

The Board of County Commissioners met in regular session on September 14, 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; and Michelle Nauer, County Clerk and Recorder and Clerk of the Board. Linda Munson-Haley 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.

Mike Hockersmith and Andy Mueller were present to discuss issues regarding a meeting / work session that occurred last Tuesday and the noticing of said meeting. He addressed the Board and suggested the following comments:

- a. Consider publication of all work sessions / meetings including Planning Commission and BOCC
- b. Staff should be directed to post on the website the agendas for all meetings, regular or work sessions, including packets
- c. Email notices of all meetings including work sessions and packets, also
- d. Work sessions must be recorded, so that the public can review. Decisions should be documented.
- e. Due diligence, create an atmosphere that is open to the public
- d. We need to present an open and public environment. Is it transparent? Is there public input? Timely notices are imperative.

Commissioner Albritton replied on behalf of the Board and felt that proper noticing had been occurring particularly regarding the Tuesday meeting. She agreed that it was important to create a public atmosphere and appreciated Hockersmith's thoughts.

Hockersmith and Mueller stated that public notices got moved around in the newspaper and the notice was not visible for the Tuesday agenda. The cost of noticing was expensive for County government. Patrick Davarn from the *Plaindealer* spoke on behalf of the newspaper commenting that he did not know why things got shifted around. Hunt spoke that she felt that due diligence occurred and staff was aware of the importance of this issue. Commissioner Padgett stated that this was a budget issue and these things needed to be addressed. She added that the County was working on improving the website for further notice enhancements.

Mueller spoke on the importance of noticing and recording, should legal action occur. He again stated that a public atmosphere was imperative.

Hockersmith summarized that we need to look forward to improving the County's due diligence. Meetings were meetings. Work sessions were not even addressed in the Open Records Act. In the past, there was just “meetings”, never work sessions.

Commissioner Meinert commented that he resented the implication that the County was “hiding the ball”. This was more than just a public notice in the newspaper. He further expressed his concern that there was the implication that voting was occurring at work sessions.

Commissioner Albritton jumped in to bring everything under control. The new website being built was to focus on a more friendly avenue to disseminate public information. The Board was listening and heard their concerns about emailing notices of meetings to folks, including folks from public meetings.

Commissioner Padgett stated that she was working to install a calendar on the website and have automated emails regarding meetings.

Commissioner Albritton also suggested that the Board agree to the recording of Planning Commission meetings and BOCC work sessions.

Commissioner Padgett stated that there was a Staff use of time for those types of meetings.

Deganhart suggested adopting a policy, including a timeframe, for the archival of these recorded minutes.

Commissioner Meinert stated that if there was no Staff time required, the Board could record the meeting. Technologically, there was a different medium format now with the .wav. He asked about downloading MP3 information on the website.

Commissioner Albritton said that a tape recorder would be likely the best way. What about both? Commissioner Albritton asked for understanding and patience with new technology and in a format that the public would be able to access.

Mueller asked that something be adopted so that the general public may know what to expect.

Commissioner Padgett said that she would be asking for feedback in the very near future on the new website.

Cristy Orvis commented that she had read an article in the newspaper that implied that decisions were being made in work sessions.

Staff was directed to check on recording methods and policies regarding this issue.

Commissioner Padgett reminded Staff that a disclaimer may need to be included in case an emergency arises and notices cannot get posted in a timely fashion. Following tomorrow's meeting a calendar will be created to assist with noticing public meetings.

B. 9:45 Road and Bridge Superintendent / Road Supervisor:

1. Road and Bridge Update:

Chris Miller, Road Superintendent, was present and gave the following update.

- There were lots of vacationing employees especially with hunting season beginning
- The last application of mag will be begin soon
- Undercut problems were fixed on County Road (CR) 5
- Improvements at the transfer station are almost completed
- The Potato Patch project is reseeded and done
- The Imogene project is almost done
- Employees assisted at the fairgrounds with the Labor Day activities
- Work is done with Top of the Pines project
- Working with SourceGas on CR 17
- Building up the road on CR 3, CR 23, and along the Fournier properties
- Currently hauling cinders... can mag chloride be used as a de-icer or a combination thereof? What could we use as an alternative to cinders? Commissioner Padgett asked that we discuss this issue at next month's meeting and Miller be prepared to share with the Board his thoughts.

CDOT is getting a new building in Ridgway. CDOT wants to use County property to store the sander racks. It would cost \$1,100 to set concrete posts. The State has stuff currently stored on the lower level of the Road and Bridge properties. Eventually the racks would become the County's as the new sanding trucks the State is purchasing have four legs and won't be needing racks. Maybe a letter of understanding and agreement for use of the racks regarding the County's land space to assure this is temporary and what the payment/use of the racks would include would need to be signed and approved. These racks are really a storage issue only.

CDOT may need to use the County's lowboy in the future, as their lowboy is broken down. Miller suggested that in lieu of sharing equipment, the State fix the "bad" spot on CR 1 by repaving or at least patching.

There was discussion regarding Mr. Wojciechowski's correspondence. Miller is drafting a response. Commissioner Albritton stated that the Commissioners fully supported Miller and the Road and Bridge Department

2. Request for approval and authorization of Chair's signature on Fiscal Impact forms concerning the purchase of the following equipment under the State of Colorado Bid list: (ratification)

There was general discussion regarding the use of the Vermeer Brush Chipper.

a. Mechanics Utility Bed

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to approve and authorize the Chair's signature the Fiscal Impact Form for the purchase of a Mechanics Utility Bed from the State Bid List as presented. There was no discussion. Motion passed unanimously.

b. Vermeer Brush Chipper

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to approve and authorize the Chair's signature on the Fiscal Impact Form for the purchase of a Brush Chipper from the State Bid List as presented. There was no discussion. Motion passed unanimously.

3. Discussion and direction regarding Pub Works software for Road and Bridge:

Jeff Bockes, GIS Analyst, addressed the Board on the purchase of new Road and Bridge software. If PubWorks waives the purchase costs, what are the support costs? What about comparing costs, especially support costs, with other vendors? What is their incentive? The new vendor, PubWorks, is very desirous of impressing the County with their software and has expressed that their history, performance and support speaks on its own. Bockes has contacted neighboring counties and good reviews have been expressed by everyone.

Commissioner Meinert asked that the County Attorney review the licensing agreement very carefully to make certain there was not a "gotcha" on the back side of this purchase. PubWorks is an over-the-shelf product and it would look good to have Ouray County as their customer. Is there a free trial basis?

Bockes is working on the negotiations and stated that payment would not be made until February giving the County ample time to "test" the new program, explore and train on PubWorks.

Hunt stated that the costs are comparable and would not impact budget costs. Bockes said there is a possibility of integrating the existing data into the new PubWorks program. The old "Cartegraph" reports are difficult to extract; PubWorks has a much better report writer program. Are the users going to be comfortable with the new PubWorks program? This new program is customizable and user friendly. Both Sally Bailar, Road and Bridge Administrative Assistant, and Chris Miller were very impressed with this new program. PubWorks has a multi-license application. This application could be very beneficial for the budgeting process.

Commissioner Padgett is very impressed with the PubWorks software and applauded Bockes, Miller and Bailar for researching a better program than what the current vendor offers. This program will move us forward with a more sophisticated ability to track Road and Bridge maintenance and performance.

C. 10:34 The Board of County Commissioners convened as the Board of Equalization to consider approval of minutes for July 28, and 30, 2009, and August 3, 4, and 5, 2009:

Assessor Mayfield was present.

Commissioner Padgett stated that the minutes were awesome! Linda Munson-Haley needed a gold star for doing such a good job. The Assessor did a great job, too! The whole process was very time consuming and the professionalism was outstanding! The Board was encouraged with the outcome. Assessor Mayfield commented that data was better and the lines of communication were better. A suggestion was made to offer a shorter timeframe for BOE hearings in the future utilizing less staff time. There was further discussion regarding how cumbersome the BOE process was. It also had an expensive price tag, too. Education was important and key when working with the taxpayer through the process.

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to approve the minutes of the Board of Equalization hearings conducted on July 28 and 30, 2009, and on August 3, 4, and 5, 2009 as presented, and congratulated the Clerk of the Board on excellent minutes presented and congratulated the Assessor's Office for an efficient and effective series of Board of Equalization hearings. Discussion. Commissioner Padgett had corrections to the July 28, 2009 minutes. She corrected the spelling of the word "leach" on page 12. She also asked to clarify that the Sprentalls were advised of their right to appeal the Board of Equalization's decision to the Board of Assessment Appeals by the Board of Equalization. Commissioner Meinert amended the motion to include the two changes to the July 28, 2009 minutes. Commissioner Padgett seconded the amended motion. With no further discussion, the motion passed unanimously.

10:52 The Board of Equalization reconvened as the Board of County Commissioners:

D. 10:53 General Business:

- 1. Request for approval of warrants:**
- 2. Request for approval of August 3 and 10, 2009 Board of County Commissioner Meeting minutes:**
- 3. Review and acceptance of the Ouray County Public Trustee Report for August 2009:**
- 4. Request for approval and authorization of Chair's signature on Safe & Drug Free Schools & Communities Grant application for Voyager Youth Program (ratification):**

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to approve warrants; to approve the August 3 and 10, 2009 minutes; to accept the Ouray County Public Trustee Report for August 2009; and to ratify approval and authorization of the Chair's signature on a Safe & Drug Free Schools & Communities Grant application for the Voyager Youth Program as presented. Discussion. The Board decided to draft a simple agreement for the administration of the grant to be included to recognize the Staff burden that would be created. With no further discussion, the motion passed unanimously.

- 5. Request for approval and authorization of Chair's signature on the Recreational Access Easement Agreement between Ouray County and the City of Ouray concerning the use of County-owned property by the City of Ouray for the Ouray Ice Park:**

There were several questions regarding the prohibition of motorized vehicles, if the road that is along the road to the hydro dam is a private road, do the hydro folks, Eric Jacobson, know of this prohibition, does the County have an easement with Jacobson? It is expired and Jacobson has not approached the County, either, to update this easement. He is aware of this process, but the City has not negotiated or communicated with him about this particular easement.

Commissioner Meinert offered conditional approval upon posing this question to the City and getting all the pieces and parts together. The City's insurance has asked for a minor change as explained by Deganhart regarding safety and responsibility. Is it possible that this could be assigned to a third party?

Commissioner Meinert asked that this be held until all questions have been addressed, including contacting Eric Jacobson, and that this easement is non-exclusive.

6. Request for approval and authorization for electronic submission of a TIGER Discretionary Grant for capital improvements to County Road 1, a portion of County Road 24, and County Road 24D:

Commissioner Albritton spoke on the amount of work noted in the grant process. It is obvious this is going to be a very public issue. Hunt has done a great job in pulling this together in such a short timeframe.

Commissioner Meinert stated that he is concerned about the lack of public process and having to meet the deadline tomorrow and wanted to further note that the public had not been able to communicate concerns on this "bypass". He said we must have public hearings and appropriate notice throughout the process. This grant is revocable, but this is just "getting our foot in the door". Bidding out to contractors may be of great importance and these numbers must be real.

Hunt commented that if we get the bid then the real work begins. This project could be as much as \$16 million and is twice the amount of the County's annual budget. Contingency is built in and is very important!

Commissioner Meinert talked about getting the rights-of-way and what would occur if we could not get them. We move forward as we can and follow the right procedures and get firm bids. There would be no risking of County expenditures on this project. The TIGER has some flexibility which is going to be very helpful. The County has some advantages for cost benefitting of this grant, including offering properties to place the batch plant, for example.

Commissioners Padgett and Meinert made corrections/comments regarding the grant and further typos were corrected.

7. Request for adoption of Resolution 2009-042 approving a Transportation Investment Generating Economic Recovery ("TIGER") Discretionary Grant for improvements, repairs and reconstruction of Ouray County Road 1, a portion of County Road 24, and County Road 24D:

*M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to approve and authorize electronic submission of the TIGER Discretionary Grant for capital improvements to County Road (CR) 1 a portion of CR 24, and CR 24D, and to adopt **Resolution 2009-042** approving a Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant for improvements, repairs and reconstruction of County Road 1, a portion of County Road 24 and County Road 24D as presented. There was no discussion. Motion passed unanimously.*

8. Request for approval and authorization of Chair's signature on Memorandum of Understanding between Gunnison County and Ouray County as recipients of 2008 State Homeland Security Program:

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to approve and authorize the Chair's signature on a Memorandum of Understanding with Gunnison County as a recipient of the 2008 State Homeland Security Program as presented. There was no discussion. Motion passed unanimously.

9. Request for approval and Chair's signature on Audit Engagement Letter with Blair and Associates, P.C.:

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to approve and authorize the Chair's signature on an Audit Engagement Letter with Blair and Associates, P.C. as presented. Discussion. They had done a good job. Commissioner Padgett made a correction on the dates to be 2009 through 2010. Commissioner Meinert amended the motion to include the correction and Commissioner Padgett seconded the amended motion. With no further discussion, the motion passed unanimously.

E. 11:36 Continuation of a public hearing originally held on August 24, 2009:

Applicant: Horsefly Fire Protection Association

Agent: Dan Quigley

Location: 1160 Mariposa Drive (off of Government Springs Road)

Purpose: The purpose of the hearing is to confirm proper notice to adjacent property owners regarding an application for approval of a Special Use Permit to construct a firefighting storage building

1. Request for adoption of Resolution 2009-041 approving the Special Use Permit for Horsefly Fire Protection Association for the construction of a storage building to house firefighting equipment:

Commissioner Albritton opened the public hearing and asked for public comment. There was no public input. All of the conditions have been met according to Mark Castrodale, Ouray County Planner.

Horsefly Fire Protection Association's future and possible request for funding needs to be addressed. It would be helpful if all of the players can come together.

*M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to adopt **Resolution 2009-041** approving the Special Use Permit for Horsefly Fire Protection Association for the construction of a storage building to house firefighting equipment as presented. There was no discussion. Motion passed unanimously.*

Commissioner Albritton closed the public hearing.

F. 11:43 The Board of County Commissioners convened as the Board of Social Services concerning the following items:

- 1. Request for approval of the following reports and authorization of Chair's signature on certification page:**
 - a. Earned Revenue and Expenditures, July 2009:
 - b. Check register for the month of August 2009:
 - c. Expenditures through Electronic Benefit Transfers, August 2009:
 - d. County Allocation / MOE Report (not yet available from State):
 - e. Balance Sheet, July 2009:

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to approve the reports noted above and to authorized the Chair's signature on the certification page as presented. There was no discussion. Motion passed unanimously.

2. Review of Caseload Report for August 2009:

Allan Gerstle, Director of Social Services, reported that the office is very busy at this time. Walk-ins and phone calls have risen in the last week. They were between seasons at the moment.

Gerstle read a letter from a client complimenting Case Manager Paulette Crabb.

3. Discussion:

- a. Financial:**
 - i. June 30, 2009 closed
 - ii. FY09/10 not yet available

Gerstle reported that the June 30 closeout happened two weeks ago. Ouray County was held "harmless" from any over expenditures on that date.

Commissioner Meinert questioned Gerstle about Governor Ritter's policy about keeping Social Services whole. Is this still going to continue for 2009/2010? Gerstle addressed this issue.

11:54 The Board of Social Services reconvened as the Board of County Commissioners:

G. 11:54 Public Hearing – Petition for Abatement or Refund of Property Taxes:

Petitioner: Todd W. Hoffman
Hilltop Ranch of the Cimarrons, LLC

Susie Mayfield, County Assessor, was present.

Commissioner Albritton opened the public hearing.

There was discussion that even though there was failure to supply information to reclassify the agricultural status, Assessor Mayfield cannot deny the petition, as there is a valid agricultural lease in affect and dated accordingly.

M/S/P—Motion was made by Commissioner Meinert to accept and approve the Petition for Abatement or Refund of Property Taxes for Todd W. Hoffman for Hilltop Ranch to retain his agricultural classification backdated to Tax Year 2008. Commissioner Padgett reluctantly seconded the motion based on C.R.S. 39-1-103(5)(c) and added that any citizens who could possibly respond to the Assessor's correspondence in a timely manner would save the County and taxpayers a lot of time and money. There was no discussion. Motion passed unanimously.

Commissioner Albritton closed the public hearing.

H. 12:01 The Board of County Commissioners convened as the Board of Health concerning the following item:

1. Request for approval and authorization of Chair's signature on 2009-2010 Emergency Preparedness and Response Division Task Order:

Cheryl Roberts, Public Health Director, gave an overview of the Order. Counties must be prepared for any emergencies that arise. This particular task is for the H1N1 virus. These "Plans" must be current and accurate for the Ouray County area. The good news is the H1N1 virus vaccination is very effective and only one shot is required. The grant request for \$18,648 is for specific items such as personnel, equipment, administrative and operating supplies. Allocation is estimated as follows: \$13,000 for personnel, \$4,879 for supplies and equipment. This money does not necessarily cover the cost of the vaccine but will cover the cost for supplies.

There is a flyer in the local health food store regarding the flu vaccination and the dangers involved. Concerns of combating this effort are highly important should the general population disregard the importance of getting vaccinated. Roberts reported that school kids are being tracked closely, also.

M/S/P—Motion was made by Commissioner Padgett and seconded by Commissioner Meinert to approve and authorize the Chair's signature on the 2009-2010 Emergency Preparedness and Response Division Task Order as presented. There was no discussion. Motion passed unanimously.

Roberts reported that the Task Order for a WIC contract amendment needed to be signed. The reason for the change was to change the name of the agency to the Ouray County Public Health Agency and to increase WIC funding. The Chair could sign and it would need to be ratified at the next meeting.

12:20 The Board of Health reconvened as the Board of County Commissioners, recessed for lunch, and reconvened at 1:30:

I. 1:42 Ennovate Corporation: Review of Bid Results for Courthouse Boiler Project:

Aaron Skroch and Paul Engle with Ennovate attended via a telephone conference call. Gene Farnsworth with Ennovate attended in person. Will Clapsadl, Facilities Manager, was present.

Aaron Skroch from Ennovate Corporation summarized a September 14, 2009 memo.

Questions and Answers:

Commissioner Meinert asked why the lack of interest with seven contractors doing the walk through and only two final bids? Did this have anything to do with the economic downturn? This is not a difficult or complex job. Is there a difference between the two boilers with different manufacturers? Both boilers appear to be comparable. There was further discussion about this item.

Skroch recommended R&H Mechanical and stated his reasons.

Clapsadl expressed his desire and Gene Farnsworth stated the same. These costs as shown on the memo are simply for the boiler, not inclusive of costs with Ennovate. This project will have an approximate total of \$185,000.

Commissioner Padgett questioned whether or not there were any grant monies to assist with a financial offset.

Paul Engle with Ennovate addressed this question. It is not very hopeful to be able to obtain grant monies, especially since DOLA has no money. Now the County is looking at a possible lease/purchase option. Engle will pursue this as soon as a decision has been made. We're looking at a ten- or maybe twelve-year note. Hunt stated that Wells Fargo had a good interest rate of 2.9%

M/S/P—Motion was made by Commissioner Padgett and seconded by Commissioner Meinert to accept the recommendation of R&H Mechanical and to direct Staff and Ennovate to pursue a matrix of financing options. There was no discussion. Motion passed unanimously.

Next: Scope of work is agreed upon. The reports are ready and a contract almost complete with financing information the final component. Once this is all together there will be a final review, with approval and final execution.

Commissioner Padgett asked that the valves for the individual offices also be included.

J. 2:43 Administrative / Commissioner Reports:

Commissioner Padgett discussed the following:

- 1) She was excited about the new website design and is hoping to solicit public input for the September 28 meeting.
- 2) The water forum date is set for October 30 at the 4-H Event Center. Lunch will be brown bag.
- 3) Housing Authority appointment with possible budget discussion in the future

Mary Deganhart, County Attorney, discussed the following:

- 1) Potter Ranch plat is good and the County is withdrawing the motion
- 2) American Girl is having work done; however, there was no title work to be found
- 3) Uniform Traffic Code - speed limits were discussed
- 4) Olin vs Bullock, County will not be paying legal fees for any party in this lawsuit.
- 5) Asked permission to send a letter to the folks who took off with all the water bottling equipment without paying the taxes

Connie Hunt, County Administrator, discussed the following:

- 1) Budget meeting is scheduled for Thursday
- 2) Bob Larson has submitted his annual report on behalf of the SAKO mining pit
- 3) Draft intergovernmental agreement with the City was distributed
- 4) Secure Rural Schools, 25% to Road and Bridge, 25% to schools, and the remaining percentage to be distributed as determined by the committee

- 5) Budget is okay for 2010. She discussed relevant issues and the juggling of insurance premiums and such.
- 6) Employee Benefits meeting is scheduled for September 29th and the Board is invited to attend.

Commissioner Meinert discussed the following:

- 1) He will not be able to attend the budget meeting
- 2) Tonight: Top of the Pines. He will not be able to attend
- 3) He will be out of town until the 28th of September
- 4) Yesterday's Press had an article on Universal Code of Conduct for all Montrose boards and bodies. He read a bit or two of the article.

Commissioner Albritton discussed the following:

- 1) She will be absent for the September 28th meeting.
- 2) Correspondence is being drafted to the Planning Commission with discussion of inappropriate behavior and actions. She would like to see a Code of Conduct or disclosure policy in place to assist when difficult matters or recusal is necessary. There are expectations from the BOCC to come from the top down.
- 3) Wild and Scenic Rivers Proposal There is a concern that the call will go to a federal level. This could impact funding and wondered if somebody from the BLM should be involved. Commissioner Padgett said this would be great for the Water Board Summit.
- 4) Budget work session is 8:30 on Thursday

3:40 Executive Session:

M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Padgett to enter into an executive session pursuant to C.R.S. §24-6-402(4)(e) for the purpose of determining positions relative to matters that may be subject to negotiations and (b) for a conference with the County Attorney for the purpose of receiving legal advice on the tower lawsuit and the Horsethief Trail issues. A roll call vote was taken on the motion with the following results.

*Commissioner Albritton voted in the affirmative
 Commissioner Meinert voted in the affirmative
 Commissioner Padgett voted in the affirmative*

Motion passed unanimously.

Those present for the executive session were Commissioner Albritton, Commissioner Meinert, Commissioner Padgett, Mary Deganhart and Connie Hunt.

As County Attorney, it is my opinion that the discussion of the matter announced in the motion to go into executive session constitutes a privileged attorney-client communication.

 Mary Deganhart, County Attorney

 Heidi M. Albritton, Chair

4:13 The Board of County Commissioners reconvened into regular session and adjourned:

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