

The Board of County Commissioners met in regular session on May 24, 2010. Those present for the session were Lynn M. Padgett, Chair; K. Keith Meinert, Vice-Chair; Heidi M. Albritton, Member; Mary Deganhart, County Attorney; Connie Hunt, County Administrator; and Linda Munson-Haley, Clerk of the Board.

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

**A. 9:00 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.*

**Solar Project Heads Up**

Bryan Hammond with SunEdison introduced himself and Kevin Ritter with San Miguel Power Association, Inc. (SMPA), and noted that the SMPA board had approved a solar project in SMPA’s service territory. Hammond distributed a map and handout for the Board and briefed the Commissioners on the proposed project. SunEdison was looking at three different substations in three different counties within SMPA. He would be talking to Ouray County Planner Castrodale later today. SunEdison finances, builds, owns and operates SMPA’s solar projects and sells the power to SMPA. This would be a 25-year contract during which time SunEdison would build, maintain and operate it. SunEdison would probably hire a large General Contractor from out of the area but would require that a certain percentage of the workers be local. SunEdison had done 18 projects in Colorado. This one was important because it would be the second largest installation in Colorado, the first was in Alamosa. A state requirement mandated that co-ops have 10% of their power from renewables by 2020 and this would help SMPA meet that requirement. SunEdison was still looking at all three counties and was just doing site evaluations now.

Commissioner Meinert asked how much land area would be required and how much would be covered with solar arrays. Hammond replied that one megawatt would take about 8 acres, so for the proposed two megawatt project, 16 acres would be necessary. SunEdison would probably lease at least 20 acres to include roads. Commissioner Meinert asked if SunEdison anticipated expansion in the future. Hammond replied that they always hoped to expand. SunEdison was looking for a 20-acre site, but may lease 40 acres. If the project proved to be successful SunEdison would explore options to expand. The company was also looking at a much smaller scale but community-owned solar installation.

Hammond noted that the idea was to have service people hired here to handle a Rifle project, too. During construction, there would be 30 to 35 jobs and he was hoping to hire at least 10 jobs locally. He wanted to have the project completed by the end of the year and hoped to start construction in the fall. The plan was to tie in to a 3-phase line in the SMPA system.

Ritter explained that the project would tie into SMPA’s site. For this size of system a distribution link was desirable.

Hammond added that if Ouray County was looking to be branded as a renewables county, a solar array would be desirable to go along with the area’s geothermal and hydroelectric possibilities. With regard to visual impact, SunEdison could plant trees, do fencing and berms to mitigate the impacts. He explained that the panels were no taller than 8 feet and that, at height, they would be tilted about 45 degrees facing the sun in the morning with a very low noise motor to rotate them during the day. There could be structures as tall as 10 feet to house the inverters to direct dc to ac. There had never been any issues with the wind.

**Tower Saga Revisited**

Dennis Michaud distributed a copy of “Improving Public Safety Communications: A Technical Analysis.” He read from the first two pages. Before moving to Ouray six or seven years ago he worked for 30+ years with AT&T and its subsidiaries including Bell Labs, as well as a small startup company that was bought by Motorola. He also worked on a microwave project developing Doppler radar with Raytheon while earning a B.S. in Electrical Engineering from the University of Massachusetts. He wanted to propose a better direction as well as a need to better research the communication issues surrounding the proposed Verizon Wireless tower on Log Hill.

He reviewed hundreds of documents and emails and had spoken to many people regarding the tower. Because of his background he wanted to focus on the technical issues of the proposed Verizon Tower that was designed to support antennas and equipment for the County VHF system, the statewide Digital Trunked Radio System Network (DTR), and Verizon Wireless. He submitted that what was needed was a plan that included five things: 1) a baseline analysis clearly articulating the current situation in factual terms; 2) a clearly identified need/goal in terms of coverage, reliability, performance, etc.; 3) the specific obstacles in achieving the goal; 4) a fact-based technical and financial analysis of alternative solutions; and 5) a recommendation for action based on the above. A search for data addressing these areas revealed that 1) there was no factual baseline, 2) the goal was not clearly defined, 3) the obstacles had not been clearly identified, and 4) appropriate alternative solutions had not been evaluated.

He discussed documents that had been referenced during the public hearings. The one referenced most was by William McCaa, Jr. Ph.D. where he used phrases such as “helps reduce the chance,” “probably a minimum satisfactory height,” and “reduce the probability.” Michaud noted that those phrases should have raised red flags. If the noise source was not known, then the solution may not be very reliable either. The proposed answer to the vague problem was vertical separation of at least  $x$  number of feet, where  $x$  was yet to be determined. Michaud proposed that a horizontal separation be thoroughly investigated and he anticipated that one to two miles might well be sufficient to mitigate the noise issue.

As for the site in question, he observed that it was an “electronic mess” with no one in charge of spectrum management. Further proliferation of electronic equipment would likely only exacerbate the issue. Any emergency communications site required expert and careful regulation of future installations that might interfere with it.

Another document cited was an email dated July 26, 2006 from Mike Borrego, Colorado's 800 DTR engineer, who said, "In my expert opinion the DCWC site or any site within ½-mile of the Alltel tower will not work for the DTR system." In Michaud's research he found nothing that indicated a solution that addressed Borrego's concerns.

Contradicting the stated need for the 80-foot placement of the VHF antenna was a report from Alan Staehle titled, "2007 Alltel/Ouray County Public Safety Partnership" stating that "the county presently has almost 100% mobile radio coverage." Michaud pointed out that "almost 100% coverage" was almost perfect and may be the best that could be expected in a mountainous terrain. If the objective was to improve upon that coverage, it was critical that the intended mode of improvement be thoroughly analyzed versus simply taking a "stab" at it, as was the case with the proposed tower.

Michaud referred the Commissioners to the document attached to his handout titled, "Tower Justification: The Antenna by Antenna Analysis."

In order to make an informed decision, Michaud believed that in the least three things needed to be determined: 1) what was the minimum increase in performance needed for success; 2) was the proposed system guaranteed to meet the criteria initially and over time, and 3) was this the most cost-effective solution.

To a question by the Commissioners and County Attorney, Michaud could not cite specifically what information he had reviewed before embarking on his recommendations noting that there were too many to relate. The Commissioners encouraged him to review the records of the public hearings and the testimony from the experts.

Deganhart pointed out that the decisions had already been made and that they had been made based on what was presented at the public hearings. There was nothing pending. The judge had confirmed that there were no errors made by the Board of County Commissioners on the decisions they made.

Michaud explained that he was not questioning the legality of the decisions made by the Commissioners but that the Board did not have the expertise to know the technical aspects.

Commissioner Meinert advised Michaud that the Commissioners could not act or react to what he said today. Decisions had already been made based on what was presented at the public hearings. If anyone felt that the technical representations made by the proponents of the tower were inaccurate, then would have been the time to make counterarguments. The timing now was totally wrong. Had this kind of information been put into evidence at the time of the decision it would have been taken into consideration. He suggested that Michaud talk to the applicant if he had any technical concerns.

Deganhart added that Resolution 2009-022 specified that if the array did not function effectively the applicant could come back to the County to request modifications to the tower.

Commissioner Meinert continued to explain that every effort had been made to assess the visual impact and to ensure that it was minimal.

Commissioner Padgett noted that the Commissioners at the time had made their decision based on the best information they had and that they had to rely considerably on Staff and the information presented at the public hearings.

Commissioner Albritton countered that during the 2008 decisions she had not relied on Staff because they were not experts but had considered the technical input at the time. She encouraged Michaud to meet with the County Attorney to get all of the information that the Commissioners had received during the public hearings. There had been extensive testimony from experts in different fields giving guidance.

Michaud replied that he would welcome other information but as far as the decision, the tower was not up yet. If it went up and did not work it could prove embarrassing.

Deganhart explained that the only thing the Board had any control over at this point in time was the VHF piece. If there was evidence that that piece would not work the Commissioners could say that they do not want it on the tower.

Commissioner Albritton added that when the fire district was trying to get a DOLA grant for equipment they also looked at other potential sites and Michaud should review that information, as well.

Commissioner Padgett added that the decision had been tested many times in the last two years and the courts had upheld it at every point.

Jim Kennedy pointed out that there was bias in the public hearings where the proponents were given more time than the public for input.

Commissioner Meinert vehemently disagreed that the public hearing was biased. If Michaud's information had been available at that time he would have been given every opportunity to present it. Commissioner Padgett added that the Commissioners pore over all information presented during public hearings.

Charles Mueller discussed that the judge had issued a temporary restraining order against— Deganhart interrupted to say that the temporary restraining order was not against the County. Mueller continued to say that there was an ongoing case against one landowner and Dallas Creek Water (DCW) that had not yet been resolved. Nothing had been built yet. In his estimation the building permit should have been revoked but until it was built the County could still stop the construction.

Deganhart clarified that the temporary restraining order was against DCW but until a bond was posted it was not in effect. That suit was based on issues having to do with the covenants and had nothing to do with the County or issues with the County. The individual landowner was saying that the tower violated the covenants. She added that she had been updating the Commissioners on the pending lawsuits.

Commissioner Padgett discussed the accusation of reduced property values because of the visual impact of the tower.

Deganhart recalled the BOE (Board of Equalization) hearing where Mueller's father had protested because of impacts from the existing towers and issues with the construction of a water tower. The BOE reduced that property's values because of testimony presented at that time regarding specific impacts to that specific property.

Mike Budai introduced himself and explained that he had an electrical engineering degree and worked for years for the National Security Agency and AT&T. Some of that time was spent developing and implementing antenna arrays. He explained that he could vouch for the technical part of what Michaud said. What he was hearing was that the County was basically done with the process and it was approved, but the Commissioners had also said publicly that they were here to help the emergency responders have better communications. He hoped that the County had gotten performance guarantees from all of the people involved with the antenna. If not, then the tower may need modifications down the road. Given the location, that would only mean going higher up in the air. With all of the interference from all of the other antennae it was odd to him that the proponents proposed putting the communications equipment in the middle of it all. He urged the Commissioners that if they had new information and wanted to help the firefighters and emergency responders they should take it into consideration.

Alan Stapleton sent the Commissioners a short email last week because of a misprint in the newspaper saying that there were minimal impacts from the tower. Prospective buyers had told him they would not consider Loghill Village because of the towers. He asked the Commissioners to evaluate the issue further because of the economic impact.

Commissioner Albritton wanted to set something up on a future agenda to talk about performance standard as referenced by Budai. She felt confident with the testimony presented during the public hearings but she had no problem bringing it back to discuss what exactly the County was going to get, what kind of communications standard would be provided, etc., and to have everyone hear what the plan was and what it would accomplish. The Commissioners could not go back and revisit the decisions that were made but they could facilitate communication.

Commissioner Meinert suggested that if Michaud and Budai with their technical expertise were truly interested in a good system and not just undermining the tower they should get with Verizon, Staehle and the people who submitted the testimony prior to any meeting with the Commissioners to discuss the technical issues. To the extent that something needed to be done to improve what had already been approved he was in favor of the discussions taking place. Commissioner Albritton asked Hunt to direct Alan Staehle to meet with Michaud and Budai to address their concerns.

Commissioner Padgett asked if Deganhart had any concerns or would like to present something about the *lis pendens* recognizing that it was not a case against the County, or should the Commissioners weigh in with the judge in any way. Deganhart explained that the plaintiff, Fisher, had brought a suit regarding two sets of covenants. Because of that case the judge thought that all of the owners in Phase I should know about it because they may have relied on one or other of the covenants. The judge required that all of the property owners be served and brought in as parties to the case and also ordered a *lis pendens* served so that they would have knowledge of what would happen.

Stapleton interjected that no mortgage company that he knew of would put a mortgage on a piece of property with a *lis pendens* on it. They viewed it as a cloud on the title. This created a stranglehold on the properties. He asked if there was anything the County could do to alleviate the impact of the judge's order.

Deganhart offered to contact DCW to see if they would contact the judge to advise him of the concerns. The Commissioners asked Deganhart to follow up on that.

Commissioner Meinert suggested that when setting the meeting date he wanted to ensure that Dennis Michaud and Mike Budai had ample opportunity to speak to Alan Staehle and Verizon prior to the meeting. Commissioner Padgett asked Michaud and Budai to contact Connie Hunt after meeting with Staehle and Verizon to set a meeting with the Commissioners.

**10:15 The Commissioners took a brief break and reconvened at 10:23:**

**B. 10:23 Chris Miller, Road and Bridge Supervisor:**

**1. Request for approval to purchase a 10-yard tandem axle dump truck from CDOT in the amount of \$5,000:**

Miller explained that he had put in a bid on a ten-yard tandem axle dump truck on December 8, 2009 and had just heard that Ouray County was the successful bidder. He asked for capital funds in the amount of \$5,000 to buy it. It was similar to the four other Road and Bridge dump trucks. The issue was that, of the four, one was used for mag and two were water trucks. That only left one dump truck for the summer. It would help to have another truck for river projects. Commissioner Meinert asked what the vehicle would cost new. Miller replied \$125,000. Commissioner Meinert concluded that at \$5,000 it would be valuable for parts even if it did not run.

**M/S/P—***Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to approve the purchase of the CDOT truck from capital funds to the extent that Hunt could find the right place to charge the capital funds. There was no discussion. Motion passed unanimously.*

## 2. Road and Bridge Report:

From January 1 through the end of April, Road and Bridge had 471 labor hours of just general road grading with labor hour costs of \$9,200 and a total cost of \$31,000. For base removal for soft spots, there were 359 hours of digging those out at a cost of \$6,600 and a total cost of \$30,000. For culverts, crews placed 240 feet of new pipe either replacing old pipe or in new areas that entailed backfilling and compaction, for a total of 62 labor hours at a cost of \$4,700. There were 295 hours for screening at the BLM ditch resulting in over 5,000 tons that were used mostly as base material for CR 5 that had 2.5 feet of snow melt in two days requiring repairs. Crews were starting the prep for magging today. He had \$3,000 into asphalt patching in Colona in the last couple of months that used up most of the asphalt. Road and Bridge had used 11,400 gallons of fuel at a cost of \$29,000. Road and Bridge had 259 hours of sick leave and 296 hours of vacation. From magging, crews would start on the U.S. Forest Service project as soon as they could get into Owl Creek to fix the road where it had sloughed off, per the Owl Creek/Imogene agreement.

He and Hunt watched the TIGER II webinar along with the County Engineer. Basically, it was geared more towards transportation projects rather than road projects. There would be another webinar on June 10 on Safe Routes to School.

Commissioner Meinert inquired about how soon the computerized reports would be available to the Commissioners. Miller advised that it would be pretty soon. Commissioner Meinert asked to see them at least quarterly.

### C. 10:39 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, March 2010:
- b. Check Register for the month of April 2010:
- c. Expenditures through Electronic Benefit Transfers, April 2010:
- d. County Allocation / MOE Report, March 2010:
- e. Balance Sheet, March 2010:

Allan Gerstle, Director of Social Services, explained that things were not slowing down. He requested approval of the reports that he had presented.

*M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve and authorize the Chair's signature on the certification page and the Earned Revenue and Expenditures Report for March 2010; the Check Register for the month of April 2010; Expenditures through Electronic Benefit Transfers for April 2010; the County Allocation / MOE Report for March 2010; and the Balance Sheet for March 2010 as presented. There was no discussion. Motion passed unanimously.*

#### 2. Review of Caseload Report for April 2010:

Gerstle reiterated that things were staying pretty much the same.

#### 3. Request for approval and authorization of Chair's signature on a Memorandum of Understanding (MOU) with the State for the Colorado Works Program and Child Care Assistance Program:

Gerstle explained that the Memorandum of Understanding had been vetted and blessed by CCI and Front Range attorneys, and that there were no changes from last year other than the dates.

*M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve and authorize the Chair's signature on a Memorandum of Understanding with the State for the Colorado Works Program and Child Care Assistance Program as presented. There was no discussion. Motion passed unanimously.*

#### 4. Discussion Items:

##### a. Governor Ritter's Executive Order

Gerstle discussed an Executive Order, B 2010-007, from the Governor that came out on May 6, 2010 creating the Governor's Working Group on the Structure of Colorado's Human Services System and the centralized Call Center for Child Abuse and Neglect Referrals. It took recommendations 14 and 29 made by the Child Welfare Action Committee for a centralized call center and the state takeover of Social Services, respectively, and put them back on the front burner. In December, the Governor had said that those two issues would get a proper vetting before anything would happen. Now this Executive Order came out with a committee to be appointed and a report to be completed by the end of September. Gerstle was cynical about the process. Out of the twenty-one members to be appointed to the committee, seven would be county commissioners and/or directors. If the seven were resolute and stuck together they would be representing one-third of the numbers and the Executive Order asked for 75% of membership before bringing forward recommendations. Commissioner Padgett presented her name to the Governor along with Commissioners from Gunnison County and Montrose County. Gerstle remained steadfast in his belief that local Human Services departments could do a better job of serving locals than a bureaucracy in Denver and that more of the local citizenry would suffer if the state took over.

Last week Commissioner Beckman, Chair of Health and Human Services (HHS), invited five other County Commissioners and their directors to a strategy session. Commissioner Padgett was invited along with Commissioners

from Washington, Boulder, Jefferson, and Arapahoe Counties. Another conference was scheduled for Thursday. This issue was a high priority for CCI.

A discussion followed. Commissioner Albritton felt that it would be smarter to look to the future and make a compelling argument to the new governor and the new director of HHS. The State of Colorado had proven to be inept at centralizing any effort.

Gerstle wondered if Club 20 would weigh in. He asked the Commissioners to bring it up at Club 20 and hoped that maybe Club 20 could put forward a resolution asking the current governor and the two candidates for governor to take a strong stand in favor of local control. A discussion followed.

Cheryl Roberts felt that the new committee should be made aware of the successes of the local Social Services.

**D. 11:11 The Board of Social Services reconvened as the Board of County Commissioners who convened as the Board of Health concerning the following items:**

Cheryl Roberts, Public Health Director, was present.

- 1. Request for approval and authorization of Chair's signature on Fiscal Impact Form and Approved Task Order Contract between the State of Colorado Department of Public Health and Environment and Ouray County for the provision of public health services:**

Roberts explained the Contract.

*M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve and authorize the Chair's signature on the Fiscal Impact Form and Approved Task Order Contract between the State of Colorado Department of Public Health and Environment and Ouray County for the provision of public health services as presented. There was no discussion. Motion passed unanimously.*

- 2. Request for approval and authorization of Chair's signature on Fiscal Impact Form and Memorandum of Understanding between Colorado Department of Health and Environment (CDPHE) and Ouray County for the Children with Special Health Care Needs Unit Traumatic Brain Injury Program:**

*M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve and authorize the Chair's signature on the Fiscal Impact Form and Memorandum of Understanding between Colorado Department of Health and Environment (CDPHE) and Ouray County for the Children with Special Health Care Needs Unit Traumatic Brain Injury Program as presented. There was no discussion. Motion passed unanimously.*

Roberts notified the Commissioners that Public Health had to evacuate \$5,000 worth of refrigerated vaccines out of its offices because of a power failure. She planned to meet with Staehle and Sheriff Mattivi to discuss the purchase of a small, portable generator for the Clinic. Hunt suggested including Will Clapsadl, Facilities Manager, in the discussions.

Roberts advised the Commissioners that the Voyager Youth Program had approached the County for assistance and collaboration in finding funding. She and Hunt worked with Karla Cline of the Voyager Program regarding a federal grant for \$40,000 for three years that Voyager was invited to apply for. The grant required that the Applicant Agency be a county. Roberts would act as the Project Director. The grant would be to address drug and alcohol prevention. It required a small in-kind for administration and she would be giving an in-kind commitment that would be a small portion of the budget.

By consensus the Commissioners agreed to allow the process to move forward.

**11:28 The Board of Health reconvened as the Board of County Commissioners concerning the following items:**

**E. 11:28 General Business:**

- 1. Request for approval of warrants:**

*M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to approve warrants as presented. There was no discussion. Motion passed unanimously.*

- 2. Request for approval of the following minutes:**
  - a. April 26, 2010**
  - b. May 3, 2010**
  - c. May 10, 2010**

*M/S/P—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve the minutes for April 26, May 3, and May 10, 2010 as presented. Discussion. Deganhart wanted more clarification on Item 3 of her Commissioner/Administrative Report in the minutes of May 3, 2010. She asked to listen to the audio of the meeting and propose a modification. Commissioner Albritton amended her motion to approve the minutes for April 26 and May 10, and to hold over the May 3 minutes for approval at the next meeting.*

Commissioner Meinert seconded the amended motion. With no further discussion, the motion passed unanimously.

**3. Review and acceptance of Ouray County Public Trustee Report for April 2010:**

**M/S/P**—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to accept the Ouray County Public Trustee Report for April 2010 as presented. There was no discussion. Motion passed.

**4. Request for approval and authorization of Chair's signature on the Fiscal Impact Form and Modification No. Eight to Participating Agreement between the USDA Forest Service and Ouray County for weed management services:**

Ron Mabry, Weed Manager, was present. He explained that this was the annual plan that included \$5,000 more than he expected.

**M/S/P**—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve and authorize the Chair's signature on the Fiscal Impact Form and Modification No. 8 to a Participating Agreement between the USDA Forest Service and Ouray County for weed management services as presented. There was no discussion. Motion passed unanimously.

**5. Request for approval and authorization of Chair's signature on the Master Agreement and Intergovernmental Agreements for the Primary Election and General Election for Ballot Creation and Printing by the Gilpin County Clerk and Recorder:**

**M/S/P**—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve and authorize the Chair's signature on a Master Agreement and Intergovernmental Agreements for the Primary Election and General Election for Ballot Creation and Printing by the Gilpin County Clerk and Recorder as presented. Discussion.

Commissioner Meinert presumed that the agreement was basically the same as in the past few years.

Deganhart advised that it was; however, she had a question/comment/issue on the "prevailing rate for support services."

Commissioner Meinert concluded that the issue would not affect his approval.

Commissioner Albritton amended the motion to approve subject to any changes the County Attorney and Clerk made to strengthen it. Commissioner Meinert seconded the amended motion. More discussion.

Commissioner Padgett asked if Ouray County was paying twice as much as Gilpin County. Deganhart explained that page 2 showed how payments were made and Schedule A showed the total costs.

With no further discussion, the motion passed unanimously.

**6. Request for appointment of Ken Garard to the Ouray Area Joint Planning Board to fulfill the term of a resigning member with a term expiration of January 31, 2013:**

**M/S/P**—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve the appointment of Ken Garard to the Ouray Area Joint Planning Board to fill the term of a resigning member with a term expiration of January 31, 2013. There was no discussion. Motion passed unanimously.

**7. Request for approval and authorization of Commissioner Albritton's signature on letters to Senator Whitehead and Representative Tipton concerning PILT Funding and Secure Rural Schools (SRS) Disbursements: (Ratification)**

**M/S/P**—Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to ratify approval and authorization of Commissioner Albritton's signature on letters to Senator Whitehead and Representative Tipton concerning PILT funding and Secure Rural Schools (SRS) disbursements. There was no discussion. Motion passed unanimously.

**8. Request for appointment of Connie Hunt as an alternate to the Gunnison Valley Transportation Planning Region (GVTPR):**

**M/S/P**—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to appoint Connie Hunt as an alternate to the Gunnison Valley Transportation Planning Region. There was no discussion. Motion passed unanimously.

**9. Request for approval and signatures on Proclamation 2010-001 supporting Shopping Locally and The 3/50 Project: (Ratification)**

**M/S/P**—Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to ratify approval and signatures on Proclamation 2010-001 supporting Shopping Locally and The 3/50 Project. There was no discussion. Motion passed unanimously.

**10. Request for approval of press release by the Chair of the Board of County Commissioners concerning the upcoming visual impact notification and general County information: (Ratification)**

The Commissioners questioned the necessity of putting items such as this on the agenda for approval/ratification. Commissioner Meinert noted that he had no problem with what Commissioner Padgett sent to the newspapers and he had responded so, but felt that this was something in the purview of the Chair to put out and as long as the Chair kept the rest of the Board advised of what was being put out he did not think that it was necessary for the Board to approve the Chair's issuance of a press release. He felt that it was a bad precedent to set. Commissioner Albritton agreed.

Hunt explained that when the Chair writes something from the "Chair" it was an action from the Board unless the Commissioners wanted to make a motion during the reorganization of the Board for a blanket agreement. If a press release was issued by a Commissioner alone not representing the Board then it was okay.

Commissioner Meinert felt that the Chair should be empowered to take that kind of action as long as the rest of the Board was kept advised.

There was more discussion. Commissioner Padgett pointed out distinctions of when the Chair could sign for the Board and as an individual. Commissioner Albritton did not want the Board to micromanage the Chair's speech. A discussion followed. Hunt recommended that the Commissioners could write as individual Commissioners but the distinction came when they represented the Board as a body and that would need approval.

**M/S/P**—*Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to ratify approval of a press release by the Chair of the Board of County Commissioners concerning the upcoming visual impact notification and general County information. There was no discussion. Motion passed unanimously.*

---

Susan Long, Fairgrounds Manager, advised the Commissioners that she had been made aware of requests to house large animals at the Fairgrounds due to the Norwood fire. She had spoken to the Ouray County Sheriff, Cheryl Roberts, Public Health Director, and Alan Staehle, Emergency Management Coordinator, about an evacuation plan.

**F. 11:53 Commissioner / Administrative Reports:**

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

- 1) **Assessor Assistance** She presented a letter from W.R. Hopping and Company whom the Assessor's Office had spoken to for help with the TAVITAC abatement hearing with the Board of Assessment Appeals. The agreement was for \$150 per hour with a retainer of \$4,500. She hoped that the Commissioners would approve the Chair's signature today to ratify on June 7, 2010. Hopping had already approved it. Hunt indicated that there was a line item in the budget for emergencies but she may also use some of the County Attorney's funds. The County Attorney advised the Commissioners that the hearing had been continued from June 22, 2010 to July 30, 2010 and it would now be in Denver, not in Grand Junction. Hunt would send the information of the continuation to the school board, who had expressed interest in attending.

By consensus, the Commissioners authorized the Chair to sign the agreement and put it on the next agenda for ratification.

Before breaking for lunch the Commissioners agreed to reconvene from lunch at 1:00 p.m.

**12:03 The Commissioners broke for lunch and reconvened at 1:08:**

~~**G. 1:30 Bob Smith: CANCELLED**~~

~~**1. Discussion concerning Lots 3-5 and 20-22, Block 1, City of Ouray County:**~~

**F. 1:08 Commissioner / Administrative Reports, continued:**

**Mary Deganhart**, County Attorney, *continued:*

- 2) **Tower Update** The preliminary injunction hearing, Fisher versus Dallas Creek Water Company, was continued to June 14, which was at the same time as a Board of County Commissioners' meeting. A motion was filed by Fisher to exclude testimony from Staehle, Mitchell, Mattivi, etc.
- 3) **TAVITAC continuation** The TAVITAC Board of Assessment Appeals hearing was continued as she noted earlier. The Sprentall Board of Assessment Appeals hearing was still scheduled for June 22 in Grand Junction.
- 4) **County Attorneys Conference** She would be gone next week to the County Attorneys Conference in Vail.

**Connie Hunt**, County Administrator, had nothing to discuss:

**Commissioner Albritton** discussed the following:

- 1) **CCI Cancellation** She would not be able to attend the CCI Summer Conference because of Taste of Ouray and she asked that her reservations be cancelled.

- 2) **Summer Season** She was getting into her busy season and would not be able to attend evening meetings other than on Mondays.

Mary Deganhart, County Attorney, *continued*:

- 5) **Planning Strategies** She asked if the Commissioners wanted to discuss strategies for the work session tomorrow and the Town Hall on Thursday. She looked through Dennis Michaud's letter in more detail and felt that some of the things that he pointed out would be relitigating the two hearings. She thought that his idea of being able to present evidence of coverages may have some merit, but 3 or 4 of the items he discussed in the letter such as other items and locations, she did not think needed to be delved into and it would not be fair to Verizon to have to pay its engineers to support what they had done. She wanted to know from the Commissioners how they felt. Commissioner Albritton mostly wanted to disseminate the information and facts by suggesting that Michaud meet with Staehle, etc., but wanted to keep the focus narrow pointing out that decisions had been made and reaffirming that this was what the Commissioners wanted to do. She wanted to articulate what the project was and what it would accomplish. Commissioner Padgett advised the individuals who had gathered the technical evidence that if they felt that the system was flawed they should tell Verizon. If they were convincing, Verizon would withdraw the building permit.

Commissioner Meinert discussed the following:

- 1) **Calendar** Next week CCI conference, Tuesday through Thursday; discuss strategy for Thursday tomorrow morning; a CEB (Community Energy Board) meeting tomorrow at 3 p.m. in Placerville.

Commissioner Padgett discussed the following:

- 1) **More calendar** A PLP meeting on June 9 at 1:30 p.m.; Summit South on June 10; Tri-Agency Social and CCI representatives presentation; she would be at the BLM in Montrose on the 27<sup>th</sup> from 1-4 p.m. for mandatory cooperator meetings; and she planned to be gone from July 30 through August 6, missing the August 2 Commissioner meeting. There was discussion about BOE hearing dates.
- 2) **CCI Agenda with Bylaws** She discussed one of the bylaws regarding representation and expressed her concern about equal opportunity for smaller counties' participation being eroded. She thought maybe smaller counties should be granted an extra seat along with the bigger county or the extra seat for one of the bigger counties being a non-voting seat. She wanted to bring it up at CCI. Commissioner Meinert was concerned about that, too. He supported the arguments being made. Commissioner Padgett could draft a position statement to distribute to the smaller counties ahead of time and to pass out at CCI. Commissioner Meinert noted that representation currently was one county, one vote. There was an argument that proportional representation would be fairer and he pointed out that there could be a risk with Commissioner Padgett addressing representation at this time. He suggested collaborating with San Miguel County Commissioner Art Goodtimes.
- 3) **CCI Topic** The CCI Board of Directors would take up the issue of whether a PACE committee could form.
- 4) **Norwood Fire** The fire was burning on 3,200 acres east of Norwood.
- 5) **Visual Impact Presentation** She reworked some of the visual impact presentation.

**H. 1:52 Executive Session with the County Attorney for the purpose of receiving legal advice pursuant to 24-6-402(4)(b) concerning the Horsethief and Goldbelt Trails:**

*M/S/P—Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to enter into an executive session pursuant to C.R.S. §24-6-402(4)(b) for a conference with the County Attorney for the purpose of receiving legal advice and C.R.S. §24-6-402(4)(e) for the purpose of determining positions relative to matters that may be subject to negotiations relative to the answer to a letter from an attorney concerning lots 3-5, 22, Block 1C, Ouray, and a second topic regarding the Horsethief and Goldbelt Trails. There was no discussion. Motion passed unanimously.*

Those present for the executive session included Commissioners Padgett, Meinert and Albritton, Mary Deganhart, County Attorney, and Connie Hunt, County Administrator.

*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

---

Lynn M. Padgett, Chair

**2:54 The Board of County Commissioners came out of executive session:**

Commissioner Padgett noted that the Board had just concluded an executive session during which a discussion occurred relative to two matters: 1) the lots in the City of Ouray that Smith was interested in, and 2) the ongoing

discussion about the Horsethief and Goldbelt Trails. No formal action was taken during such session and the Board instructed the County Attorney on logistics for taking on both matters.

**I. 2:55 The Board of County Commissioners adjourned and did not convene into a Work Session:**

OURAY COUNTY BOARD OF COUNTY COMMISSIONERS  
OURAY, COLORADO

ATTEST:

\_\_\_\_\_  
Lynn M. Padgett, Chair

\_\_\_\_\_  
K. Keith Meinert, Vice-Chair

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

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