

**STATE OF COLORADO
COUNTY OF ROUTT**

**OFFICE OF THE CLERK
December 10, 2019**

Commissioner Beth Melton, Chair, called the regular meeting of the Routt County Board of County Commissioners to order. Commissioner Douglas B. Monger, Commissioner Tim V. Corrigan, Deputy County Manager Dan Weinheimer, and County Manager Tom Sullivan were also present. Those present recited the Pledge of Allegiance. Deanna Sanchez recorded the meeting and prepared the minutes.

EN RE: WARRANTS

Commissioner Monger moved to approve and authorize the Commissioners to sign the Warrants Sheets that included:

Accounts Payable Check- Cycle Date:	12/2-12/6	\$400,309.64
Accounts Payable Check: Manuals	-	\$
Accounts Payable Wires:	-	\$
Total:		\$400,309.64
Payroll Checks- Cycle Date:	-	\$
Payroll Checks- Manuals	12/2-12/6	\$404.25
Payroll – IRS & State Income Tax	-	\$
Total:		\$404.25
Total Disbursements Approved:	12/2/19-12/6/19	<u>\$400,713.89</u>

Commissioner Corrigan seconded.

Mr. Sullivan advised of the 2019 Accounts Payable items of note.

Vendor	Amount	Department
GMCO CORP	22,697.41	Road & Bridge Budget: 2019 Chip & Seal Program – payment of retained earnings
RUNBECK ELECTION SERVICES	13,787.27	Clerk – Elections: ballot and secrecy

		sleeves printing and mailing
AP Run Date December 3, 2019 Total: \$399,027.19		

The motion carried 3-0.

EN RE: CONSENT AGENDA

The following items were presented for consideration, approval, and signing on the consent agenda:

- A. Approval of County Commissioners Minutes: Regular Meeting of October 8, 2019, and October 15, 2019;
- B. Approval and authorization for the Chair to sign the 2020 budget resolution;
- C. Approval of and authorization for the Chair to sign the Mill Levy Property Taxes resolution;
- D. Approval of and authorization for the Chair to sign a resolution approving the County Treasurers Office to close December 11th and 12th, 2019, for training;
- E. Approval of and authorization for the Chair to sign permit application and report of changes for the Steamboat Ski and Resort Corp. for a change in manager;
- F. Approval of and authorization for the Chair to sign the first amendment to the indefeasible right of use agreement between Northwest Colorado Broadband and Routt County, Colorado;
- G. Approval of and authorization for the Chair to sign a Liquor License renewal for double dollar cattle LLC DBA Saddleback Ranch for a hotel and restaurant with one optional premise.

MOTION

Commissioner Corrigan moved to approve items A, B, C, D, E, F, and G on the consent agenda and authorized the Chair to sign the related documents.

Commissioner Melton noted item B would be resolution number 2019-065, item C would be 2019-066, and item D would be 2019-67.

Commissioner Monger seconded; the motion carried 3-0.

EN RE: PUBLIC COMMENT

No members of the public were present for comment.

EN RE: PURCHASING / JULIE KENNEDY

RFQ INDEPENDENT ON-CALL NURSES

Ms. Kennedy stated her request for the Chair to sign the Routt County Independent Contractor Agreement with Worldwide Travel Staffing, Limited for on-call-nurse staffing for the Routt County Department of Public Health. Ms. Kennedy advertised a RFQ for Independent On-Call-Nurses in both the Steamboat Pilot and Craig Daily Press, as well as posting on the Routt County Website. While she did not have a response from any local nurses, she did receive two quotes from staffing agencies for this service. While both agencies have the capability to respond with staff quickly during an emergency public health outbreak event, she recommends selection of Worldwide Travel Staffing, Limited for the straight forward program and rate provided that will minimize the need for the Director of Public Health's direct oversight of the billing or management of staffing travel and housing. Worldwide Travel Staffing is based in New York State and currently are under contract in Denver and Pueblo County, Colorado. They are in Good Standing with the State and both references were excellent. They offer an excellent benefit package to their staff and are confident they will be able to react very quickly to Routt County as needed.

MOTION

Commissioner Monger moved to approve of and authorized the Chair to sign the Routt County Independent Contractor Agreement with Worldwide Travel Staffing, Limited for on-call-nurses staffing for the Routt County Department of Public Health.

Commissioner Corrigan seconded; the motion carried 3-0.

RFQ HYDRO SEEDING AND MULCH CHANGE ORDER APPROVAL

Ms. Kennedy stated her request for approval of the Change Order Request of \$9,880 from X Field Services from the original quoted amount of \$11,400 to \$21,280 for additional acreage of hydro seeding with wood mulch along CR 80 and authorization for the County Manager to electronically sign the Purchase Order. Ms. Kennedy sent out RFQ Hydro Seeding and Mulch to three vendors and received three quotes. X Field Services was selected as the lowest quote.

MOTION

Commissioner Corrigan moved to approve the Change Order Request of \$9,800 from X Field Services from the original quoted amount of \$11,400 to \$21,280.00 for additional acreage of hydro seeding with wood mulch along CR 80 and authorized the County Manager to electronically sign the Purchase Order.

Commissioner Monger seconded; the motion carried 3-0.

RFP 663 10% SALT SAND 2019 PURCHASE APPROVAL

Ms. Kennedy stated her request for approval of the award and authorization of the County Manager to electronically sign the purchase order for RFP 663 10% Salt Sand

2019 to Elam Construction in the amount of \$26,592.00 for the Routt County Public Works Department. Ms. Kennedy sent out RFP 663 for proposals to six suppliers and four submitted proposals. Elam Construction provided the lowest price.

MOTION

Commissioner Monger moved to approve the award and authorized the County Manager to electronically sign the purchase order for RFP 663 10% Salt Sand 2019 to Elam Construction in the amount of \$26,592.00 for the Routt County Public Works Department.

Commissioner Corrigan seconded; the motion carried 3-0.

EN RE: ENVIRONMENTAL HEALTH / SCOTT COWMAN

USGS JOINT FUNDING AGREEMENT FOR WATER QUALITY MONITORING ON THE YAMPA RIVER

Mr. Cowman stated his request for approval of and authorization for the Chair to sign the Joint Funding Agreement between Routt County and the United States Geological Survey (USGS) for surface water quality monitoring in the upper Yampa River basin. Routt County has conducted routine monitoring since 2011 under the agreement with the USGS. The monitoring program has received confirmation for continued funding support from the City of Steamboat Springs, Upper Yampa Water Conservancy District, Mt. Werner Water, and the Morrison Creek Water and Sanitation District. Routt County Environmental Health and other local funding partners meet with the USGS at least annually to discuss the monitoring program. One of the roles of the USGS is to provide advice and suggestions as the program is continued over the long-term. During a meeting in 2018, the USGS suggested consideration and got approval from the BCC and funding partners for adding two additional parameters, turbidity, and algae for the 2019 monitoring program. There are no such changes to the program for 2020 and this will be the second year for collection of turbidity and algae. As in 2018, because of budget cuts the USGS has been unable to increase their contribution from 2019, so regular program cost increases for 2020 would be distributed amongst funding partners.

Commissioner Monger suggested having a City, County, and Watershed Council meeting where USGS presents their findings.

Mr. Cowman stated that is a good idea. The status of the nutrient study from the last Watershed group meeting stated that 75% of the analysis is complete. They are going to develop a website for the study for the public to see the findings. A draft will be ready in March with completion projected for April or May. They are looking for connections with geology, temperature, climatic factors, land use cataloging, and atmospheric deposition. All of those represent a piece of the pie for contributions of nutrients. They are trying to find out how large of a piece each of those categories are. The hope is for this work to inform future projects.

MOTION

Commissioner Corrigan moved to approve of and authorized the Chair to sign the Joint Funding Agreement between Routt County and the United States Geological Survey (USGS) to continue monitoring in the upper Yampa River Basin. Actual cost to Routt County will be \$11,535 with the balance being reimbursed from the City of Steamboat, Upper Yampa Water Conservancy District, Mount Werner Water, and Morrison Creek, per the attached sheet.

Commissioner Monger seconded; the motion carried 3-0.

EN RE: PURCHASE OF DEVELOPMENT RIGHTS ADVISORY BOARD (PDR)

Kristi Foster, property owner; Megan Knott, CCALT; Lynaia South, Assistant County Attorney; Claire Sollars, Chair of PDR; and Kendra Alfieri, County Commissioners' and Manager's Office Manager were present.

PDR PROJECT 196: FISHER MEADOWS

Ms. Sollars stated her request for approval of the funding of PDR project 196- Fisher Meadows-, in the amount of \$450,000 towards the purchase of the conservation easement and up to \$25,000 for reimbursement of transaction costs; and authorization for the Chair to sign the Agreement Concerning Conservation Easement between Routt County and Colorado Cattlemen's Ag Land Trust (CCALT).

ROUNDTABLE

The Commissioners, Ms. South, Ms. Foster, Ms. Knotts, and Ms. Sollars discussed the project's compliance with secondary unit requirements. They confirmed their compliance because the Easement requires compliance with County regulations.

The Commissioners expressed their excitement and support for this project.

MOTION

Commissioner Monger moved to approve of the funding of PDR project 196- Fisher Meadows-, in the amount of \$450,000 towards the purchase of the conservation easement and up to \$25,000 for reimbursement of transaction costs; and authorized the Chair to sign the Agreement Concerning Conservation Easement between Routt County and Colorado Cattlemen's Ag Land Trust (CCALT).

Commissioner Corrigan seconded; the motion carried 3-0.

EN RE: PLANNING / CHAD PHILLIPS

Will Brenton, Michael Hardman, Amber Truejdale, David Heuer, citizens; Kyle Caudle, tenant; Chad Phillips and Alan Goldich, Planning; Erick Knaus, and Lynaia South, County Attorney's Office were also present.

CAUDLE/BLEVINS CODE ENFORCEMENT; C-18-53

Mr. Goldich stated his request for authorization for the County Attorney's office to pursue legal action against Park Blevins (landowner) and/or Kyle Caudle (tenant) for violations occurring on property located at 38735 Pinion Trail. This issue first came to the attention of the County in March of 2017. Dave Heuer, who shares a rear property line with Kyle Caudle, submitted a complaint against Mr. Caudle for operating an RV repair business out of his rental home located at 38735 Pinion Trail in Milner. During the investigation, it was determined that Mr. Caudle was operating a home business without the required permits from the County. His plan for compliance was to obtain a Special Use Permit for a Home Industry. This request was denied by the Board of County Commissioners on August 29, 2017. Following this denial, Mr. Caudle stated that he would be operating under the Home Occupation standards. Those standards are as follows:

- A. The home occupation use must be clearly incidental and secondary to the residential use of the dwelling unit;
- B. The use must be contained entirely within the dwelling unit or its accessory structures;
- C. The use must not occupy more than 20% of the total floor space of the dwelling unit;
- D. No outside storage of goods, materials, equipment or anything else associated with the home occupation use is permitted;
- E. No excessive or offensive noise, vibration, smoke, dust, odors, heat, glare, light or dumping of materials associated with the use which is noticeable at or beyond the property line is permitted;
- F. The use shall not change the appearance or character of the dwelling unit or the neighborhood; and
- G. The use shall not generate an amount of traffic which is a nuisance or which affects the residential character of the neighborhood. In addition, for home occupations conducted in subdivisions, no more than one (1) vehicle (passenger vehicle, light utility truck, recreational vehicle, or farm truck) associated with the home occupation use may be parked outside on the property. Outside the subdivisions, this vehicle limitation shall not apply.

Any business which fails to satisfy all of the criteria for a home occupation must apply to the Planning Department for a permit to operate a Home Industry or other applicable permit.

Following the denial of the SUP application, staff conducted a site visit to confirm compliance with the Home Occupation standards.

Following this site visit, a letter of compliance was issued to Mr. Blevins and Mr. Caudle. Then in March of 2018, Mr. Heuer submitted another complaint that Mr. Caudle was in violation of the Home Occupation standards. After investigating the complaint, staff determined that a violation had occurred however an official violation letter was never issued because Mr. Caudle was actively working on bringing the property into compliance. Staff confirmed that the property had

been brought into compliance with the Home Occupation standards the first week of May 2018 and a compliance letter was issued on May 17, 2018. Following closure of the case on May 17, 2018, another complaint was received from Mr. Heuer. A letter of violation was issued on August 21, 2018. Because of the continued complaints of noncompliance on the site, staff elected to keep the code enforcement case open in case additional complaints about activities on the property were submitted. No complaints were received through the winter of 2018/2019 but on May 21, 2019, a complaint was submitted by Doug Karet on behalf of Dave Heuer. On August 20, 2019, photos were submitted by Mr. Heuer showing an RV being worked on outside, which is a violation of the Home Occupation standards. Then on October 21, 2019, Mr. Heuer informed staff that several RVs were being stored outside. Staff viewed Mr. Caudle's property from Mr. Heuer's and took several photos that showed three RVs being stored outside. It was determined that the request for authorization of legal action was warranted due to repeated and ongoing violations of the Home Occupation standards and the potential for other violations of the Zoning Regulations. This morning Planning staff discovered Mr. Caudle has outstanding fees for the SUP he obtained.

PUBLIC COMMENT:

Mr. Caudle stated the first photo of the Honda was his daughter's friend that has nothing to do with his business. The second photo was a family friend who was staying at Mr. Caudle's house. The third photo was of an RV owned by Mr. Caudle that he was preparing to relocate. Mr. Caudle claimed nothing in the photos pertained to his business. He has had situations with his clients leaving their vehicles outside of his shop without his permission. Mr. Caudle asked if a vehicle is parked outside of his shop for 20 minutes for moving time, or family and friends are parked outside to visit Mr. Caudle puts Mr. Caudle in noncompliance. He claimed Mr. Goldich told him anything parked outside is considered part of the business. Mr. Caudle does not believe this is fair.

Mr. Caudle stated he gave an open invitation to Mr. Goldich to visit and ask questions that would prove Mr. Caudle is in compliance. Mr. Caudle feels the County is taking away his personal rights to property with little effort to see Mr. Caudle's side of this problem. He claims the Planning department has not looked at any of his proactivity in staying in compliance. He stated he pays for a space at a storage unit to prevent things from being stored at his property.

Mr. Heuer stated Mr. Caudle is not in compliance with Home Occupation Standards A through G for the following reasons. Mr. Caudle uses that unit solely for work, he uses 100% of the floor space, he stores work-related vehicles outside of his home, and loud noises, smoke, and lights impact Mr. Heuer's quality of life.

Ms. Truejdale stated she has lived in the same neighborhood as Mr. Caudle for an extended period of time and believes he operates under compliance.

Mr. Knaus stated that one of the County's goals is to get all properties into compliance with regulations. What is in front of the Commissioners today is a land use concern, which is the last step in an administrative remedy. He asked the Board to consider the comments presented today and give direction to the Attorney's Office to proceed with legal action if the Board felt it was warranted and if all the administrative remedies have been exhausted.

Mr. Knaus invited the parties to civilly have conversations if this goes forward. He stated he is not interested in representing the County Commissioners in throwing something against the wall to see if it sticks. He is concerned about legitimate land use concerns on both sides. He explained he cannot talk to any of them if they are represented by counsel. He would like to explore other options, not simply filing something with the Court. However, he will advise the Board of options, including alternative dispute resolution. Mr. Knaus has explored alternative dispute resolutions before, but resources are not always readily available. All of the options may have not been exhausted to this point. He asked the Board to authorize legal action, but not to direct it at this point. Those are conversations that can be had in the future as facts develop.

ROUNDTABLE:

Commissioner Monger stated he is concerned about the lack of evidence. Mr. Caudle is under scrutiny, so he is under pressure to be in compliance going forward. He does have rights to his private property. Commissioner Monger stated he does not see enough evidence to take formal action at this time. His concern with counsel's recommendation is if the Commissioners authorize but do not direct, when does direction come and how. The Commissioners have allowed the Attorney's to take legal action when they feel it is appropriate before, but Commissioner Monger does not see enough evidence today to do that.

Commissioner Corrigan stated today is about documented violations of the misuse of property standards. If previous non-compliance is not being considered and from the evidence presented today, Commissioner Corrigan is not interested in pursuing any kind of action. However, he stated he cannot ignore what has happened in the past with Mr. Caudle being in non-compliance. Commissioner Corrigan stated he supports closely monitoring operations. Nothing seems to prevent Planning staff from checking in on the operations moving forward.

Commissioner Melton stated Commissioners Corrigan and Monger have more experience with this because they were there for the last hearing involving Mr. Caudle. It seems there have been complaints submitted consistently for the last couple of years with confirmation of non-compliance a couple years ago, but the past year has gone without any complaints until now. She does not see an egregious violation happening today. What she interpreted from what Commissioner Corrigan had said was other options can be taken before moving forward with legal action. She hesitates to invest a lot of taxpayer money into what seems to be a neighbor dispute, but as a Commissioner she has an obligation to make sure the regulations are being followed.

Mr. Knaus stated he fielded numerous complaints from Mr. Heuer's attorney. The complaints Mr. Goldich stated are formal complaints. Informal complaints have been consistent from both parties for the last couple of years. Mr. Caudle has complained about Mr. Heuer's conduct and land use. Mr. Knaus stated he is not trying to sway the Commissioners from one decision to the other.

Mr. Knaus stated these individuals seemingly cannot learn to be neighbors. When you see the level of disrespect that is happening in this setting, imagine how bad it is outside of this setting. The problem with ongoing complaints is they are a continuous cycle. That is not precisely what is going on here, but it is concerning. The remedy from the Court would be an injunction that would limit the abuse of the in and out of compliance cycle, which is what Mr. Knaus would likely be seeking in this case if given authorization to take legal action. He noted it

is relatively easy to come in and out of quick compliance. He does respect the Commissioners' opinion that there is not enough evidence to proceed with legal action at this time.

Commissioner Melton stated she wanted to hear from Mr. Goldich about the continued compliance of the activities.

Mr. Goldich stated he contacted Mr. Caudle after he took the photos presented today to ask for an explanation of the photos. Mr. Caudle told him, "Sounds like you already made up your mind." Based on the photos and lack of information, Planning staff decided to move forward with this hearing. If the information that Mr. Caudle provided today was provided previously, Mr. Goldich might have taken the same approach the Commissioners seem to be leaning towards today. The problems with Mr. Caudle and Mr. Heuer are a continuous cycle. It would be a waste of time to have someone in the Planning department drive out to Milner to spend more time investigating this. This problem seems to be more of a neighbor dispute. However, having the County Attorney pursue some type of action might make Mr. Caudle follow regulations.

Mr. Knaus asked Mr. Caudle if he would be willing to allow Planning staff to visit his property to ensure continued compliance.

Mr. Caudle stated he emailed permission for this already to Mr. Goldich. He is happy to allow Mr. Goldich's presence on his property.

Commissioner Corrigan stated he wanted to make it clear to Mr. Caudle that as long as he stays in compliance with the regulations, there is not a problem. Commissioner Corrigan is comfortable with the direction the Commissioners are heading. He wanted to make sure Mr. Caudle understands he is being watched closely and the Commissioners will not be as forgiving next time.

Commissioner Melton stated she agrees. She feels that more work should be done to check in on Mr. Caudle's property and, thus, administrative remedies have not been exhausted.

MOTION

Commissioner Monger moved to deny the authorization for the County Attorney's Office to pursue legal action against Park Blevins and/or Kyle Caudle for violations of the Routt County Zoning Regulations. He further instructed Routt County Planning Staff to continue with their investigation.

Commissioner Corrigan seconded; the motion carried 3-0.

EN RE: COUNTY MANAGER, TOM SULLIVAN

Erick Knaus, County Attorney, was also present.

AMENDMENT TO THE AGREEMENT WITH ROUTT COUNTY HUMANE SOCIETY (RCHS)

Mr. Sullivan stated the request to adopt and sign the Amendment to the Amended and Restated Agreement for Animal Shelter Services dated February 21, 2017, between Routt County and the Routt County Humane Society, amending amount of payments in 2020 to an annual sum of \$80,945.48, payable in equal monthly installments. The Humane Society requested an increase to the County payment for services to more align with the level of service provided and the related cost. The RCHS presented the budget request and met with the BCC on October 28, 2019, at which time the direction was to include the requested amount in the 2020 budget for RCHS services. The 2020 budget will be considered for adoption on December 20, 2019. Additionally, the agreement states that "any renewals of the 2017 Agreement as amended by this 2019 Amendment beyond 2020 shall be upon mutual agreement of the parties following the submission by RCHS of a budget request submitted to County pursuant to County's annual budget process."

ROUNDTABLE:

Mr. Sullivan, Mr. Weinheimer, the Commissioners, and Mr. Knaus discussed contract renewal.

Commissioner Melton stated it seems to her that having an amendment to the agreement that says what the amount to be paid in 2021 is and is signed by both parties would make sense.

Mr. Knaus stated that it is not uncommon and the key piece from a legality standpoint is for the agreement to be subject to annual appropriations. No increases would be automatic. They would have to go through the Commissioners first. It seems that Commissioner Melton is not talking about legality but is talking about best practices. In 2017, the Commissioners gave direction that they did not want to review this agreement every year.

Commissioner Melton stated she is not necessarily saying that she wants to go over this agreement every year. If there is an appropriation made via the budget that is related to a contract, there should be something more formal indicating what the amount of that contract is.

Mr. Knaus stated as a matter of convenience for the Attorney's Office, annual amendments would be preferable. The County Paralegal tracks all of the contracts and manages renewals by project managers.

Commissioner Monger stated he does not have a preference on processes, but he wants to make this as understandable as possible for entities involved.

Commissioner Melton stated it seems to her these type of contracts show that a budget appropriation is not the same as a contract with a contractor. There should be some documentation outside of the approved budget around how much it was agreed to pay the contractors on an annual basis. This does not mean the Commissioners need to review the contract every year, but as they make the budget appropriation every year it could be noted.

Commissioner Corrigan stated he has no opinion on the process. He asked staff if the County is receiving the services agreed on for the dollar amount identified within the terms of the old contract for the new contract.

Mr. Sullivan stated direction can be given to the Commissioners' Office Manager that when she sends out the request for next year, with the understanding that there will likely be a request for increase, an amendment can be included to be signed for next year specifically for this item.

Commissioner Melton summarized that Commissioner Corrigan wanted to acknowledge that there have been concerns about the operations of the Humane Society and that the Commissioners acknowledge that those concerns exist. However, the Commissioners believe the Human Society is still fulfilling the terms of this contract and it is the Commissioners' expectation for them to continue to do so. There is a question of process that can be set aside to be considered for changes. The reason for this question is because when the request was doubled for the Humane Society this year and the Commissioners pulled the contract for reference, they discovered the County had been paying them more than the contract states. That indicated to Commissioner Melton that the County does not have as much documentation as they might be needing.

Mr. Sullivan stated he learned that the process is for the Accounting department to keep the record of requests and the approved budgets. That record is being kept separate from the Attorney's office who is managing the contract. That is how staff learned that the County is not actually over-paying the Humane Society. He will advise the Commissioners' Office Manager for next year that the Human Society contract needs to have an amendment to the amendment on the dollar amount.

Mr. Knaus stated he can create something that includes the request from the Commissioners to have more detailed information on the contracts.

Commissioner Melton gave direction to staff to look at the process for documenting the payment changes appropriations from year to year.

MOTION

Commissioner Corrigan moved to adopt and sign the Amendment to the Amended and Restated Agreement for Animal Shelter Services dated February 21, 2017, between Routt County and the Routt County Humane Society, amending amount of payments in 2020 to an annual sum of \$80,945.48, payable in equal monthly installments.

Commissioner Monger seconded; the motion carried 3-0.

EN RE: YAMPA VALLEY HOUSING AUTHORITY BOARD

BOARD INTERVIEWS

The Yampa Valley Housing Authority Board, County Board of Commissioners, and Steamboat Springs City Council members interviewed applicants for the Yampa Valley Housing Authority Board. The applicants interviewed were Mike Beyer, Alison Brodie, Rodney Beall, Luke Carrier, Emily Katzman, and Michael Marchland.

No further business coming before the Board, same adjourned sine die.

Kim Bonner, Clerk and Recorder

Timothy V. Corrigan, Chair

Date