

The Board of County Commissioners met in special session on December 13, 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. 9:03 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.*

**GEO No Go**

Will Clapsadl, Facilities Manager, met with the Board on a (RFA) Request For Application from the Governor’s Energy Office (GEO) on renewable energy in municipal buildings. There was confusion as to what the County’s match would be on the grant and he could not get a clear answer from the GEO’s Joani Matranga. He felt that it was out of the County’s reach to put a project together in such a short time, especially not knowing about the financial implications. The grant would have been for solar power at the Ouray County 4-H Event Center and/or the Land Use / Road and Bridge facility. A discussion followed about how the GEO offers did not provide a lot of notice and how the County should get information ready for the future to have projects ready to go on a moment’s notice. Hunt referred to the Wildlife Ramp Project that had been cumbersome and had been audited twice now. The auditors suggested hiring a consultant in the future.

**WSJCEB**

Commissioner Meinert explained that one of the issues highlighted in a strategy paper prepared by the Western San Juan Community Energy Board (WSJCEB) was the lack of good baseline information for Ouray County or either of its municipalities. He discussed a grant opportunity available through CU Denver who would conduct such a study, in this case a greenhouse gas study. CU was proposing a cost of \$6,000 for the study to be divided between the six entities involved in the WSJCEB: Ouray County, San Miguel County, the City of Ouray, the Town of Ridgway, the Town of Telluride and the Town of Mountain Village. The study would be subsidized by Wal-Mart. This would be identified more thoroughly at the Commissioner meeting on January 4.

**Cinders Request**

Commissioner Padgett received a request from a citizen for Road and Bridge to consider the application of cinders on the interior roads in the Loghill Village / Dallas Divide Ranch and Club area. A discussion followed as to whether other roads in the county should be considered, also. A discussion followed. Commissioner Albritton suggested putting the item on a Road Committee agenda to allow the Committee to forward it to the Commissioners after Staff and the Committee reviewed and studied it.

**CCI Conservation Easement Issue**

Commissioner Padgett advised that the CCI steering committee had voted on a legislative issue that Boulder County wanted to run regarding conservation easements. Boulder was asking Senator Roberts to sponsor it. Boulder County was aware of the issues that Commissioner Padgett had articulated and wanted to see them in writing. Commissioner Meinert liked the letter that Commissioner Padgett had drafted and her arguments and wanted to reinforce it by sending it out on behalf of the entire Board signed by the Chair. A discussion followed.

**B. 9:36 Public Hearing to consider adoption of proposed 2011 Ouray County Budget and adoption/approval and signatures on appropriate Resolutions, Budget Message, and Social Services Budget Request form as listed below:**

Susie Mayfield, County Assessor, and Sheriff Mattivi were present.

Commissioner Padgett opened the public hearing.

Hunt provided a memo dated December 10, 2010 explaining the budget submittal.

**1. Resolution 2010-048 for the Evaluation and Decision Concerning Replacement of Vacated County Positions:**

Commissioner Padgett suggested additional language that Commissioners Albritton and Meinert agreed with.

Commissioner Meinert wanted to go even further to make the policy permanent, rather than year-by-year. He proposed accepting Commissioner Padgett’s additional *Whereas* and modifying the language to make it permanent.

Assessor Mayfield and Sheriff Mattivi commented on the proposed resolution.

It was the consensus of the Board to extend the policy into perpetuity.

Commissioner Albritton asked if it should be a part of the Budget Message. Hunt agreed to add a sentence.

**M/S/P**—*Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to adopt Resolution 2010-048 regarding the replacement of vacated County positions with Commissioner Padgett’s suggested “Whereas” and Commissioner Meinert’s revisions, and to include language in the Budget Message as Hunt felt was appropriate. There was no discussion. Motion passed unanimously.*

**2. Resolution 2010-049 Approving Cost Allocations from Funds Other Than General Fund for Administrative Expenses:**

**M/S/P**—*Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to adopt Resolution 2010-049 approving cost allocations for administrative expenses from funds other than the General Fund as presented. There was no discussion. Motion passed unanimously.*

**3. Resolution 2010-050 adopting the expenditures and revenues for each fund and adopting a budget for 2011:**

Commissioner Padgett noted that Social Services had contributed \$2,500 to the Voyager Program and the General Fund had contributed \$500. She wondered if the General Fund needed to contribute the \$500 in recognition of the fact that it was already providing support services for Voyager.

Commissioner Albritton suggested that the County needed to establish a policy regarding contributions.

Deganhart questioned if the Social Services contribution was “real money” or merely a pass-through for Voyager.

Hunt suggested leaving the \$500 in the budget and if Social Services was truly contributing \$2,500 then the General Fund would not make the contribution.

**M/S/P**—*Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to adopt Resolution 2010-050 as presented. There was no discussion. Motion passed unanimously.*

**4. Resolution 2010-051 appropriating sums of money to the various funds for the 2011 budget year:**

**M/S/P**—*Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to adopt Resolution 2010-051 appropriating sums of money to the various funds for the 2011 budget year as presented. There was no discussion. Motion passed unanimously.*

**5. Resolution 2010-052 levying general property taxes for 2011:**

**M/S/P**—*Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to adopt Resolution 2010-052 levying general property taxes for 2011 as presented. There was no discussion. Motion passed unanimously.*

**6. Budget Message for 2011:**

Commissioner Padgett noted that the Budget Message was to be revised as discussed in Agenda Item B-1 and Hunt would bring it back after lunch for action.

**7. Social Services 2011 Budget Request Form:**

**M/S/P**—*Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to approve and authorize the Chair's signature on the 2011 Social Services Budget Request Form as presented. Discussion. Commissioner Padgett had a question that Hunt addressed to her satisfaction. With no further discussion, the motion passed unanimously.*

Commissioner Padgett closed the public hearing.

**10:19 The Commissioners took a break and reconvened at 10:30:**

**C. 10:30 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 December 6, 2010 minutes:**

The minutes were not available at the time of the meeting.

**M/S/P**—*Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to continue consideration of the December 6 minutes until Thursday if available at that time or later if not. There was no discussion. Motion passed unanimously.*

**3. Request for approval and authorization of Chair's signature on the Fiscal Impact Form and the Xerox Lease Agreement renewal for the County Treasurer's office:**

**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 the Xerox Lease Agreement renewal for the County Treasurer's office as presented. Discussion. Commissioner Padgett had a question that Hunt answered to her satisfaction. With no further discussion, the motion passed unanimously.*

**4. Request for approval and authorization of Chair's signature on a Colorado Department of Human Services (CDHS) Certification of Compliance for the Ouray County Merit System for Year 2011 form:**

Hunt explained that this was a form that the County had to fill out every two years. Basically, it confirmed that the County had some sort of merit system. A discussion followed.

**M/S/P**—*Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to approve and authorize the Chair's signature on the Colorado Department of Human Services (CDHS) Certification of Compliance for the Ouray County Merit System for Year 2011 form as presented. There was no discussion. Motion passed unanimously.*

**5. Request for approval and authorization of Chair's signature on budgetary transfers as appropriated in the 2010 budget:**

**M/S/P**—*Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve and authorize the Chair's signature on budgetary transfers as appropriated in the 2010 budget. There was no discussion. Motion passed unanimously.*

**6. Request for approval and authorization of Chair's signature on a one-year extension of an MOU (Memorandum of Understanding) with the U.S. Forest Service for Weed Management:**

Ron Mabry, Weed Manager, was present, along with Sheelagh Williams, a member of the Weed Board.

Mabry explained that the MOU was for five years and was due to expire at the end of 2010. The only way to legally carry the money over was to extend the MOU for one more year.

Mabry shared that he had received the Weed Manager of the Year Award. He added that he could not have done it without the Commissioners' encouragement and support.

**M/S/P**—*Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to approve and authorize the Chair's signature on a one-year extension of an MOU (Memorandum of Understanding) with the U.S. Forest Service for Weed Management as presented. There was no discussion. Motion passed unanimously.*

Mabry informed the Board that he would continue to be the President of the CWMA (Colorado Weed Managers Association) again this year.

Mabry advised the Commissioners that there were representatives on the Ouray County Weed Board from the two municipalities and he wanted to formalize their appointments and make them "legitimate" members. He would draft a memo to submit to the Commissioners at a later date.

**7. Request for adoption of Resolution 2010-053 correcting Appendix B of Resolution 2010-018:**

Staff asked to continue the adoption of the Resolution to correct a typographical error.

**M/S/P**—*Motion was made by Commissioner Albritton and seconded by Commissioner Meinert, based on Staff's request, to continue the adoption of Resolution 2010-053 until Thursday, December 16, 2010. Discussion. There was some discussion about the calculations. With no further discussion, the motion passed unanimously.*

**8. Request for adoption of Resolution 2010-054 concerning the revision of the building height definition found in Section 22 of the Land Use Code:**

Commissioner Meinert explained that the Resolution was to codify the decision made last Monday in a properly-noticed public hearing.

**M/S/P**—*Motion was made by Commissioner Meinert that, recognizing that there had been a lot of discussion about this topic that was appropriate to have as far as process, he saw no other route than to approve **Resolution 2010-054** as drafted and to allow the discussions to take place at the appropriate properly noticed date and forum to consider whether any modification to the Resolution and the decision made by the Commissioners last Monday should take place. The motion was seconded by Commissioner Albritton. Discussion.*

*Commissioner Albritton agreed with Commissioner Meinert's reasoning that the Commissioners had already had a public hearing and a decision was made and this was ratification of that decision. She was willing to discuss the information that the Commissioners had received subsequent to that decision but as far as process the decision had been made last week in a properly noticed public hearing that had not been continued.*

*Sheelagh Williams agreed that the Commissioners had followed the process. If there was an error it was that the Planning Commission work sessions had been recorded but not minuted and the Planning Commission assumed that the Commissioners had information from the Planning Commission that they did not have. In light of the Commissioners' willingness to consider further discussion of this, she asked if the Commissioners would want to direct the Planning Commission to take this up at a future date. She would take personal responsibility to make sure that the omission of information would not happen in the future.*

Commissioner Meinert suggested that if there was concern that the definition would not accomplish what the County wanted it to accomplish then representatives of the Planning Commission and the building community could discuss it with the Board and then the Board would discuss the process for modification. It would not be helpful for the Board to direct the Planning Commission to go forth and do better things.

Commissioner Padgett asked if the Commissioners felt that there was an error in the process or the decision. The process was lengthy and there had been ample opportunity for public comment. The Commissioners had minutes from the Planning Commission in hand and were aware of the various alternatives, and had a lengthy hour and a half public hearing.

Commissioner Meinert agreed with Commissioner Padgett. The process was thorough and rigorous and he was comfortable with the decision that was made; however, the Commissioners heard from the building community that the Commissioners had missed some nuances and because of the amount of work that they had put into it and the fact that neither the Planning Commission or the building community were present at the public hearing he wanted to allow an opportunity for discussions.

Commissioner Padgett did not want to set a precedent of re-holding public hearings because people did not show up.

Commissioner Meinert did not want to re-hold any public hearings. He was only saying that the Board should extend that opportunity to have a substantive discussion on the merits of the issue, not the process issue. It did not jeopardize the process. He still believed in the sanctity of the process. The fact was that all factions of the community, through a public process, should be able to get their comments heard and the Commissioners had gone through that process.

Larry Kumpost argued two points. 1) The current language excluded a requirement for a topographical survey while the language referred to the natural grade. He did not understand how to ascertain the natural grade without a survey. 2) There is language for exemptions for cupolas, skylights and chimneys. The skylights were not limited in size or how much higher than the 35 feet they could go. Both issues had been addressed with the Planning Commission. These were two glaring mistakes. He felt they should consider actual 3D perception of the sloped roof and how that suppressed the exterior wall height. He believed that the current language was flawed.

Commissioner Meinert pointed out that the Commissioners did have discussions on those two points but without the builders' or Planning Commission's input. It would be helpful to identify the various issues that Kumpost would like the Board to reconsider and, at the appropriate time, schedule a joint work session with the Board, the Planning Commission and whatever sections of the community that would want to participate in it.

John Hollrah agreed with Commissioner Padgett on the precedent issue. The County had seen this happen in the past year where people came late to the process and wanted to delay and reopen the process. The Commissioners needed to be clear that they were sticking to the process or they may be manipulated in the future. He sympathized with Commissioner Meinert's point but cautioned about scheduling a workshop on an issue that had gone through a process that had reached closure.

Commissioner Albritton agreed with Hollrah. Any additional meeting would be to better communicate the issues with the Planning Commission and the public. The Commissioners' decision was a combination of input. She was comfortable scheduling a meeting to explain why the Commissioners made the decision they made in the interest of better collaboration with the Planning Commission.

Commissioner Padgett had gone back over the record that included minutes from the Planning Commission work session where Kumpost and Macfarlane discussed the issues. The Commissioners had the official Planning Commission recommendation and the Staff recommendation and had considered both and made a decision.

Williams suggested a joint work session to discuss the topic and recommendations. She supported moving forward with ratifying what the Commissioners did a week ago; that was the process. She was not personally disappointed that the Board did not accept the Planning Commission recommendation verbatim because the Planning Commission was a recommending board. It was a lesson she needed to take forward.

Commissioner Albritton received a lot of information over the course of the weekend and she advised that she had not received anything that the Commissioners had not been aware of or had heard before. They were not missing any key elements of the discussions by Planning Commission. There had been many meetings. She was happy to have a discussion about why the Commissioners took the choice they did but nothing she received convinced her that the Commissioners had missed anything.

Commissioner Meinert agreed. The reason he felt the Commissioners should have some flexibility with a more open dialogue with the Planning Commission and building community was because the Commissioners appreciated the hard work the builders and Planning Commission had put into this and he did not want them to feel that the Commissioners were ignoring their input. The Board took the input seriously. He wanted to extend an opportunity for them to hear the Commissioners' rationale.

Commissioner Padgett thought that the Commissioners had been open during all of the process. There had been an entire year's worth of joint work sessions and numerous sit-downs with the

*building community. She appreciated where Commissioner Meinert was coming from but she felt that the Commissioners had done that. The Planning Commission was fully aware that they were an advisory, recommending body. The County had a long history of the Board of County Commissioners taking parts of the Planning Commission's recommendations or ignoring them completely, but had been better off because the Planning Commission had done the hard work. At the end of the day all of the input from the citizens and the Planning Commission was advisory. The door was always open but to keep rescheduling meetings to rehash issues she did not think was productive. It allowed for misrepresentations and mistruths and detracted from the other work the Commissioners did.*

*Commissioner Albritton felt that the goal was to diffuse the perception of a biased or ignorant position. She looked at it as an opportunity to communicate with the Planning Commission further. Her reason was to give the Planning Commissioners an opportunity to question the Commissioners to better understand where the Commissioners came from in their decision.*

*Commissioner Padgett suggested that the Commissioners wait for the Planning Commission to communicate to the Board of County Commissioners that they wanted to schedule a joint work session.*

*With no further discussion, the motion passed unanimously.*

**9. Request or adoption of Resolution 2010-055 superseding Resolution 2006-101 to increase the amount that the County Administrator is authorized to sign for contracts and agreements in the normal everyday course of business:**

Hunt reminded the Commissioners that they had directed her to put together a resolution like this and her recommendation was that it would be more prudent and manageable if they authorized her to sign contracts and agreements as opposed to having the various department heads sign. The Commissioners had adopted a resolution in 2006 giving her the authority to sign up to \$2,500. She had changed the resolution to more closely coincide with the authority set out in the Purchasing Policy. Anything over \$10,000 would be brought to the Commissioners anyway.

Commissioner Padgett asked if this would be utilized on a more emergency basis. She asked to still have the County Attorney review all contracts. Hunt replied yes to both.

Commissioner Meinert agreed in delegation of authority. He felt that the change was appropriate but wanted 1) to add language for the County Attorney review, and 2) rather than the sentence saying that the County Administrator shall advise the Board at a future meeting he felt that it should say at the earliest opportunity.

Commissioner Albritton noted that since she had been on the Board there had not been anything that the Commissioners had not been advised of in advance. She was okay with adding Commissioner Meinert's language.

Hunt would revise the resolution accordingly and bring it back for adoption.

**M/S/P**—*Motion was made by Commissioner Meinert and seconded by Commissioner Albritton to continue discussion on Resolution 2010-055 until the County Administrator could make the suggested changes to bring back to the Board. Discussion. Commissioner Padgett asked when Hunt thought it would be brought back. Hunt replied that she could maybe bring it back on January 4. With no further discussion, the motion passed unanimously.*

**D. 11:28 Yankee Boy Conservation Association (YBCA) Annual Report:**

Helen and Bob Oliver were present.

Bob Oliver, President of YBCA, explained YBCA's mission and the fact that the group worked in partnership with the Ouray County Board of County Commissioners and the U.S. Forest Service, hence the reason for the report. The heart of YBCA was volunteerism. Last year there were a total of 292 volunteer hours for the Alpine Hosts. Basically, their job was to meet and greet visitors and present information about the area. He received positive feedback from the visitors on their contacts with the Alpine Hosts. It gave the message that the locals cared enough about the area to be there and to encourage resource protection.

Of the volunteer hours this year, about three-fourths were from one couple who were recruited and managed by the Forest Service. The Forest Service was taking a role that they had not taken in the past. The Recreation Director with the Forest Service, Ken Straley, was working with YBCA and doing a great job. YBCA continued to recruit and manage volunteers. In the past, YBCA had been active in recruiting and managing campgrounds hosts but Ken Straley had taken on that role.

Other volunteer activities included cleanup of the campsites every spring by the Western Slope 4-Wheelers. YBCA also put together and maintained the materials that the Alpine Hosts distributed to visitors in the high country: books, brochures, reference materials, etc.

The Alpine Hosts' contacts were YBCA's main accomplishment. They kept logs of what they did that not only recorded their hours and how many contacts they had, but summarize the types of contacts. Most were positive. The only problem areas related to people picking flowers.

YBCA worked with the Forest Service and the Commissioners on trash collection and a dumpster in the canyon. YBCA was the contact with Waste Management. In the past, the Commissioners had paid for the collection, which was appreciated.

YBCA printed several thousand more brochures that had been created about 10 years ago. The brochures were distributed by the Visitor Center and the Alpine Hosts. Alpine Bank donated to the printing costs.

The emergency phone was in operation and working well. It was not a land line. Cell phone coverage was sketchy in that area. YBCA had no way to monitor how often it was used.

The "Slow and Quiet Zone" continued to be something YBCA was concerned about. The zone designation was helping but there was a continuing concern, particularly on the high country roads and particularly that two-wheeled vehicles tended to go too fast.

As far as ongoing projects, YBCA would continue to work with the Forest Service in support of their requests and plans for their operations and funding. It was important for the Forest Service to show local support in its internal processes. YBCA continued to talk to the Forest Service to improve campgrounds in the high country area.

Commissioner Meinert advised YBCA that the Forest Service had applied for a grant to fund the Alpine Ranger position on Ouray County's behalf. He asked if efforts had been made to ensure that the YBCA organization would continue to exist year after year after year.

Bob and Helen Oliver replied yes. Bob Oliver explained that YBCA had been working on recruiting and had new people coming in. He felt comfortable with the ongoing status of what they were doing. He added that the budget and expenses were low.

**E. 11:45 Commissioner / Administrative Reports:**

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

- 1) **Cornerstone waiver request** She had received a request on Friday from attorneys on behalf of Cornerstone to do with bonding. They had planned to issue the bonds on Wednesday but someone had overlooked the certification. They were asking Ouray County and Montrose County to waive the certification. A discussion followed as to the risks of waiving the certification, and maintaining the integrity of the Service Plan and/or Development Agreement. Commissioner Meinert wanted to delegate to the County Attorney the task of finding a way to preserve the integrity of the Service Plan and to make it happen. Deganhart proposed that it would be a one-time waiver.
- 2) **Executive session** She asked for an executive session to discuss District Attorney issues.

**Commissioner Padgett** discussed the following:

- 1) **PILT letter revisions** She pointed out changes and asked for the Commissioners' approval, which they gave.

**12:02 The Commissioners broke for lunch and reconvened at 1:30:**

**F. 1:30 Public Hearing – Q3 Special Use Permit for a Public Utility Application:**

**Applicant / Authorized Agents:** Q3, authorized agent for Verizon Wireless

**Address / Location:** 1995 Gold Mountain Trail, Ouray, Colorado

**Purpose:** Consideration of a request for a Special Use Permit for the modification of an existing telecommunications facility located at 1995 Gold Mountain Trail, Ouray, Colorado

Mark Paiz, Representative for Verizon Wireless, was present. Bryan Sampson, Planning Technician, was present.

Commissioner Padgett opened the public hearing. She entered for the record *County Exhibit F-1*, the Public Notice and Proof of Publication, and *County Exhibit F-2*, Staff's submittal [that included a Staff Report dated November 16, 2010; Minutes from the November 16, 2010 Planning Commission Public Hearing; a Planning Commission resolution passed on December 2, 2010; Board of County Commissioners Resolution 2005-039; a memo dated October 27, 2010 from Paul Christensen, Ouray County Building Official, to Bryan Sampson, Planning Technician, regarding the Q3 Special Use Permit Application; and a Special Use Permit Application dated September 7, 2010 with accompanying documentation].

Sampson explained that the application was for an existing telecommunications facility north of Ouray on the side of the mountain. The application called for replacement of three existing omni antennae with three panel antennae, and the addition of an 8-inch diameter steel mounting pipe to match what was already there measuring 15 feet above grade, and one additional panel antenna. Four panel antennae would be replacing three omni antennae. Removal of an existing pipe was included in the application. The only County department that had commented on the application was the Building Department who determined that an additional mounting pole and antennae installation would require a building permit. The Applicant had notified the adjacent property owners. With regard to road impact fees, it was the opinion of Staff that this was a minor modification with little traffic needed to install it and, as such, recommended that the requirement be waived. With regard to visual impact, three of the four panel antennae would be installed on mounting poles that were currently painted dark brown to blend with the surroundings. The fourth pole would be painted to match the other three. In conditions of approval, Staff recommended that at the time of the building permit application, the Applicant be required to demonstrate either that the mounting pole and antenna would not be visible from Highway 550 or any other visual impact corridor, or that the mounting pole and antenna, if visible, would not

break the skyline, would be painted a muted non-reflective color, and would not be easily discernible from any visual impact corridor. In conclusion, the Land Use Code allowed for Public Utilities in the Valley Zone with a special use permit. Staff recommended approval with the conditions listed in the Staff Report.

Commissioner Padgett asked if the Planning Commission recommendation was the same as the Staff recommendation.

Sampson replied that it was.

Mark Paiz, representative for Verizon Wireless, explained that the Applicant was proposing not much of a difference visually; the proposal would actually lessen the impact. The change was intended to enhance function and update the technology for improved coverage.

At this point, additional photographs were submitted for the record by the Applicant and by Staff showing existing equipment, an example of the proposed tower, and a posted notice on the property of the application (*Exhibit F-1*).

Commissioner Padgett asked for public comment. With no public comment she closed the public comment portion of the public hearing.

Commissioner Meinert asked for the status of communication with the landowner and the most local neighbor.

Paiz explained that he worked with the landlord on a regular basis. They were in constant communication.

Sampson also entered a copy of Certified Mail Receipts sent to adjacent landowners (*County Exhibit F-3*). Sampson added that Staff had not received any feedback.

**M/S/P**—*Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to approve the request for a Special Use Permit for modification of an existing telecommunications facility located at 1995 Gold Mountain Trail, Ouray, Colorado with the three conditions outlined in the Staff Report adding that the application met all of the criteria set forth in Section 5 of the Land Use Code for Special Use Permits. Conditions of approval were:*

- 1) *Prior to construction, the Applicant shall apply for, and receive a building permit for the construction of the additional 15' mounting pole; the applicant shall demonstrate either:*
  - c. [stet] *The mounting pole and antenna will not be visible from Highway 550 or other visual impact corridor.*
  - d. [stet] *The mounting pole and antenna, if visible, will not break the skyline, will be painted a muted non-reflective color, and will not be easily discernable from any visual impact corridor.*
- 2) *The Applicant shall demonstrate compliance with Section 9/Visual Impact regulations as part of the Building Permit Application process.*
- 3) *The Applicant shall paint the panel antennas and additional mounting pole with a non-reflective paint that blends with the surroundings. The Applicant shall submit a color sample to the Ouray County Building Official for review and approval at the time of building permit application.*

*Discussion. Deganhart pointed out that it was on Horizon Ranch Property. With no further discussion, the motion passed unanimously.*

Commissioner Padgett closed the public hearing.

**E. 1:49 Commissioner / Administrative Reports, continued:**

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

- 3) **Evaluation** She would provide copies of her evaluation for Thursday.

**Connie Hunt**, County Administrator, discussed the following:

- 1) **Emergency Managers Grant** She requested the Chair's signature on an Emergency Managers Grant asking for 50% of Alan Staehle's budget, as usual, \$14,407.20 for next year. The Commissioners agreed.
- 2) **CCI Steering Committee Voting Proxy** The proxy needed to be returned by January 10. The Commissioners agreed to put it on the next agenda. Lynn Padgett and Allan Gerstle would continue in those positions. Hunt asked to fill it out and sign it today to ratify at the next meeting. The Commissioners agreed. Commissioner Meinert discussed not only having County boards and committees provide annual updates to the Commissioners but the special districts, too.
- 3) **Revised Budget Memo** She submitted a revised memo for the budget and the revised budget message that was continued from this morning.

**M/S/P**—*Motion was made by Commissioner Albritton and seconded by Commissioner Meinert to adopt the Budget Message as amended. There was no discussion. Motion passed unanimously.*

**Commissioner Albritton** discussed the following:

- 1) **District Attorney** As soon as the Commissioners had the appropriate information on the District Attorney, she wanted the Board to take actions to communicate and get resolution as soon as possible, and to let the public know what the situation was. She, personally, would like to see him resign.

**Commissioner Meinert** discussed the following:

- 1) **Calendars:** A work session tomorrow morning, a budget session and evaluations and other items at a special meeting at 9 a.m .on December 16 followed by the County holiday party, and then the Commissioners meeting on January 4.

**2:16 Executive Session:**

**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 to do with the District Attorney. There was no discussion. Motion passed unanimously.*

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

**2:42 The Commissioners came out of executive session:**

Commissioner Padgett made the following statement: *The Board has just concluded an executive session during which a discussion occurred relative to attorney / client privilege on the District Attorney situation and advised that more information would be known after a proceeding with the judge on Wednesday night as apprised by the County Attorney of whatever action was taken. No formal action was taken during such session. Staff was directed to do research and contact CTSI.*

**G. 2:42 Land Use Item, continued:**

1. **Request for extension of Preliminary/Final Development Plan approval of the Cimarron Mesa North PUD:** *(This item was continued from November 22, 2010)*

Bryan Sampson, Planning Technician, was present.

Commissioner Padgett explained that the meeting had been continued as a courtesy to Todd Hoffman, Authorized Agent for Cimarron Mesa North PUD, who had advised Staff that he had not made the meeting on November 22 because of weather. Today was sunny and probably 55 degrees in Ouray, Colorado, yet Hoffman was not present. In the packet the Commissioners had information that this PUD had been approved in late 2007 with various conditions, one being the posting of a \$16,750. The bond was posted on January 28, 2008 and the Development Agreement continued. The application for final plat or extension of the 3-year term of the PUD was due on or before October 22, 2010. From the information in the packet it appeared that Staff had attempted to correspond with the authorized agents beginning in July 2010. No correspondence was received from the Applicant until after the October 22 date had passed. On October 26, Castrodale had a conversation with Hoffman who was interested in extending the agreement for another three years. Castrodale advised Hoffman to put his request in writing. Hoffman sent a letter via email on November 2, 2010 requesting the extension. However, as the Applicant had not submitted a final plat by October 22, 2010 and because Staff did not have the authority to grant an extension, the PUD Agreement and the Preliminary Development Plan were now void. If the Board determined that an extension was reasonable and appropriate, it was Staff's opinion that the approval should not extend beyond one year.

Commissioner Meinert observed that the expiration date of October 22, 2010 for the approvals was in conformance with the Code that stated that the vested interest only be for three years, was embodied in the Development Agreement, and embodied in the Final Development Agreement. That date was in three separate documents. Furthermore, the notifications that the County engaged in, in attempts to advise the developer, were not required by the Code. Those were courtesy letters at best and the County Staff had gone above and beyond what was required to ensure that procedures were followed and to be fair with the developer. On the issue of extension of the timeline he thought it was clear that the timeline had expired two months ago according to three separate documents and there was absolutely no justification, especially with the little interest the developer had shown, in the Commissioners extending the Development Agreement. The things he was uncertain about were the disposition of the bond and whether or not that should be given back to the developer, pocketed by the County or was needed to cover some expense; what work had been completed on the project to date; what was the intention of the developer; were there any outstanding liens from unpaid contractors that might come back on the County; and was there any County work done that had not been compensated for. If any of those questions indicated that the County should retain the money to cover expenses or liabilities the County might consider retaining the bond money if appropriate under the terms of the bond.

Deganhart explained that bonding was a result of the prior Code that did not say what the bond was for but that it was for 10%. There were no real requirements attached to the bond. It might be prudent to check with Road and Bridge and Weeds to see if they had any outstanding obligations owed to them. The way it was drafted, the County could declare it forfeited. Prudence said the Commissioners should give it back if there were no other claims.

If that was the case, Commissioner Meinert thought the County should return it. If the developer wanted to go further he would have to reapply.

Commissioner Padgett felt that there was some County time spent on this and she thought the County should hold back some for that.

Commissioner Albritton pointed out that the developer had paid application fees that covered that.

Deganhart advised that if the County was going to retain any portion of the bond there should be a direct correlation as to why it was retained.

Commissioner Meinert suggested that the issue before the Commissioners today was to extend the Development Agreement. The Commissioners could decide on that and in that decision instruct Staff to research the County liabilities attached to the development and come back and advise as to the appropriate disposition of the bond money.

Commissioner Padgett felt that there should be some action taken by the developer to request a refund. She asked for the developer to put something in writing.

Deganhart pointed out that if the developer did not do anything the County had the bond forever.

Commissioner Meinert noted that there was an assumption by the developer in his November 22 letter that if the approval for the PUD was voided all deposits would be refunded to him.

Deganhart cautioned about who the money would go back to; it was not an individual but an entity.

**M/S/P**—*Motion was made by Commissioner Meinert and seconded by Commissioner Albritton with regard to the Cimarron Mesa North PUD to deny the requested extension of the Preliminary and Final Development Plan approval, and to request Staff to research the appropriate disposition of the \$16,750.00 bond and come back to the Board when they were ready to recommend a disposition of the bonding amount, to whom, and how the bond proceeds would get distributed. Discussion.*

*Deganhart pointed out that in the Final Development Plan document the Board would find the developer in default and void the Final Development Plan approval.*

*Commissioner Meinert replied that because there were issues that Staff needed to research and come back to advise the Commissioners on, he would suggest putting it as an agenda item to officially void the Development Plan.*

*With no further discussion, the motion passed unanimously.*

Commissioner Meinert added that he was personally not unsympathetic to the plight of the developers in the economic times of today; however, the Commissioners had legal agreements, Code, rules and regulations, and they had to uphold the Code provisions. He thought this was one of those clear-cut cases where very little attempt was made to comply with the legal agreements in the Code and because of that he had moved not to extend the agreement.

Commissioner Padgett noted that had there been any sort of progress it may have been a different scenario. It did not make sense to have it vested in a previous version of the Code with no imminent plans for proceeding.

Commissioner Meinert asked Staff to communicate these thoughts to the developer when communicating the denial.

### **3:08 The Commissioners took a brief break and reconvened at 3:10:**

#### **E. 3:25 Commissioner / Administrative Reports, *continued*:**

**Commissioner Padgett** discussed the following:

- 1) **PUC hearing** A hearing was scheduled for tomorrow in Silverton in the ongoing saga with Silverton and San Juan County where Qwest had a contract to put fiber optic in every courthouse in the state and when it got to Silverton it did not do it. A discussion followed. Qwest had accepted the contract and was already paid to do the work statewide. More discussion followed.
- 2) **Micro-business happy hour** Ouray County was an Enhanced Rural Enterprise Zone and its moms and pops did not know about it. There would be a micro-business happy hour on January 8 from 12 to 2 with Tom Hennessey and Paul Gray. Gray wanted to have a bigger event at some point.
- 3) **RHA representation** The newly-elected Commissioner worked for the City of Ouray and represented the City on the RHA. She requested putting an item on the agenda in later January to designate an RHA board member from the County.

**Linda Munson-Haley**, Clerk of the Board, discussed the following:

- 1) **Design for thank you letters** She presented a draft of a thank you letter from the Commissioners to the various County boards and committees that the Commissioners approved.

**Commissioner Padgett** *continued*:

- 4) **Survey** She discussed a Key Participant survey on needs for affordable housing.

**Connie Hunt, continued:**

- 1) **Contract renewals** She would bring these to the first meeting in January.

**3:34 The Commissioners adjourned the regular session:**

OURAY COUNTY BOARD OF COUNTY COMMISSIONERS  
OURAY, COLORADO

ATTEST:

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

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K. Keith Meinert, Vice-Chair

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

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Heidi M. Albritton, Commission Member