
Minutes of the Board of County Commissioners Special Meeting held on
May 12, 2020 at 2:00 PM in the Commissioners Board Room, 6683 County
Rd 13, Conejos, CO. 81129

Call the Meeting to order.

Chrmn. Jarvies called the meeting to order at 2:00 PM.

Roll Call: Mitchell Jarvies- Chairman- Present
Steve McCarroll- Vice Chair- Present
Carlos Garcia- Vice Chair- Present
Tressesa Martinez- County Admn. Present

Also present were Nick Sarmiento-County Attorney and AnnaBelle Gomez,
Deputy Clerk & Recorder.

Pledge of Allegiance: Chrmn. Jarvies led everyone in the Pledge of
Allegiance.

Prayer: Chrmn. Jarvies gave the opening prayer.

Approval of Agenda

Motion to approve the agenda as amended to show the resolution for the
fire ban: Comm. McCarroll/Second: Comm. Garcia, all in favor.

3-0 Motion carried.

Public Comment: None

Sheriff Crowther- Fire Ban

Sheriff Crowther stated that he would like to talk about putting a
fire ban. He went ahead and wrote it out, that took effect this
morning at 12:01 AM. He mentioned that on this last fire they do have
a suspect. That will be turned in to the DA. BLM went into a fire ban
yesterday. He stated that he debated on whether going from stage 1 to
stage 2 but he thought he would match the Forest Service. They need to
discuss on the Red Flag Days which he prefers all day but they need to
get all the counties together to get some consensus so everything is
the same and it is fair to the public.

Executive Session

Motion to go into executive session as per 24-6-402 (b) conference with the attorney: Comm. McCarroll/Second: Comm. Garcia, all in favor.

3-0 Motion carried.

The board came out of executive session at 2:35 PM and no decisions were made.

Nick Sarmiento: It is the opinion of the county attorney that the discussion had an executive session constituted an attorney/client privilege therefore no record was kept.

Robins Construction-SUP 112 Large Rock Permit- Approval

Chrmn. Jarvis reconvened the public hearing for the 112 permit for Robins Construction.

Chrmn. Jarvis proceeded to call Mr. Montgomery; stated who was present.

Mr. Montgomery stated that Scott Johnson would like to join them in the meeting but they can proceed; they are waiting for a decision.

Chrmn. Jarvis turned it over to Nick Sarmiento-County Attorney.

Nick stated that he will be referring to the Special Use Permit that submitted for consideration at the last regular board meeting. There have been some revisions which he will be going over. These were negotiations with Mr. Robins, his attorney and himself. Today is the first day that the commissioners have had an opportunity to review our revisions to the original special use permit.

- Section 1 remains the same.
- Term of Permit-Section 2- paragraph A Sub. Paragraph 1- They tied this in to the first 20 acres which is the first phase or the mining permit so it's a 40 acre mine, this permit shall remain valid for the duration of the 20 acre mining issued by the Colorado Division of Reclamation Mining and Safety. This special permit authorizes the mining pursuant to the Special Use Permit of the 20 acres depicted in the attached survey. He added see attachment A and sent Mr. Montgomery an e-mail.
- Restricted Routes-Paragraph 3 of Sub-Section 2 - He added see attachment B, they did include Veteran's Boulevard. There will be a map, County Rd 8.5, County Rd H, and Veteran's Boulevard

that attaches to County Rd H. The other is cultural events, festivities and funerals- to the extent possible, applicant shall avoid hauling on County Road H during funerals or cultural events of festivals relating to or occurring at the Catholic Church, jury trails at the Conejos County Courthouse, or any festivals or cultural events on Veteran's Boulevard. The applicant shall use one of the other restricted routes during such events. To the extent possible the Land Use Office and the applicant shall attempt to determine ahead of time the upcoming cultural events, festivals, funerals and jury trials. In some circumstances, neither the applicant nor the Land Use Office will have knowledge of an event and the applicant may haul a load without being aware of the event. In that case, hauling one load in front of the event shall not be deemed a violation of this special use permit.

- Paragraph 4 is a new addition. Water Spraying on Restricted Routes. The applicant shall water a restricted route only on the days when the applicant hauls 18 or more loads using that particular route. The watering shall be limited to the portion of the restricted route that serves an ingress or egress for a residence. Water shall not be applied to areas on the restricted route that are not near a residence. The applicant shall provide proof of the watering of said roadways to the Land Use Office. The special use road mitigation fee for loads hauled when restricted routes are sprayed with water by applicant shall be \$7.00 per load, no other provision of subsection (5) paragraph A -II are modified by this provision.
- Nick stated that he added paragraph A that he modified which is: When 18 or more loads are planned for a particular route for a certain day the watering shall occur before and during that hauling day for a total of 2 sprayings for that day.
- Mr. Montgomery asked if they have to water in front of those homes.
- Nick said yes. You must start the first spraying before the hauling.
- Mr. Montgomery stated that after discussing that they believe they can do that.
- Nick talked about the cost of load on paragraph IV. The base cost is \$10.00 per load; they included inflation and deflation. The \$10.00 will fluctuate but will not go below \$10.00. The other revision was that the applicant shall submit a spreadsheet to the Conejos County Land Use at the time of the annual permit review for calculation of the permit for the number of trips on each restricted route.

- Pre-payment- Nick stated that the only change is that they specified the Lazaro Bridge. The other change is that they agree to warranty the bridge for one year; the Conejos County Commissioners want to enter into a separate contract for the bridge so the construction shall not occur for any reason the applicant shall pay the required road mitigation fee without any credit; the other portions remain the same except for the revision that he will make that it will be adopted today on the 12th.

Chrmn. Jarvies asked Mr. Montgomery if he had anything else to add.

Mr. Montgomery stated that they understand the draft before the board and that they did negotiate those terms with Mr. Sarmiento after the May 5th hearing.

Chrmn. Jarvies asked if Comm. McCarroll and Comm. Garcia had any questions.

Comm. McCarroll stated that he appreciates each party going back and negotiating the things that will help. He is glad to see that they did away for the warranty for 30 years; a year on workmanship is fine. He felt that they should be able to use Veteran's Boulevard which would save time on certain areas that the Robins are hauling; also the watering of the road after 18 loads or more for the residents. Also the speed limit from 25 to 15 when they pass a residence will work good; looks like things worked out really well.

Comm. Garcia stated that he would like to say that he had a lot of concerns such as timing, haul traffic, dust, historical sites, etc. He believes that the resolution will speak for itself. He needed processing time to go back and forth with what they negotiated. In summary he sees it as a good faith effort. He thanked both parties, Mr. Sarmiento, Linda and Donnie Martinez. The pandemic added to the frustration and length in the process of the process being finalized.

Nick Sarmiento stated that one of the difficulties and the negotiation was trying to separate out Mr. Robins special use from all the other uses that occur on these two roads and those are not subject to a special use permit. He can attest that going in a small car 15 miles is going to cause a lot of dust and there are some uses that they are going to try to mitigate through our county process but the heavy lifting has to come from the county; we are trying to mitigate the impacts caused by Mr. Robins and his Special Use Permit. There are still a lot of problems and budget permitting we can try to fix those problems. When Mr. Robins' application came to them all these things surfaced. They have been there for a while, as a compromises no one is

really happy but they tried their best, he thanked Linda and Donnie for their efforts, John and Mr. Robins for keeping an open mind.

Chrmn. Jarvies stated that he is abstaining from any of the conversation; he is running the meeting but will not take part in the decision. He would like to add to what they have commented that this has been difficult, as commissioners we never saw that plan until just a few days before. He stated that he appreciates everybody's patience and the Robins for what they do.

Mr. Montgomery addressed the commissioners and stated that this process has been helpful to them to engage all of the county officials that regulate mining activities. His clients have always had good relationship with the Land Use Office, Administrator, other Boards of Commissioners, and Road and Bridge. They have worked really hard at it; opened up a good line of communication. We have good people in place and we can resolve those issues as they arise. Thank everyone.

Chrmn. Jarvies stated that the public comment portion is closed but Erwin Romero is present; asked him to speak.

Erwin Romero thanked the board. He stated that the first application included week days but not weekends and now they are hauling on Saturdays also and doesn't know if it was a give and take. The speed limit is fine, I fully understand we have two different issues, they increased traffic because of the mine but everybody else is traveling through there also. I will have to address that with the commissioners that at a different meeting to see if they can work something out to control the speed. They have tried different ways so that road doesn't become a big washboard but it is worse now than it ever has been. He thinks that the number (18) is a little bit high so what if they haul 17 and they don't get water. I think we could agree on something better than 10. He met with Road and Bridge and with the Robins and they are at point where they can work anything out; and make as many people happy as possible.

Motion to approve Resolution C-21-20 a Resolution Approving A Special Use Permit for a 112 Permit Extraction of Large Rock/Mining/ Robins Construction CO, LLLP with all the conditions that have been expressed in the resolution: Comm. McCarroll/Second: Comm. Garcia, all in favor.

Roll Call Vote: Comm. Garcia- **YES**

 Comm. McCarroll-**YES**

Chrmn. Jarvies did not vote.

2-0 Motion carried.

Chrmn. Jarvies closed the public hearing.

Erwin asked if he can water the road.

Chrmn. Jarvies stated if his well permit allows it.

Comm. Garcia stated that all those roads are all dusty.

Fire Ban

Motion to adopt Fire Ban Resolution C-20-2020: Comm. Garcia/Second:
Comm. McCarrol, all in favor.

3-0 Motion carried.

Waiver for Graduation

Chrmn. Jarvies asked if the board was interested in seeking a waiver for the schools, they are waiting on us. He is willing to do it if the board is okay with it.


Comm. McCarroll felt that we should apply for the waiver for all our schools.

Comm. Garcia said he was okay with it.

Chrmn. Jarvies will work on it with Nick Sarmiento-County Attorney.

There being no further business to come before the board, Chrmn. Jarvies declared the meeting adjourned.

ATTEST:


NATHAN RUYBAL
CLERK OF THE BOARD


MITCHELL JARVIES
CHRMN. BD OF COUNTY COMM.