

The Board of County Commissioners met in a Town Hall Meeting on May 27, 2010. Those present for the session were County Commissioners Lynn M. Padgett, K. Keith Meinert and Heidi M. Albritton; Connie Hunt, County Administrator; and Linda Munson-Haley, Clerk of the Board.

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

6:39 p.m. The Board of County Commissioners of Ouray County held a Town Hall style meeting to hear public comments and concerns about proposed amendments to Section 9, Visual Impact Regulations, of the Ouray County Land Use Code

[The Board of County Commissioners received written comments prior to the meeting from Glynn Williams, email dated 5/24/10, "Visual impact regs public meeting"; Alan Stapleton, email dated 5/25/10, "Proposed Visual impact regulations changes"; Robert Savath, email dated 5/25/10, "Visual Impact Regulations"; William and Judith Yeo, email dated 5/26/10, "Re visual impact regulations for Land Use Code"; Jane and Jim Ross, email dated 5/25/10, "Please continue with Visual Impact Regulations"; Jerry Roberts, email dated 5/24/10, "Visual Impact Regs"; Melissa Johnson, email dated 5/24/10, "Visual impacts meeting"; Christine Suppes, email dated 5/26/10, "Section 9 Visual Impact Regulations"; Debby and Larry Wooddell, email dated 5/27/10, "Proposed Visual Impact Regulation Changes"; and Dennis Michaud, email dated 5/27/10, "For tonight's meetings" (Visual Impacts Town Hall Meeting Public Exhibit 1*). An attendance roster was entered as Exhibit "A".]

Commissioner Padgett opened the meeting and introduced herself, Commissioners Albritton and Meinert, and Planning Commissioners Ted Collin, Carl Cockle, Ken Lipton, Bob Luttrell, Karen Risch and Sheelagh Williams. She explained the reason for the presentation and that this was not a public hearing but a town hall style meeting. She began her presentation on visual impact [Visual Impacts Town Hall Meeting County Exhibit 1].

At the conclusion of the presentation, Commissioner Albritton encouraged everyone to fill out a survey to provide feedback. The Commissioners needed to hear back from everyone to move forward.

Commissioner Meinert noted that most of the misunderstanding was the tier structure. The Commissioners' intention was to make things simpler not to overlay additional requirements on applicants. What they were proposing was less onerous than the current requirements and less subjective. Problems with the existing point system were in trying to understand how to interpret things like screening, etc. The Commissioners and Staff tried to eliminate or avoid these things in the new structure. Tier 1 was to enable a simplified, streamlined process to give applicants a more assured outcome if they met the criteria. He explained that this was early in the process. The other steps of going to Planning Commission and then coming back to the Board of County Commissioners were extensive processes. During those processes, the more informed the public input the easier the job would be for Planning Commission and for the Board of County Commissioners.

7:46 Commissioner Padgett called for a break and reconvened at 8:01:

At this time, Commissioner Padgett took public comments and advised that everyone would have one minute.

Randy Parker thanked the Commissioners for their hard work. It was clear that they tried to stay true to the goals of the Master Plan in Section J. He appreciated that. The concepts were right; they could quibble over the wordsmithing.

Andy Mueller spoke on behalf of Todd Gray who was a landowner in the county with about 2,400 acres and owns quite a bit of property with escarpment views on Log Hill Mesa and was concerned about the 200-foot setback. He was not convinced by the presentation and was concerned about the impacts from the change from 50 to 200. He thought there could be some median ground of 75 feet along with some actual, concrete, discernible blending standards that someone could actually understand and apply would make sense. He was in favor of that and thought that it made sense. However, when 200 feet is taken off of the escarpment, that impacts a significant portion of people's property.

Terry Blackford stated that it seemed that the fact that Ouray has retained its natural beautiful flavor even with the 1971 regs and the fact that the newer regs have only caused problems and confusion, it seemed that the county does not need any more new regulations. Ouray County is so diverse and it would be very difficult if not impossible to implement blanket regulations just because of the topography. And, then there was also the whole subjectivity of it. Her idea of what was beautiful was not someone else's idea of what was beautiful.

Rick Weaver thanked the Commissioners. They had done a nice job on this, potentially getting rid of the point system that was convoluted. Having dealt with it indirectly himself through the Town of Ridgway, he felt that this was a good improvement. His other suggestion was on the 2,300 sq. ft. in Tier 1. He had heard a lot of people... the square footage between 2,500 and 3,000 is quite popular. If a builder or owner is willing to put a portion of that home underground, subterranean, where the visual impact is zero, the County should consider not counting that square footage against the Tier 1 measurement. That would enable them to build a little bit bigger home if they were willing to completely hide some of it.

Mac Fellin was born and raised in Ouray, Colorado, as well as his brother. Their father owned property, actually his family owned property since the early 1900s. They currently have a 150-acre ranch north of Ouray. He was concerned about the proposed visual impact regulations. He thought that they were too onerous. It would be very difficult to keep the subjectivity out of it. What blends or not was in the eye of the beholder. On the way to the meeting tonight he looked at the Ethridge Ranch that sits back off the highway by the dam. The white building was one of the most photographed in the state and it looked good to him. What makes this county good is the people, not the regulations.

Dave Calhoon felt that it was very unfair of the Board of County Commissioners to spend almost an hour-and-a-half on presenting their plan and limiting the public to one minute.

Joe Calhoon felt that the building industry in Ouray County had been the best thing that happened here as far as industry. This would be hard on it. The Commissioners should be doing everything they could to help the building industry. He liked architecture. All of this blending and subjectivity... We've got a good zoning here. It works. There will always be some bad stuff but basically it works. The worst part was adding all of the roads. It will create a mire and it will be so complex and when you add the subjectivity into that... you are going to have a lot of fun with that. The one good idea is the guideline. That will help a lot of people. He advised that good architecture could not be legislated.

John Peters had concerns regarding the visual impact regulations. He was Chairman of the Board of Visual Appeals since 2006 who had heard four separate appeals. He was on the board because visual impact regulations were important to him. Visual impact is what the County has achieved through the regulations today in protecting the skylines and ridgelines. The reason why they came about was because years ago a sinkhouse came in and caused some uproar. Since then these regulations have been effective; they have worked good. In four years there were four appeals, two of which were the same regarding the tower. All that has come before us has been very, very complex items to review and recommendations to be given and forwarded on to the Board. The expansion to new roads was difficult and would create a lot of problems for the County in terms of potential liability...

Jeff Litteral wanted to thank the original Commissioners for their forethought in the 1970s. The reason Ouray County was special was because of its master plans and thanks should go to the Commissioners and the Planning Commission for upholding the master plan that was agreed upon by the citizens and is what makes Ouray County unique. These regulations are not onerous and they would help to protect the scenic qualities of the county and that helps property values overall. There is a reason people live here and a reason people want to stay here. He supported the changes.

Scott Williams seconded those who thanked the Board of County Commissioners and the Planning Commission and Staff on their hard work. He felt that they were on the right track in a number of different respects. The most important one is to make the visual impact regulations apply throughout the county because, in reality as has been noted, the whole county is a scenic area and it should all be protected. It was also a basic question of fairness. Why single out some property owners with regulations and have them have to comply with those while other property owners in other areas that are equally or more scenic do not have to comply. It was a question of basic fairness. He urged the Commissioners to ensure that the scenic resources of the entire county be protected.

Michael Cassidy seconded the comments thanking Staff, Planning Commission and the BOCC. He commended the Commissioners for basing the presentation and the attempted development of the draft on data rather than just some emotions; we think this is a good idea. The basic concept that this is a scenic county is something that is emotional for all of us but you have at least tried to back up and say, here are some facts. For example, the number you picked of 2,350 sq. ft., that half the homes built in 2006 will fit on that, there was a lot of data that supported that position. He suggested trying to avoid this being a big emotional issue but instead use the facts where possible.

Andy Mueller understood that the Commissioners had put a lot of work into this but the basic premise of this work is wrong. There was no need to reinvent the entire visual impact regulations. The one house that Lynn referred to repeatedly on CR 12 was changed by the landowner voluntarily without a single change in the regulatory structure in Ouray County. It was not appropriate to impose these changes on 70% more landowners merely because a few bad apples exist. The county is a beautiful place. Everybody is acknowledging that. Architecture is an expression of individuality. What you are doing through these regulations is changing that dramatically. He will submit more comments in writing because he was only allowed to speak for one minute. He thought that was wrong. He thought that was totally unfair. He thanked Dave Calhoon for pointing that out.

Cristy Orvis thought that if you represented a bunch of people you could have two minutes. She did not believe there was anything wrong with the current Section 9 regulations except for the point system. The point system seemed to be the broken spoke of this wheel. She did not understand why a problem with the point system warranted more regulations to almost every square inch of Ouray County. She did not agree that the overall consensus of the Town Hall meeting last summer was that visual impact should apply countywide. She wanted to point out that in the presentation it was noted that while the new requirements for building are presented, in Staff's opinion, as less than they are today, keep in mind that today these requests only apply to buildings in the visual impact corridor on Highways 550, 62, and County Roads blah, blah, blah. It may be less onerous to the applicants; however, the applicant pool is now grossly magnified by adding all of these roads. The two houses built in the old proposed South Alpine Zone is what started all of this but they are very tastefully done and comply with the current regulations. I'd like to draw your attention to the first page 9-1 of Section 9 of the current draft, 9-2 Compliance A-1 notes existing mining and ag buildings as presented. A month ago they were included in the drafts. They were not to be exempted. It was a majority consensus of the BOCC and Planning Commission members in attendance to not exempt ag and mining after a Commissioner at the eleventh hour proposed to make this draft to not include ag and mining because he did not want us to get in an uproar about a minor detail and lose sight of the overall intent. Instead, he suggested this change and for Planning Commission to explore this option after tonight which was not presented. So, Planning Commission can take the heat for this discussion. Why have we spent so much money with numerous drafts and nine months of meetings that I have been attending of this regulation and our Staff time and our money trying to regulate our citizens more without our initial consensus? We spent eighteen months of our time, tax dollars, working on regulations for the proposed South Alpine Zone last summer to find out that the majority did not want—

Commissioner Padgett asked if Orvis wanted to submit her written statement for the record.

Orvis stated that she just had one more thing. She asked for a show of hands of those who did not think we needed more regulations in Ouray County. *[There was a show of hands.]*

Denise Gendreau wanted to thank the Commissioners, Staff and Planning Commission... Sitting in some of those meetings, a lot of those meetings, she did note that the County Commissioners did consider the entire county. Those discussions were very, very difficult and they have a difficult task and she wanted to support them because she did believe in visual impact regulation. She wanted to talk a little bit about diverse topography. There was a lot of discussion about how difficult that was. Do you do it by zone? Do you do it by area? Do you do it by steepness? They have achieved a balance where if you play out some of these things with the Code and look at Tier 2 or Tier 1, or, and I'm looking forward to the historic building part, you can see a lot of things that exist now that work well can be built and easily built. Not very expensive. Not more onerous.

Michael Saftler appreciated the intention of all of your efforts. It does seem that you spent a lot of time coming up with something that may actually be way more complicated than it needs to be. The 200-foot setback thing... you didn't even seem to be that clear about, so that's something that probably should be looked at very closely. I think that is onerous. As far as the rest of it is concerned, blending seems like a pretty natural thing to do and fairly easy for most people to comply with. The one thing that you didn't address that I thought you would make in your presentation was the lighting. It seems that there could be stricter regulations on lighting to allow people to continue to build where they were building now but with some way to control the lighting even if that means they have to turn off the lights at night or cover their windows.

Steve Duce explained that he had lived here for about thirty years. Everybody here has kind of the same concerns. You've got to remember that we're all human and you're not going to fix everything. Probably 95% of the people here who build, want to build the best they think it's going to look. You are not going to make everyone's opinion the same. We've got to realize that. We cannot blanket this whole issue over one set of rules.

Jen Parker felt that the proposed changes to Section 9 were fair, reasonable and consistent. She applauded the inclusion of all numbered county roads. She greatly appreciated and respected the Commissioners efforts.

Doug Macfarlane is an architect who has worked with these folks for about fourteen years in the county. He echoed some of the comments that in a large part the regs are working well. He felt that branching into skyline regs on a flatter terrain lot and when you have something other than a ridge top you will open up a lot of gray areas. It is inevitably a subjective subject. Words like "minimize silhouette against skyline" is not going to result in less subjectivity for the Staff. He advocated working with the existing rules to avoid a lot of possible unintended consequences with something more complicated.

Bumper Williams did not think that it was right that your neighbor in the county can tell you what to do with your own property.

Cathy McElman agreed with Dave and Andy about the one minute. She had never done anything in one minute. She felt that getting rid of the point system was fantastic; however, including this to every county road, every numbered road, every BLM road, 70% of the county, you're going to have pieces of property that are implicated by three and four, five different viewpoints. It's a slippery slope you've gone down. She remembered when the dark sky issues came about and she said to herself, here we go... but that started a slippery slope. You're on it. County Commissioners, you've gone too far this time.

Michael Hockersmith Commissioners, one of the things that you mentioned that you are going to be working on is remodels, and it even says in the existing Code and in the proposed new Code that existing structures, buildings, public or private roads and... shall be allowed to remain in their present state subject to the provisions of Section 4 of the Code. Section 4 is the nonconforming structure, nonconforming parcel section of the Code. What you will do is you adopt this regulation for the new areas, you will probably render almost all the houses as nonconforming structures. If those structures are destroyed, or more than 50%, any new structure will not be allowed to be rebuilt unless it comes under the new Code. If someone wants to build a room onto their house, not only does that room have to comply with the new Code but the entire structure will then have to comply with the new Code. What happens if that house is 35 feet tall? What happens if that house has a red roof or otherwise? I think that's a mistake.

Tom (and Martha) McKenney thanked the County Commissioners, Staff, the Planning Commission, and all of the people who had been attending these meetings. He knew it took a lot of time and effort. He wanted to thank Dave Calhoun and everyone who helped to support the Master Plan in Ouray County that he thought was the basis of what we were talking about here. He urged the Commissioners to continue moving forward with this process.

Alice Leeper thought that screening and blending were great ideas. She was not sure that they were needed in this county. The County has a lot of regulations already and not many people abusing it. If we do proceed with height limitation she felt that it needed to be higher. A 2-story house is more green. It has a smaller footprint, a smaller roof. There is nothing wrong with a 2-story house.

Ronald Williams, Sr. has lived here since 1961. He came when he was 19. He likes big white houses, big red barns, the mines running with the mills running. We have a real good economic foundation here. He thought there were enough rules on the books and he would like to see the Commissioners sit back and draw their paychecks.

John Hollrah applauded the Commissioners and Staff for putting together this document and honoring the historical tradition of respecting the scenic beauty of the county. Just looking at the Master Plan and past language that we saw on the screen implies that we want to protect the whole county and that's why you want to expand it to the roads that you have included. For the gentleman who said that 95% of the people and builders were going to comply with this anyway and liked blending, and all that is true but land use codes are always written for the other 5% and that's why you have regulations. He thinks this proposal is pro property rights, pro property values, pro business community and pro citizens of Ouray County. Property rights are always two-directional. Unlike the gentleman who said I want to be

able to do what I want to do and the county shouldn't tell me, there's a lot of other people that are affected and that's why you try to live together because everybody affects everybody else.

Jon Esty thanked the Commissioners and Planning Commission for getting into these kind of difficult things and he knew that it was very time consuming but he thought it was also very necessary. It is very difficult to try to ascertain what is a scenic value for one person versus another but you have made a really good effort to try to do that. He thought that definition has to be made and we need to understand what is required in order to try to achieve that. Although it may seem to be a difficult kind of criteria to achieve, he thought they had done a good thing in terms of trying to start to define those kind of things. He was interested to see the picture of Pagosa Springs in the presentation. He passed through there last year and he remembered thinking, what happened to this place. What is going on here? He now understood what it was and what could happen to Ouray County if we just allowed the same things to happen.

John Clark stated that, obviously, from the comments tonight, the devil was in the details. This was the beginning of the process. There are some great things about what was proposed. He heard a lot of comments about getting rid of the point system. That's an almost unanimous consensus. It sounds like it's a good thing. Questions about the 200-foot setback... he did not think it was very clearly presented and needed some work. Basically, the effort is to put the necessary weight into the visual impact regulations and make sure they stay there. Simplify. Simplify. Simplify. If possible. This county's the most beautiful county in the state. There's no question about it in his mind. And, that's what we need to try to maintain and that's going to be harder to do as time goes on.

Craig Jackman was one of the fortunate few to live in Colona. He thought the Commissioners had a number of good ideas. He particularly liked the sensitivity to color and blending. He thought that was a pretty good idea. He had comments on Colona and how it would be affected. Colona was one of eight zones in the county and the only one with urban density and commercial uses. He asked that the Commissioners consider that and how these regulations would affect buildings, residences and commercial uses in Colona. He asked that they keep that in mind as they move forward. Colona was clearly different from the rural county.

Commissioner Padgett listed the emails noted above. She recognized that the audience wanted more time to speak and offered to let anyone who had not spoken or anyone who wanted more time to speak at this time.

Michael Covington explained that the only different contribution that he could make was that he did not have any problem with the blending or the screening, but the other parts, the setbacks, and he identified with going down a slippery slope. There might be another way to constitute these discussions that might be more helpful, and that was in utility, function and form. If we had these discussions in those regards he thought that we could bring contemporary understanding and knowledge into the discussion without feeling threatened by what we already have. It's just an overlay of an otherwise brilliant thing.

J. Gary Dunn had lived here thirty years and asked if the Commissioners had considered the cost of these regulations in two ways. 1) Inclusion of a tremendous amount of property in Ouray County now, expanding the property that would fall under the visual regs. It seemed to him that the County Staff would have to be increased so that would cost us all more money. 2) More importantly, has anybody considered what this would cost the person who wants to build on their land. He thought that the average landowner who owns a subdivision lot was not going to understand these regs and would not be able to get through the process by himself. Inevitably, in his experience, they will hire a professional, they'll hire an attorney, they'll hire an architect, they'll hire a land use expert in order to get through these regs. So, he thought we need to be awfully careful here because we are going to increase the cost of building and make it more difficult for the average person to live in Ouray County.

Bob Larson explained that if we can simplify what we are presently doing and maintain the existing corridors we will be moving in the right direction. He thought this went too far. Let's just simplify and keep the same corridors we have.

Ed Folga thought that what we have to look at is the honesty of the fact. 1) Just say this is for the whole county is what these regulations, we are going to expand them to. 2) He did not think that it was the County's government to be an HOA for everybody in the county. We have the Land Use. We have the Master Plan. I don't think anybody here has disagreed with that Plan. Don't throw the baby out with the bathwater. Fix what we have to fix and keep the rest of the regulations intact.

Jan Lederer had never spoken or been to a public meeting but as an American she was so sick of government encroaching further and further on her private property constitutional rights. What gives you the right to tell her or anyone else what they can do with their private property? How do you think Vail got to be so onerous? How do you think Boulder or Telluride or some of these other places? It starts small and bit by bit by bit just creeps in and we have no personal constitutional rights anymore. She was just fed up with it. What happened to America?

Howard Greene had attended some of the workshops and appreciated very much the efforts that the Commissioners had made and was strongly supportive of what they had done. He thanked Commissioner Padgett for an incredible presentation. People come to Ouray County because of the way we have regulated it, not in spite of it. This is pro growth and pro property rights. It's a question of philosophy. We differ but, in his opinion from what he has seen, the majority of the people support this. To be fair and balanced since a poll has been taken he asked how many people supported the continuation of this effort. *[There was a show of hands.]* He concluded that it looked like a similar number to him.

Commissioner Padgett encouraged anyone who had not spoken to email or call the Commissioners their thoughts. She responded to the setback comments and noted that the Commissioners would try to do a better job of explaining that in the future but at this point they did not know what the setback was from so a number was meaningless at this point.

[The following comments were submitted during the meeting: Mac and Tom Fellin, letter dated May 26, 2010; Marcia and Dick Allison, letter dated May 26, 2010; Eric and Janet Lederer, letter dated May 27, 2010 with an email dated May 26, 2010 from Alan Stapleton to Eric Lederer (Visual Impacts Town Hall Meeting Public Exhibit 2*.)]

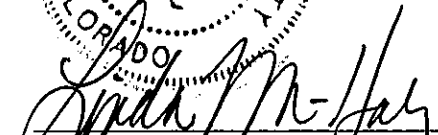
[Surveys 1 through 37 collected on May 27, 2010 (Visual Impacts Town Hall Meeting Public Exhibit 3*.)]

8:50 Commissioner Padgett closed the meeting.

[*All exhibits are maintained in the County Administrator's Office.]

OURAY COUNTY BOARD OF COUNTY COMMISSIONERS
OURAY, COLORADO




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


Lynn M. Padgett, Chair


K. Keith Meinert, Vice-Chair


Heidi M. Albritton, Commission Member