The Board of County Commissioners met in regular session on August 10, 2009. Those present for the session were Heidi M. Albritton, Chair; K. Keith Meinert, Vice-Chair; Lynn M. Padgett, Member; Mary Deganhart, County Attorney; Connie Hunt, County Administrator. Linda Munson-Haley, Clerk of the Board, was absent.

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

A. 9:01 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.

Potter Estate Split
Henry and Michael Potter wanted to meet with the Board with regard to the estate of their late mother, Wilma Potter, that involved some partitioning of parcels. Henry Potter noted that it had been through the courts and he wanted the Board to read a letter that he presented to them.

Commissioner Padgett explained that she was aware of conservation easements and understood their dilemma regarding ownership.

Commissioner Albritton noted that she had spoken to Jennie who was concerned about the County's role. The Court gave the County a document specifying what the probate decision was and asked for a response from the County. She asked Mary Deganhart to elaborate on what the response entailed.

Deganhart explained that after talking to the Board and understanding that the property was in the Valley Zone, this would be creating two new parcels that would not ordinarily be allowed in the Valley Zone. The response that was filed said that the parcels would be in violation of the Ouray County Land Use Code zoning in that area. It suggested that if the Court did order the it be parceled off this way, that there would be certain plat notes and issues that the County would want to have recognized so as not to create problems in the future when a third party purchaser may want to buy the properties. She pointed out that she had been in contact with the family's attorneys in the spring and she had advised them at that time of the statute that they needed to notice the County and the County would have an opportunity to respond. She asked them to send her information at that time as to what the family was trying to do but it was not until July that she received it.

Henry Potter realized that what they were trying to do was against the County Code but the two parcels bordered CR 23 and CR 3A and had traditional, established access. He discussed the amenities of the property. He added that Robert Larson had surveyed the parcels.

Deganhart clarified further the intent of the plat notes and a discussion followed. Commissioner Meinert clarified that if the split went through, the parcels would be considered nonconforming, legal parcels. Commissioner Padgett clarified that the County's request would not throw up roadblocks to the process.

Henry Potter advised that the family was working with the Black Canyon Land Trust who had already exempted these parcels from the conservation easement.

Commissioner Meinert asked if there was any way that the County could facilitate expedition of the conservation easement. A discussion followed regarding the benefits of conservation easements.

Deganhart offered to call the attorney to see what the County could do to help the family move forward.

Mining claims rejoinder
Dave? referred to Ken Lipton's address to the Commissioners at the previous Commissioner meeting and took exception to his remarks that they were self-interested parties. They own the land and they are interested. Lipton had an unrealistic view of property rights. They have property rights. Lipton was hung up on this 35-acre business that is in the Code but it was put in to satisfy agricultural interests so that they could split off 35 acres. The mining claims had all been subdivided. According to the Code, nonconforming parcels could be built on. He referenced Idlewild, Panoramic Heights, Portland and even Ironton. He wanted to remind the Board that these were nonconforming parcels and were almost older than the county.

Montrose County proposed uranium mill
Commissioner Padgett advised the Board that she had received a call from a citizen, Priscilla Peters, who wanted to attend the Call to the Public today but was not able to but who wanted to discuss the impending special use permit hearing this Wednesday on the uranium mill being contemplated in the West End of Montrose County. Apparently, the San Miguel County Commissioners had written a letter to the Montrose County Commissioners. The issue at hand was if the Ouray County Commissioners had any concerns. The caller asked if the Ouray County Commissioners wanted to write a letter. Commissioner Padgett explained to the caller that traditionally this Board did not get involved in issues that were seen as the matters of another county but the issues were if there were any perceived regional impacts to air quality, water and traffic that could be generated by this facility if it went through.

Commissioner Albritton felt that all of those issues were of concern but she was not comfortable drafting a letter because she did not have any background on it other than what she had read in the newspapers. She suggested an agenda item on the upcoming Tri-County meeting asking Montrose County to give a report.

Commissioner Meinert felt the best thing Ouray County could do was to try to get Montrose County's cooperation to keep Ouray County in the loop and advise Ouray County through the Tri-County meeting exactly what was being

proposed, where it stood in the approval scheme at the State and EPA levels, and to the extent that Ouray County was still concerned it could weigh in at the State and EPA proceedings.

Will Clapsadl, Facilities Manager, provided an update on the anemometer loan program. The Director of the program called last week to say that he had moved Ouray County up and there was no longer a one-year waiting period. He was ready to go now. Clapsadl spoke to Jen Coates with the Town of Ridgway who felt that the County would have to apply for a variance. She sent him the application and advised him that it was $150 for the permit. The deadline for applying was August 14. The Town's planning commission meeting was August 25. Commissioner Padgett suggested attending the Town Council meeting on Wednesday to advise the Town about the project. Commissioner Meinert felt that it would be better to have a Commissioner go to the meeting along with Clapsadl.

Clapsadl related that Coates had two concerns. This was a temporary tower but if it turned out that wind was a viable option for that area it would need a permanent tower. A discussion followed regarding a temporary versus a permanent variance.

B. 9:55 Road and Bridge Superintendent / Road Supervisor Update:

Chris Miller, Road Superintendent, advised the Board that Road and Bridge was trying to put off their last run of magnesium chloride until September.

- Crews magged Government Springs Road last Thursday. Commissioner Meinert clarified that the portion Miller was speaking about was in Montrose County in return for other considerations.
- Road and Bridge was still not finished with Top of the Pines (TOP) because they ran into rock while putting in the water lines. All of the trench was dug for the water line except for the 20 feet with the rock and they still needed to do some backfilling.
- Crews were working on CR 24. They made improvements in five different areas with four to go. Since they started working there they have been getting complaints of bypass truck traffic. He did not believe that was the case. It was his equipment that was being used on CR 24. The traffic counts on average were 216 per day there. This morning it was only 231 and crews had been working out there. A discussion followed regarding the complaints and whether it was local traffic, which Miller thought it was, or bypass traffic. As to the complaints of speeding, the Sheriff clocked the trucks and did not have anyone over 25 mph. And, when he was there, the Sheriff confirmed that all of the trucks were County trucks. Commissioner Meinert was not in favor of putting up "Local Use Only" signs unless or until a nuisance occurred. Miller had been in contact with the CDOT project manager who did not think that it was CDOT trucks using the roads as a bypass. Hunt discussed developing a process for complaints. Commissioner Albritton suggested a form on the website for complaints that would go to the Commissioners and the Administrator.
- He had been getting comments on the bridge on CR 23. It was the safest intersection in the county. He did not want to exclude anyone from using it. By limiting size because of the complaints about the bellydumps, the County would be impacting the KOA traffic, too. Weight was not a problem. Commissioner Meinert felt that the issue had already been resolved. Commissioner Albritton recalled that the only lingering point was the bellydump truck traffic on the bridge. She suggested that Road and Bridge could put up some signage to warn motorists of the trucks on the bridge and turning. Commissioner Padgett had heard complaints about the trucks hitting portions of the bridge and asked about the integrity of the bridge. Miller felt that 99% of the hits to the bridge were in the winter by passenger vehicles.
- He met with Robert Stouffer who had spoken to Butters and Rosemeyer. Butters was not interested in cooperating with the County at this point with the rerouting of the road. Miller took measurements and would need about 4,000 feet of track to do two rails plus posts for a fence. Idarado was going to check to see if they had enough to donate to the project.
- He had been taking pictures of various projects to report to the Commissioners but he forgot to bring them.
- Crews were working today on a little hole at Flowers Ranch and on CR 5 at the bottom of Commissioner Hill, which was of concern to him. The Dallas Ditch Company will vote on pitching in $2,000 to help. Crews will try to widen the road and stabilize underneath the road. Commissioner Meinert asked if the County Engineer should be involved. Miller explained that there was still time to get the engineer out. It was not a huge emergency unless a storm dumped a lot of water into the ditch.

Commissioner Albritton was amazed how many fewer complaints and how many compliments she had received this year on the roads.

Commissioner Meinert asked about what was being done with the additional monies that were coming in from the sales tax and what were the plans for the use of the monies. He felt that the Commissioners needed to determine their pleasure for the use of the funds before making any representations at the Road Committee meeting. Hunt would be presenting the mid-year financial report at the Road Committee meeting. Commissioner Meinert suggested that the Road Committee could look at available funds and make suggestions. Commissioner Albritton suggested putting together facts and figures for a report to the voters as to how the monies were being used.

10:35 Commissioner Albritton recessed and reconvened at 10:46:

Commissioner Albritton explained that during the break the Commissioners were going over the recent CCI Western District group meeting and pointed out that it was distressing to hear how Commissioner Padgett was treated by the Montrose County Commissioners and she felt that it should be a part of the record.

Commissioner Padgett did not feel that any of the Counties' staffs should ever be subjected to racist comments such as were made by Montrose County Commissioner Henderson, "I really like this table and I wish I had some colored people to clean it."

Commissioner Albritton planned to contact the Montrose County BOCC Chair to discuss the issue.

C. 10:49 General Business:

1. **Request for approval of warrants:**
2. **Request for approval of July 27, 2009 Board of County Commissioner Meeting minutes:**
3. **Review and acceptance of the Ouray County Public Trustee Report for July 2009:**
4. **Request for approval and authorization of Chair's signature on Letter to U. S. Representative John Salazar concerning the Proposed Expansion of Mount Sneffels Wilderness Area** *(ratification)*:
5. **Request for approval and authorization of Chair's signature on letter to Judge Patrick concerning the reappointment of John Jennings to the Tri-County Water Conservancy District Board of Directors** *(ratification)*:
6. **Request for adoption of Resolution 2009-036 amending Resolution 2009-029 [adoption of the 2009 International Energy Conservation Code, (IECC)] to change the effective date to October 1, 2009:**

M/S/P—*Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to approve all six items of General Business to include warrants as presented; the July 27, 2009 Board of County Commissioners meeting minutes along with the continuation of the minutes on July 28, 2009 and the further continuation on July 30, 2009 as presented; to accept the County Public Trustee Report for July 2009 as presented; to ratify approval and authorization of Chair's signature on a letter to Representative Salazar concerning the proposed expansion of Mount Sneffels Wilderness Area; to ratify approval and authorization of Chair's signature on a letter to Judge Patrick concerning the reappointment of John Jennings to the Tri-County Water Conservancy District Board of Directors; and to adopt Resolution 2009-036 changing the effective date of adoption of the 2009 International Energy Conservation Code to October 1, 2009 as discussed in a previous meeting. Discussion.*

Commissioner Padgett asked why a judge would appoint members to the Tri-County Water Conservancy District Board. Deganhart thought that it was statutory.

Commissioner Meinert noted that the letter of support addressed this position as the County representative on the Board. There were at least two other members of the District from Ouray County and he asked if they, also, were official County representatives or was there a distinction between Jennings' position and that of Frank Starr and Ted Collin.

Commissioner Padgett noted in the legal notices and she hoped that Tri-County had actually sent the County a letter as opposed to just publishing it in the legal notices that the Tri-County Water District was proposing to do a Dallas Reservoir enlargement and said, "Ouray County you are further notified." The County had until September 30 to respond.

With no further discussion, the motion passed unanimously.

Commissioner Meinert did not think that the County had ever had an official briefing by any of the representatives on Tri-County's Board of Directors regarding what was going on, on the Tri-County Water Board. He wanted to see a thorough annual briefing from Ouray County's representatives to every board or organization to which the Commissioners appointed representatives. Commissioners Albritton and Padgett agreed. Commissioner Albritton suggested that Linda Munson-Haley could contact the various representatives and advise them that the Commissioners wanted an annual update.

D. 10:58 The Board of County Commissioners convened as the Local Liquor Licensing Authority concerning the following application:

1. **Renewal of Optional Premises License for Cornerstone Food and Beverage Services, LLC**

M/S/P—*Motion was made by Commissioner Padgett and seconded by Commissioner Meinert to approve the Renewal of the Optional Premises License for Cornerstone Food and Beverage Services, LLC as presented. Discussion. Commissioner Albritton noted that the Board was not in receipt of any complaints about the license that would trigger further review or denial. With no further discussion, the motion passed unanimously.*

10:59 The Local Liquor Licensing Authority reconvened as the Board of County Commissioners:

E. 10:59 Review and discussion of Technical Energy Audit and direction of course of action concerning financing arranged by the Energy Service Company (ESCO) for energy improvements for the Ouray County Courthouse:

Connie Hunt, County Administrator, explained that as a result of the Board's action at the last meeting with Ennovate, she and Will Clapsadl, Facilities Manager, pursued the DOLA grant and began to look at costs associated with the County replacing the boiler on its own. As a result of the Commissioners' direction to concurrently look at replacing the boiler, Paul Engle with Ennovate went back to his boss and they discussed the fact that they did not want to spend the time and money if the County was going to go it alone. In the meantime, she and Clapsadl spoke with Engle to review the numbers again and answer questions. Based on the information, the County's savings would be $161,000 for a $200,000 project, DOLA would probably not authorize the grant for such a small amount. After Hunt understood the numbers further and looked at what the County absolutely needed for this winter season and came up with a project cost of $179,000. That was less than the $400,000 that Engle presented at the first meeting because his estimate included all of the components at once. Hunt felt that it could be done in phases. The spreadsheet was pared down from 12 years with the savings of $161,000 to a 10-year lease/purchase that would result in a savings of $128,000 if the project was pared down to different phases.

Hunt discussed the line item for ongoing support services and advised the Board that the County was not obligated beyond three years to keep Ennovate onboard. She continued to discuss the various line items in the spreadsheet. The projected savings would be $108,559 over ten years. Engle informed her that the costs could vary by 10% from a cost of anything from $160,000 to $190,000 to $200,000 depending on the equipment. He asked Hunt to advise the Commissioners that if they allowed Ennovate to proceed for an amount not to exceed $200,000, they would begin to get costs on equipment to do the job. They would order the equipment while concurrently doing the engineering and securing the financing. Once all of those numbers were derived, a concrete contract would be presented to the Commissioners for approval. They felt they could have it completed before the winter season hit.

Commissioner Meinert asked about the nature of the savings guarantee. Hunt explained that the County would have a payment but would realize the savings in fuel costs over the years. There was some discussion on the savings and the benefits derived from having Ennovate's expertise. Clapsadl pointed out that the proposed first phase system would eventually become a backup for a geothermal system in another phase.

Commissioner Meinert was still confused about what the County was actually buying. Clapsadl explained that once the County agreed to engage Ennovate, Ennovate would provide the specifics. Commissioner Meinert asked in the nature of the contract, would the County be privy to the bids that Ennovate received, and Clapsadl replied that not only the County but the Governor's Energy Office, as well. There was more discussion on the process.

Deganhart asked about collateral for the lease/purchase. Hunt spoke to Ennovate who told her that the collateral was the equipment or other energy operation savings that would be arranged.

M/S/P—*Motion was made by Commissioner Padgett and seconded by Commissioner Meinert, recognizing that the Courthouse needed a new boiler prior to winter and recognizing that this would be a highly efficient system that would reduce greenhouse gas emissions and would save the County money in the long term and in the short term during the lease/purchase period, to direct Staff to further work with Ennovate and draft a letter of interest and move forward to get to the next phase of the lease/purchase of this equipment. There was no discussion. Motion passed unanimously.*

F. 11:32 Administrative / Commissioner Reports:

Mary Deganhart, County Attorney, discussed the following:

1) **Transfer Station agreement** She discussed changes that she made to the agreement. The agreement would be placed on the August 24 Board of County Commissioners meeting for final approval. Commissioner Meinert suggested an addition to the agreement to reflect that the County had fenced the property and had or would put in the 3-phase electric for the compactor that would be provided by Waste Management. Commissioner Padgett suggested that the new fee schedule not be implemented until the compactor was in place and operational. The 3-phase costs were taken out of the Capital 195 fund.
2) **Ice Park status** She and Hunt met with the City who was moving forward. The City prepared a recreational access agreement for the County to sign.

Connie Hunt, County Administrator, discussed the following:

1) **BOE Decisions** She presented the Decisions on Appeal for the Chair's signature.
2) **Courthouse Security Grant process update** The grant was due August 28. The Committee was requesting renewal of the security officer position, a compact desktop scanner for bags, etc., and labor to install the Courthouse security cameras.

Commissioner Padgett discussed the following:

1) **Field trip** She went on a field trip to the Garrard claims by the Larson schoolhouse and up the mountainside straddling Monument Gulch. The purpose was to GPS the Full Moon Trail. There was discussion about the how the Trails group needed to notify landowners when a trail crossed private land,

especially with regard to conservation easements. Commissioner Meinert pointed out that it was the Forest Service's trail and it should be making the contacts with the landowners.

2) **Western District Meeting recap** She felt there should be further discussion with San Miguel County regarding the recovery act. The sales tax piece was well done and put on the Tri-County Meeting agenda for further discussion. Montrose County Commissioner Gary Ellis wanted to make the Tri-County meetings, quad-county meetings to add Delta County. Commissioner Albritton pointed out that it was discussed at a previous meeting and they were invited and received the agendas. The Commissioners discussed how it would dilute the meeting and extend it even longer than now, and that only Montrose County had much need for interaction with Delta County. Commissioner Padgett spoke with Lynn Black with San Miguel County and Pete McKay with San Juan County about the High Altitude Planning Forum that she was trying to put together. The forum came about because of her meeting with Deganhart and Castrodale about plat issues and they decided that it would be good to network and exchange knowledge with other counties with similar planning challenges and have field trips.

Commissioner Meinert discussed the following:

1) **Calendar** Work session this evening at 6:30 at the Ouray County 4-H Event Center; a work session tomorrow at 9 a.m. at the Courthouse; PAG meeting at 1:30 p.m. tomorrow at Land Use; Road Committee on Wednesday at 3:30 p.m. at Land Use.
2) **Renewable energy** He had a call scheduled with CSU to continue to pursue the possibility of research activities associated with renewable energy in this area.

Commissioner Albritton discussed the following:

1) **United Church of the San Juans** Kelvin Kent asked to have a Commissioner attend the opening of the United Church of the San Juans. Commissioner Padgett indicated that she would be attending.

12:17 Commissioner Albritton adjourned the regular session:

G. 1:30 The Board of County Commissioners convene into a Work Session to discuss the following:

1. Discussion of future process for Section 30 of the Ouray County Land Use Code:

2. Administrative Items (if needed)

OURAY COUNTY BOARD OF COUNTY COMMISSIONERS
OURAY, COLORADO

ATTEST:

_____
Heidi M. Albritton, Chair

_____
K. Keith Meinert, Vice-Chair

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

_____
Lynn M. Padgett, Commission Member