andy Mueller are going to have a hog factory farm put in next door to them he would be standing next to them to make sure that it would not happen. The notion that the Commissioners' job was to maximize private property values for one or a special group of landowners has never been a task of the County. There are a lot of people who want to have some regulations, people who are very conservative and are pro private property rights, and the reason is they all own businesses. The vast majority of the people know that this goes up in smoke to the extent we don't protect the area that this zone is trying to cover. The most important thing the County can do in this zone would be to limit the footprint to something similar to what small houses were back then, it might be 1,000 sq. ft., and that would allow the notion of cabins and development to occur but would control the vast impact that could be had.

**Barry MacLennan:** All agree on one thing. We are not trying to have no regulation at all. Bob Wolford was right, we are regulated. He is a builder and he knows about regulations. We have permits to build in the Alpine Zone, we have

geohazard reports, septic reports, height limitations, visual impact, etc. The visual impact is not too subjective. If we just say we don't like structures – that is subjective. He owns a jeep business and people tell him that they like the structures, old and new. There are buildings all through the Alps. They are not ugly and do not destroy the Alps. We don't want no regulations. He has a rather large house in the Alpine Zone. The miners' houses were small because they had one or two miners in them. His house is a little bigger but per capita, he has ten in his family, it is not too big. Who decides on what size house? Is a larger structure necessarily ugly? Not really. Is it going to destroy up there? He didn't think so. How many houses have been built up there in the past 10 years? He knows of two houses. It's private property... *[Time was called.]*

**Dave Hamilton:** Certainly hear a lot of people with a great deal of concern about our beautiful mountains and valleys and have people who toiled through these mountains. One hundred and fifty years ago they came and ripped through these mountains. Today we celebrate the carnage from then. Do you think that would happen today in this environment that they would let people do what they did one hundred and fifty years ago? He is very much in favor of private property rights. He did understand the impact of growth in the mountains. He urged the Board of County Commissioners to take the approach of seeking resolution outside of regulations. Look for the answer before you start regulating. Perhaps there is a path we can take that does not involve stepping on someone's rights in favor of one opinion over another. Perhaps we can resolve this without government control.

**Tom McKenney:** He supported more of the same type of regulations and direction that was directed by the first three master plans referenced earlier in the evening. The IGA between the County, Town and City, was created so that the town and city would accommodate growth, would take industry, whatever, in exchange for the county keeping a rural character. Every zone in this county has a set of uses by rights, conditional uses, special uses, based on that specific zone. That's why Ouray County looks like it does today. He thinks the southern Alpine Zone has never really been looked at because everyone thought, "Who would ever build up there?" The impact is coming and we need regulation that is looking at property rights and the entire gamut of that just like any other zone in the county. Thanks for taking this on.

**Barbara Meckel:** She spoke on behalf of herself, her husband, and her brothers and their wives. They feel this current Board is very thoughtful and careful and is working hard to make various interests come together and would like to commend them all.

**John Metcalf:** He lives in the county outside of Ridgway. Congratulations to the County people who put together this presentation. Good job. He had a contract on a mining claim on the back side of Aspen Mountain and had a while to think about it before purchasing it. He decided not to do it because it was a mining claim. The word was "mining" and the purpose was for mining. If he was purchasing it with the intent to build he was being dishonest and doing an end run around the purpose and intent of the property. The County should be considering that the purpose of these mining claims was for mining. It seems that mining has not gone away. We may be on the cusp of a resurgence in mining. He found it hard to see how you could have houses next to mining operations where there's a lot of blasting going on.

**Ken Orvis:** He lives by Ridgway. He would like the Commissioners to think... the private property rights are so important. If you think back all these different places where we were allowed to have private property rights, Solar Ranches, Log Hill, doing all of that subdividing. If it were not for those private property rights most of the people in here wouldn't be here to begin with. They enjoy their private property rights so why shouldn't we.

**Scott Butters:** He is the President of Camp Bird Colorado. They own Camp Bird Mine and the company he works for owns the property in subsidiary and has for 46 years. He agreed that some sort of regulation was needed. Do have it already. A slow course, tightening areas where needed might be recommended, but in general if you take away the rights of the property owner you are diminishing the value in what they own. The best government is a small un-intrusive government.

**John Trujillo:** He was born and raised here, lived here 59 years and graduated from high school here. His wife's family has been here over a hundred years. He is a degreed geologist and worked in the mine business for 25 years. There was a lot of misinformation going on around here. When he hears people say that mining claims were designed for mining only there are all kinds of uses given to owners of patented mining claims and those owners have a right to enjoy their property because they were given a deed from the Secretary of the Interior for that property. He owned lots in Ouray for 30 years. He lived on a mining claim. Most of north Ouray is on mining claims. He was a member of the Ouray County Planning Commission for 15 years from 1985 to 2000. He was part of a lot of history regarding the master plan. They did long hard studies that involved multiple meetings, many years to develop regulations that we have today. He was unnerved by the Board saying that they didn't know what to do when people approached them wanting to develop mining claims in the Alpine Zone. They had regulations for 15 years. We have geohazards, a united building code that everyone has to abide by, they have road standards which he helped to develop, they have septic standards that he helped to develop... *[Time was called.]*

**Dennis Reece:** The controls in place now are adequate. We don't need additional controls. People who own mining property or any other property have equal rights. If you do change the current regulations on mining claims you should notify all of the property owners in writing who don't live here. They should have a chance for input.

**Dave Calhoon:** He wanted to clear things up. He was involved in writing these regulations in 1971 and 1986. Old codgers in the county in 1971 said Log Hill was a good place for a subdivision. It's hotter than hell in the summer, colder than hell in the winter, and you can't grow anything there. His problem was the same as others here -- private property rights. You wouldn't want people driving over your land or camping on it or going to the toilet there. They put up with it for quite some time. They let the City and other groups use their mining claims but they carry liability insurance so the property was protected. That's one of the problems with the Trail Group. What they are doing is nice but they are crossing private property and he wondered if they had written, signed easements to cross it. Do they have liability insurance to protect the landowner? *[Time was called.]*

**Scott Williams:** He lived in Ridgway and wanted to address the question of takings. First, it was much more likely that well-crafted rules for building in sensitive areas would increase rather than decrease property values. Even if property values were reduced it didn't mean takings under the law. No one has an absolute right to use his property in a way that harms the community or his neighbor's property. Protection of public health and safety, historic resources and trails, watersheds in environmentally sensitive areas, scenic vistas, etc. are vitally important. The courts have said that a reduction in the property value did not result in a taking. All that is required is that regulations do not take away all reasonable economic use. The current draft does not even come close to doing that. The best voice on this issue was not his or those opposed to any regulations but you have a smart and cautious County Attorney who has worked hard to craft rules that are well within the bounds of the law and it is her voice that you should listen to. Not plowing new ground here. Other Colorado counties facing the same issues have adopted far more restrictive regulations than what is proposed for this county. Those regulations are still on the books. Supported going ahead with the regulations.

**Ron Williams:** He lives in Montrose but has property in Ouray. He basically said the same as Dave Calhoon. People move here and don't like where they came from and the way they run things but they want to change things to be like where they came from. If you don't like it, the road is wide open.

**Bob Risch:** He is the Mayor of Ouray and Chairman of the Red Mountain Project (RMP) for the last 10 years. He was concerned and, based on the experiences of the RMP, there is a train wreck coming that we are not ready for and it has to do with taxes. Over the last ten years mining claims taxes went from \$40 an acre to \$400 to \$1,000. The next step is going to be market value. That's going to hurt a lot of people. Through the RMP he got to know a lot of claim owners who have beautiful claims with a road through it that are imminently developable. The last thing in the minds of these owners is to develop it. They have inherited it and have kept it as open space. They are on the thin edge of being able to afford that \$1,000 an acre. If it goes to market value these claims will go on the market and at fire sale prices. Not ready for that as a community. There are a lot of folks who would like to do what was suggested that if they want to keep it in the public domain they need to acquire it or otherwise preserve it but they are not in the position to do that now, it will take some time. There also needs to be other options such as transferrable development rights, a right for people to exchange the land, there are many possibilities but what we need is another task force, another group comprised of mining claim owners, .miners, representatives from land trusts, lawyers... *[Time was called.]*

**Eli Doose:** He was born and raised here and owned land in the town and mining claims. The current regulations the County is trying to pass is not in anyone's best interest. If those regulations were in place anywhere else in the county none of you people would have moved here or built here. Saying that this is going to be extremely restricted here because it looks better than your land is not right. The mining claim owners take care of the land and obviously you appreciate how they take care of the land. He recommended that they just leave things alone and let the people who own the land take care of it themselves.

**Antonio Marra:** He lives in Ridgway. He would like tighter restrictions on growth but more intelligent restrictions. There is a lot of room for improvement although you've done a tremendous job. He cited an example where there was an intent to undermine the regulations that exist. The idea that the grade at which you build your road should go from 12% to 20% is a ridiculous idea. You cannot maintain a road at anything above 12%, or 10%. With all due respect to those who banded about the 20% he would suggest that they rethink that, it's not possible.

**Barbara Seelye:** She lives in Ridgway and supported the BOCC's interest in looking at tighter regulations. To the Mayor's comment, the \$1,000 an acre is not at market value, it may need to be done in a smart manner but that needs to be addressed. Why just in the Alpine Zone? Commissioner Albritton replied that the pressure has been in the southern Alpine Zone.

**Craig Fetterolf:** He is a taxpayer in the county who pays taxes on his residential property at the rate assessed by the County. A mining claim does not. He hears all of these people saying they will build on it someday if they can't find any gold or minerals. Why aren't they paying the same assessed value as he is? His private property rights are such that he gets to pay taxes on a residential property. If they aren't mining it, shouldn't they be paying for it as a residential property? That's an issue and there needs to be new regulations regarding that. Otherwise, they have their cake and are eating it too. It's a burden for all but the mining claim owners. He thanked the BOCC for what they have done tonight. The graphics were phenomenal. He came from a county where you would never see 200 people in attendance no matter what the issue was. He applauded all who showed up. That's what government in the U.S. is all about – to let "them" know.

**Helen Gebhard:** Passed.

**Jon Esty:** He lives in Ridgway. The appearance of a neighborhood, community or county doesn't happen by accident. There is usually some form of regulation that the citizenry agree upon as to how they want it to look. We are blessed with many natural features in Ouray County and a quality of life that we want to maintain for ourselves and for future generations. That was why he supported the Land Use Code in the South Alpine Zone to ensure that the attractiveness and environmental sensitivity of the area is protect and preserved while providing an opportunity for landowners to construct homes on their property if they choose to do so. We all benefit when development is done carefully and thoughtfully.

**Ron "Bumper" Williams:** He was born and raised in Ouray. He worked all over the world. We are so regulated here we don't need any more rules. He was totally opposed to this. We have enough regulations.

**Judy Wolford:** She lives outside of Ridgway and owns Trussco in Montrose. The bulk of their business is in Montrose and points beyond. She remembered a county in Colorado about 15 years ago going through a similar situation and moratorium. One thing the Planning Commission was looking at was mining claims. The proposal required 800 sq. ft. buildings. The Planning Commission got chewed up at a public hearing. The end result was that at the Commissioner

level the proposal was denied. She was speaking about Ouray County. That was 15 years ago. From that day to this, two houses have been built up there that are evidently setting the world on fire... *[Time was called.]*

**Joe Calhoon:** His grandmother moved to this valley 100 years ago from Italy. His grandfather worked and lived at the mines. Architecture in the high country never bothered his ancestors or him. He felt that we have good regulations now. He is against regulations but wouldn't mind tightening up a few trouble spots and enforce it. Mining claims should be protected and Risch addressed it well. There are ways to do it. They should be purchased by groups, etc. The majority of the claims cannot be built on because of the terrain and avalanche danger, access. Many of the claims are suitable for development. There is a big diversity of claims and one regulation will not fit all claims. He was opposed to the new regulations.

**Jane Nash:** She is from Ridgway. She and her husband support the efforts made to get to this evening. It was a well-presented program and she appreciated the environment of civility to all come together. She supported regulations on mining claims. She read from a letter from Walt Rule, "Our Land Use Code is what controls, maintains and preserves the values that sustain us, whether tourism, water, or local economies based on them. We need to carefully construct and enforce this Code. It is imperative that we get this right. The short-term profits in either land sales or exploitative mining claims can spell long-term disaster to our communities, our water and our scenic attractions. As a previous District Ranger for the U.S. Forest Service on the Ouray District from 1968 to 1977 I have seen what has happened over the past 40 years and I am worried that these short-term profiteers will have long-term and negative effects on this county. Please stick by your guns to preserve our mountains and their many values."

**Howard Greene:** Most of the points have been made. Thanks for the incredible presentation and hard work in identifying the problems. He continued to be amazed by how many people think this is a taking away of property rights. The way this is being framed is inaccurate. There are regulations. They identify problems and show us that they are inadequate to stop the kinds of expenses and problems that we face and this is simply an effort, a very reasonable effort, to modify the existing regulations to make them more effective in preventing the kinds of expenses that Bob Risch pointed out and other issues that need to be addressed.

**Rein van West:** He lives in Ridgway. He and his wife feel that the South Alpine Zone is very deserving of such regulations. Not having the regulations lacks sensitivity to the County's core attributes and denies what decades of science and experience have demonstrated would be best applied to this zone to protect it. He feels fortunate to live in a county where the public officials are aware of the hazards posed by non-regulation of this issue. They suggest that some of the more stringent alpine zone development measures enacted by other counties would be very reasonable for our county's consideration, as well. In another hundred years our present actions may not appear as visionary as they might appear today. They support the county officials with the obligation they have in establishing a level of regulatory protection in our Alpine Zone that will continue to make Ouray County the envy of best management practices everywhere else.

**Joe Ryan:** He has owned a business here for 23 years and thanked all for coming tonight. He has a unique background where he tamped powder and cap underground from 1971 to 1979. You can be a miner such as he was in his past and still be for preserving the scenic qualities of our area. He has spent more time on foot in these mountains in the past 24 years than anyone in the room hands down by the nature of his work. He has seen the change that has occurred here. Bob Risch made a salient point that the changes about to come here will blow everyone away if we do not get a handle on it now and try to preserve. There are a lot of reasons why you came here and want to be here whether you came last year or your family came here 125 years ago but we are all here right now. He wanted to commend the Commissioners for standing up and making this an important part of their job description these days. Please stay away from the political separation on these issues. Preserve what you have here and do your jobs.

**Dave Nix:** Certainly in favor of the proposed regulations as they are now. Heard a great deal about private property rights but there are also public property rights and obligations.

**Christy Orvis:** She and her husband own a couple of small businesses that employ many Ouray County residents. They are ranchers and run a meat processing operation and a hot springs. They own several properties in the Alpine Zone that they are currently exploring for economic minerals. She understands that some people want to preserve the views of the alpine zones. She still enjoys the views. She enjoys seeing the houses, the mines and the remnants of human activity and productivity that the Alpine Zone has to offer. Before passing such sweeping rezoning and regulation of private property, the County and the community should make sure that there is a need for more regulation. The County should commission a study, get funds from the state or federal government, to determine the actual build-out potential in the Alpine Zone. She did not think that it was as bad as people had whipped it up to be. She did not think that Dr. Gillum's house was offensive and she knew a lot of people who felt the same. If the state ever comes back with a need then create a volunteer program to buy up the development rights on this private property. Let's not regulate them into oblivion. Please do not move this legislation forward. She asked all of those against the proposal to stand.

**Jack Petruccelli:** He was asked to speak for Jim Rollans, a property owner in Ouray County for over 30 years. Mr. Rollans has personally been involved in four different conservation easements and one on commercial property in Ridgway that he turned around and donated to the town for public use. Mr. Rollans has ownership in mining claims and is concerned about the proposed regulation. He was not in favor of it and considered the zoning change a personal property rights takings.

**Andy Mueller:** He lives in Ridgway and owns property in Ridgway and Ouray. He is an attorney and a citizen. He is opposed to the regulations. The current regulations are fully satisfactory to protect the public interest. They were designed with the alpine area in mind. There was talk about studying geohazards and avalanches. That's not something that was talked about in the valley before. John Trujillo was right, this is not a new issue or an issue that hasn't been thought about or legislated before. The most important thing is that 218 families own these 1,300 claims, according to the Assessor's records, and many are local families and many pay taxes and, yes, their taxes are going up. He did not think,

and he represented many of them, that they were about to sell. They pay their taxes and are happy to pay their taxes. But the issue has to do with regulatory costs, the costs of people who own claims and the costs of people who pay taxes to the County. The County has one Land Use Staff member right now. Despite his best efforts he couldn't get the different drafts of these regulations out to the public so that they could assimilate them. How will he enforce this 14-page regulation as it comes through? How will the landowners pay five or six different experts before they can even start building their house? Pitkin County, Summit County, Eagle County – these are counties that have the most expensive costs of living. We are going to price our local families out of here and what we will end up with will be only the rich and wealthy who come from outside. And that's who's going to build these houses and that's who will fight the County on these regulations. Please don't... *[Time was called.]*

**Jack Clark Jr.:** He was born and raised here. He wanted to reiterate something that was brought up earlier regarding emergency services. He lived in Silverton in the past few years. The way they get around it there, people who build in the alpine areas sign an affidavit with the County that eliminates the County from any liability. We are regulated to *[?]* around here. There is a group in DC that makes everything a big emergency and gets everyone freaked out to vote on it. That seems to be what this is about. You're not going to have all of these people building houses up here. It's too expensive for one thing. They haven't held onto these claims all of their lives, over a hundred years, just to have someone tell them they can't do anything on them. He was totally against the proposal.

**Cheryl Taylor:** She was born and raised in Ouray and continued to live in Ouray County. She is the 4<sup>th</sup> generation of the Fellin family to live in Ouray and the 3<sup>rd</sup> generation of the Fellin family to own property in the Dexter Creek area that have active mining claims on them. She is against discrimination of a particular group of taxpayers and, yes, her family has paid taxes on these properties for many years. Those who want to change her county forget that mining made Ouray. It also made all of the high country roads that allowed people to enjoy the land. And where do you think the miners lived in these remote areas? Well, in houses. When you choose a place to live you live with the consequences surrounding you whether it's EMS availability or the fire department. The current proposals in her opinion were all assuming that mining claim owners were out to destroy the area. They love the land as much if not more than the newcomers. She just wondered... perhaps we are headed so all of the tree-hugger people could trespass on my land at their will not mine.

**Ralph Risch:** It is worth remembering when you look at the souvenir shops in town or online and you see photos of these alpine areas that these are the reasons why tourists come to Ouray. No one wants unreasonable regulations. He was surprised to hear that mining claims have less regulation than in other zones. *[Commissioner Albritton corrected him.]* They also paid less tax. He hoped the Commissioners continued forward with this. There should be a reasonable compromise to protect the interest of everyone. He commended them for taking on a problem that was so contentious.

**Sheelagh Williams:** She thanked the BOCC, Staff and the Planning Commission for the process. She quoted from some of the letters that came in. Alan Staehle, former County Commissioner, said that he included home building as a use by right in the Alpine Zone and that was a mistake even though he voted for it at the time. He also said that in terms of an effective way to reduce the impact on economics, wildlife and tourism would be to add building size limitations and maybe measure the McIntyre cabin at the Museum to use as a footprint. It was a pretty upscale cabin in its day. And, "by restricting development, you will be helping to protect mining since there would be no end of problems for mines with a housing development next door." The other letter was from business owners Jill Markey and Leif Juell with Alternative Power Enterprises. These are people who would make money from construction in the Alpine Zone. They are in support of additional regulations because they have worked on houses in alpine zones in Silverton and they see the impacts of those in terms of dangerous roads, erosion and construction impacts and then the homes sit empty. Someone pointed out earlier that you should live up there in a yurt for a year rather than end up with a trophy home that just sits up there empty. She had another letter from Randy and Jan Sherrett with Peak to Peak Bicycles in Ridgway and residents of Ouray County who support regional regulation... *[Time was called.]*

**Jennifer Parker:** She has lived in Ridgway for three years. She greatly appreciates what they have. She brought a map with tacks in it. She put 100 tacks in the map, indicating the worst case scenario. She believed that there were very many responsible mining claim owners. Stricter regulation on mining claims may not be necessary for them but she worried about what was coming. This type of building *[the scenario presented on her map]* will dramatically affect the fragile alpine environment. She could not imagine leaving that as our legacy to our children and our children's children. The use of these small lots that were intended for mining for residential purposes must be strictly regulated if this treasure is to be preserved. She supported reasonable regulations in the proposed South Alpine Zone.

**Randy Gillum:** He represented the owners of Verizon Ranch who own 115 mining claims north of town. His four sons own Verizon Ranch and they bought that property specifically for the building sites. There are 5 building sites on 1,000 acres representing a density of 1 building site per 200 acres. Surely that's low density. On the tax issue, the tax at \$1,000 an acre base is almost twice what they have invested in the property so they are paying their fair share of taxes. And, they are very well regulated.

**Ben Crosby:** He is with Mt. Sneffels Mining whose claims are in the Yankee Boy Basin. He thought they might be the only production mine in the county. They were comfortable operating under the federal mining laws that regulated them. He heard that people were wanting to help protect mining. The Mining Law of 1872 is very powerful and would protect them. His concern is the rights of his neighbors and to that end he would speak against the regulations.

**Steve Duce:** He has lived in Ouray County for 30 something years. Everyone has a concern. He has seen a lot of changes. Ninety-five percent of the mining claims will not be built on. Bob Risch hit it on the head, too. If you want to ensure that someone doesn't build on the property and impact your view, you purchase it. He was against any more regulations.

**Mike Hockersmith:** There's been an argument that somehow the County could be subjecting itself to liability even if you had people signing a statement saying that there's no possibility that any sort of emergency medical services or fire, or Sheriff, if you get in trouble you will not... That does work. In his experience the County just like any other political

subdivision in the state of Colorado enjoys the protections of the governmental immunity act that says that the County is immune from suit other than exceptions. Last time he heard, failure of an ambulance to get up to a mining claim is not one of those exceptions. Secondly, he suggested that he used to believe that regulation was the way to go. Look at the most highly-regulated counties in the state and look at the huge houses that are built there. The only county that has actually succeeded in meeting the kinds of concerns that have been addressed tonight was Boulder County, and what Boulder County did was buy it.

**Karen Avery:** She owns a tourism business in Ouray. She appreciated everyone's concern. She personally would like to go along with the task force idea and involve the mining claim owners, tourism and business owners, and concerned citizens, and hash through where we think we have problems. It is clear that mining claims are not overly developed, yet, but... that's yet. It's not horrible to think that going forward you might want to look at it.

Carl Dismant: He has lived here since 1961 with ownership in the county since 1947. He owns the Bachelor Mine that has a mining tour in it. He has a mining reclamation permit from the State of Colorado and that is not easy to maintain. You cannot cross federal land without an enormous amount of work. Some people do it but it can be very costly. We have tried to regulate this for a long time and there needs to be a balance. Ouray County is rich in mineral resources, both high-grade and low-grade. The high-grade is in a transition period right now. There's a lot of low-grade between here and there. If we don't start developing it, there are people in this world who would love to develop it. We don't want to see that kind of development. You need to utilize the rules and regulations you have. \$1,000 an acre is terribly expensive because mining claims sit... He counseled reason and looking to the future. We need young people in the county to man the schools, to have a fire department, things like that.

**9:16 Commissioner Albritton closed the meeting.**

OURAY COUNTY BOARD OF COUNTY COMMISSIONERS  
OURAY, COLORADO

ATTEST:

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Heidi M. Albritton, Chair

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K. Keith Meinert, Vice-Chair

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

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Lynn M. Padgett, Commission Member