

REG10N

Executive Committee Minutes October 27, 2011

1) CALL TO ORDER and INTRODUCTIONS

Heidi Albritton, called the meeting to order at 12:25pm. All those present introduced themselves.

Executive Committee Members: Heidi Albritton Peter Crowell Lynn Black
Paula Swenson Bill Raley Bruce Hovde Elaine Fischer Les Mergelman (Ph)

Board Members: Bob Drexel Bill Patterson Jim Peak

Staff: Paul Gray Lee Bartlett Vince Fandel Rhona Keckler Barbara Powell
Vince Rogalski

Visitors: David Masters (Acting Ouray County Attorney) Connie Hunt (Ouray County Manager)
Lynn Padgett (Ouray County Commissioner) John Thompson (AAA Regional Advisory Committee
Chair) Donna Whiskeman (AAA RAC Member)

2) APPROVAL OF AGENDA ITEMS

Peter Crowell moved to approve the Agenda as distributed. The motion was seconded by Elaine Fischer and passed unanimously.

3) APPROVAL OF Board of Directors Minutes of September 22, 2011

Paula Swenson moved to approve the Minutes of September 22, 2011 as distributed. The motion was seconded by Elaine Fischer and passed unanimously.

4) OLD BUSINESS

Paula Swenson announced that the Board Subcommittee recommendations on the performance appraisal system and Board policy changes would be tabled until the November 17 Board meeting.

4) STAFF REPORTS

- a. **Financial Report August 31, 2011** – Barbara Powell reviewed the previously distributed financial report. There were no questions.
- b. **Area Agency on Aging Report** – Lee Bartlett reviewed the distributed report. He noted that three contractor evaluations had been completed and the others were scheduled for completion in December. There were no questions.
- c. **Gunnison Valley Transportation Region Report-** Vince Rogalski reviewed the September GVTPR Newsletter. He noted there had been a GVTPR meeting on the October 25 with CDOT Region 3 & 5 reporting on progress of projects in the region and the status of highway planning. Lynn Black asked if there were additional rock-fall remediation dollars for the Norwood area, and Vince replied that no special allocation had been made though this segment would be included in the overall rock-fall remediation budget. Heidi Albritton noted how grateful we all are for the advocacy Vince provides for the region, and all the work that has consequently been completed. Paul Gray noted that the Three Rivers Regional Transit Coordinating Council members are now members of the GVTPR Committee and will add a strong transit flavor to the meetings.
- d. **Business Loan Fund Report** –Vince Fandel reviewed his distributed report, and noted that the SBA Microloan that was closed was for \$6,700 not \$670. There were no questions.
- e. **Executive Director Report** – Paul Gray reviewed his previously submitted report. He discussed the recent informal discussions regarding broadband strategy and asked Peter Crowell to comment. He said the informal group had been gathering ideas about whether to approach the issue regionally or

county-by-county. Paul noted there are so many players with competing interests that it makes it difficult for any organization to coordinate efforts. Heidi suggested that all six counties share information as to what progress is being made.

A motion to accept the staff reports was made by Peter Crowell and seconded by Elaine Fischer. It passed unanimously.

5) NEW BUSINESS

Note: Due to Chair Heidi Albritton's declared interest in the Ouray County presentation and Vice-Chair Kathy Ellis' absence, this section of the meeting was chaired by former Chair Paula Swenson. Paula advised all in attendance that she wishes this to be a cordial and orderly presentation of positions on the matter, and that the issue at hand cautioned all participants not to let this issue damage the longstanding positive relationships among the parties.

- a. **Ouray County Grievance Regarding Area Agency on Aging Contracting Process** - David Masters, Acting Ouray County Attorney, Heidi Albritton and Lynn Padget, Ouray County Commissioners and Connie Hunt, Ouray County Manager

(Note: Region 10 staff and John Thompson were not present for this presentation, with the exception of Rhona Keckler, Secretary of the Board, who took minutes and made an audio recording.)

David Masters, Acting Ouray County Attorney said he had been chosen to make this presentation since he was the most removed from the issues and could be the most objective. He indicated that Ouray County values its membership in Region 10 and what membership does for the County. The County has no intention of withdrawing its membership in Region 10, or filing any lawsuit on this matter. However, there are serious concerns Ouray has about systematic issues in the organization of Region 10 and how things are done.

Ouray County has a homemaker program that has served the elderly for over 15 years, funded by the state of Colorado and an Area Agency on Aging homemaker contract from Region 10. During the AAA request for proposal process for FY 2012, things went wrong. Ouray County applied in the spring of 2011 for the FY2012 AAA homemaker contract, and the contract was awarded to another contractor. The proposal deadline was April 1, 2011, after which the proposals went to the AAA Regional Advisory Council for consideration. After the deadline another contractor for the homemaker contract in two other counties was allowed to revise their proposal to include Ouray County, and make an in-person presentation to the RAC. Ouray County was not given the same opportunity to revise its proposal or make a presentation, nor was it told of the problems with its proposal. The other contractor was therefore given favorable treatment. There was discussion at a July 6 Ouray Board of County Commissioners work session with Region 10's Lee Bartlett and Paul Gray, but no progress was made.

In August David Masters wrote to Paul Gray outlining the issues with the RFP process and a now irrelevant issue over an employee of the new contractor. Ouray County felt badly treated and wanted to be heard. Paul Gray did not respond to a request for a meeting.

In September Lee Bartlett sent out a meeting notice for a RAC meeting where this matter was to be discussed. John Thompson, RAC Chair, later said that the Ouray contract issue would not be under discussion at this meeting, while in the end, it was.

Salient points as summarized by David Masters:

1. Region 10's Executive Director did not respond to a request for a meeting to discuss.
2. Ouray County was told the RAC was meeting to have discussion on this contract, then not, and then it ultimately was discussed.
3. There were no written explanations of why the Ouray County homemaker proposal was rejected.
4. Ouray County does not want the contract back, but want the problems within Region 10 addressed.
5. Ouray County has concerns for the AAA contracting process at Region 10 in general, and the need to treat RFP respondees equally.
6. Communication issues need to be addressed, both written and oral.

7. Ouray sees problems in the organization of the Executive Committee meeting today. Agenda items and details were changed today on site for this meeting. Separate presentations by Ouray County and Region 10 staff before the Executive Committee are to be held without the other group present.

David Masters closed with the comment that Ouray County is not asking the Executive Committee to take any specific action. Its wish is to provide the Committee an awareness of its concerns overall. David also emphasized that this is not a pre-litigation presentation.

- b. **Presentation by Region 10:** Paul Gray, Lee Bartlett, John Thompson, Chair of the AAA Regional Advisory Council.

Note: The Ouray County team was not present for this presentation. Rhona Keckler, Secretary of the Board, took minutes and made an audio recording.

Paul Gray started by making a general statement that he was sorry this situation had come to this. He said that although this will be a good test of the grievance procedure, his concern is allowing this issue to break any relationships. We should, he said, keep this issue in perspective.

He explained that for each annual AAA contract, the AAA encourages multiple prospective contractors to apply through the RFP process. Ouray County had been awarded the homemaker contract for the past 16 years. When prospective providers submit a proposal, the service units they propose to deliver during the contract period and the amount of AAA financial support they are requesting are specified. When a contractor is selected, service units and reimbursement are negotiated and built into the contract. Looking at past Ouray homemaker contracts, in FY2010 Ouray County requested and received 100% of its contract reimbursement, yet delivered 37% fewer units of service than contracted. In FY2011, Ouray County again began requesting 100% of its monthly reimbursement, but was delivering less than half of its contracted units of service. There were other problems, such as incorrect client intake forms and an apparent unwillingness to take on new clients as existing clients dropped out. After much discussion with Ouray County's Cheryl Roberts, a mutual agreement was reached in February 2011 whereby Ouray County would cease to request reimbursement until its service units increased to the levels specified in its contract. Ultimately, Ouray County ended up delivering 56% fewer units of service in FY2011 than its contract called for, while drawing 51% less reimbursement. Region10's interest is to use AAA funds to support quality services that meet the needs of seniors. As the senior population of Ouray County, particularly those over 75, continues to climb, it was evident that Ouray County, in competition with four other private providers of home care services in the County, was losing market share and not keeping up with the growing needs of seniors.

Ouray County submitted a draft proposal for the FY2012 contract with much fewer units of service than before and a commensurately modest request for reimbursement. Lee Bartlett worked with Cheryl Roberts to improve that proposal, but the final proposal was still weak. In making its decision for the FY2012 Ouray homemaker contract, the RAC looked at Ouray County's history of record keeping, service levels, and requests for reimbursement. A competing applicant for the Ouray homemaker contract, Touch of Care, was asked to modify their proposal to increase their proposed service units. The AAA policy and procedure for contracting in effect last spring permits the AAA to request a proposal modification from any prospective contractor. The Ouray homemaker contract was ultimately awarded to Touch of Care by unanimous vote of the RAC.

Paul indicated that there may be a basic misunderstanding over who has the authority to make the decision on AAA contracts, recalling statements in a July 6 Ouray BOCC work session from Heidi Albritton to the effect that changes in AAA contracts affecting Ouray County should require the Ouray BOCC's approval. Region 10 believes it has a direct obligation to serve seniors in the region by virtue of its contract with the State Unit on Aging, and that county government participation in approving those decisions occurs at the Region 10 Board.

Lee Bartlett was asked why Ouray County's homemaker contract performance fell off so badly in FY2010 and FY2011. He indicated that Ouray County had staffing capacity issues due to a retirement and the subsequent hiring of a part time homemaker, and consequently the program was unable to address increasing demand.

Past contracts and the FY2012 proposals were then examined. It was noted the Touch of Care contract was signed April 29, 2011 when the closing date was April 1, 2011. Lee responded by saying the RAC's written policy gives the RAC the discretion to ask for a resubmission from any applicant. Two applicants (one not concerning the Ouray homemaker contract) were asked to make in-person presentations on their revised proposals. Ouray County was not invited to make a presentation, since improvements in its draft proposal (after receiving advice from Lee Bartlett) had already been incorporated in its proposal prior to the April 1 submission deadline.

Lee noted the critical difference in the two proposals was Ouray County's lower service unit estimate and consequent higher cost per unit and Touch of Care's higher units of service estimate and lower cost per unit. Lee emphasized that Ouray had evidently lost market share, and that its reduced service unit proposal did not mean that the needs of seniors in the county were declining. Also, Ouray County had consistently demonstrated it could not meet its own units of service estimates over the past two years. Lee explained there were now five homecare agencies working in Ouray County, and he had spoken to them all. Ouray County was providing fewer service units than the others and seemed unwilling or unable to do the necessary outreach to sign up new clients.

Paula Swenson asked if there was any evidence of this in writing, and Lee reviewed an annual written evaluation completed (as with all contractors) in December of 2010 in which Ouray County's compliance issues were noted. Ouray County was made fully aware of the issues in writing, and they were subsequently not resolved.

Elaine Fischer asked when the changes were made to the Touch of Care proposal. Lee replied that the revised proposal was dated April 29 and the RAC received that final proposal for discussion at its May workshop. The RAC also made some changes to funding allocations for various contracts. That triggered the re-solicitation of some proposals to match the new funding allocations. This is part of the written contracting procedure, and is necessary to comply with the state's tight timeline for the final AAA funding application.

Lee also noted that since Ouray County voiced its concerns about the contracting process, the RAC has subsequently reviewed the process for contracting and is considering changes for the FY2013 RFP and contracting process. There are several changes under review, including mandatory presentations before the RAC for all applicants and point scoring of proposals.

- **Executive Committee EXECUTIVE SESSION**

Note: Rhona Keckler was excused from this portion of the meeting. No minutes were taken.

- **Presentation of Findings and Possible Action by the Executive Committee**

Note: Region 10 staff and the Ouray County team were asked to re-join the meeting. Rhona Keckler again began taking minutes.

Paula Swenson thanked everyone for their patience and participation and announced the following findings and recommendations of the Executive Committee:

Findings:

It is the determination of the Executive Committee of Region 10 Board of Directors that:

- 1. Ouray County has a valid claim that Region10's communication during the contracting process was not as it should have been.***
- 2. The RAC and AAA staff should be commended for the changes they are considering in the process for FY2013, in which every applicant will make a presentation before the RAC.***
- 3. The AAA contracting process (as it existed in the spring of 2011) falls short of where it should be.***

Recommendations:

- 1. As part of the assessment or evaluation of a current contractor, all parties must sign off on any document, or recommendations made to bring that contractor in line. That documentation will be made part of that contractor's proposal during the next RFP process.**
- 2. If the RAC decides to solicit resubmissions or revisions for one or more proposals for a particular contract, all prospective applicants for that contract will be notified in writing of that request, and all applicants for that contract will be afforded the opportunity to resubmit their proposals.**

6) NEXT MEETINGS

- a. Regional Transit Coordinating Council:** November 10, 2011, 9:00 a.m. Gunnison Conference Room
- b. BLF Committee:** November 17, 2011, 10:00 a.m., Sneffels Conference Room
- c. Board of Directors Meeting:** : November 17, 2011, 12:00 p.m. Sneffels Conference Room
- d. AAA Regional Advisory Committee:** November 9, 2011

7) ADJOURNMENT The meeting was adjourned at 3:10 p.m.