

**STATE OF COLORADO  
COUNTY OF ROUTT**

**OFFICE OF THE CLERK  
JANUARY 3, 2023**

Commissioner M. Elizabeth Melton, Chair, called the regular meeting of the Routt County Board of County Commissioners to order. Commissioner Tim Redmond, Commissioner Timothy V. Corrigan, County Manager Jay Harrington, and Executive Assistant Jennifer Parent were also present. Jennifer Parent prepared the minutes.

**EN RE: APPROVAL OF ACCOUNTS PAYABLE, MANUAL  
WARRANTS, AND PAYROLL**

There was no payroll or accounts payable to approve this week.

**EN RE: CONSENT AGENDA**

- A. Approval Of And Authorization For The Chair To Sign The 2023 Sunshine Resolution Designating Place For Posting Of Notices Of Meetings Of The Routt County Board Of County Commissioners
- B. Approval Of And Authorization For The Chair To Sign A Resolution Designating Holidays At Routt County For The Year 2023
- C. Approval Of And Authorization For The Chair To Sign A Grant Agreement Between Routt County And Department Of State For The Colorado Election Security Act Grant Program
- D. Ratification Of The Chair's Signature On A Letter Of Support For Town Of Hayden Housing Grant Application
- E. Ratification Of The Appointment Of Doug Monger As The Routt County Representative On The Colorado River District Board Of Directors

**MOTION**

Commissioner Redmond moved to approve consent agenda items A. through F. with item A. having Resolution No. 2023-001 and item B. having Resolution No. 2023-002.

Commissioner Corrigan seconded; the motion carried 3-0.

## **EN RE: PUBLIC COMMENT**

No public comment was made.

## **EN RE: PLANNING**

Planning Director Kristy Winser and staff planner Alan Goldich were present. Sarah Katherman prepared the Planning minutes.

### **SANDERS GRAVEL PIT; PL20210004**

Mr. Kent Holsinger, an attorney representing the petitioner, stated that Ms. Sanders purchased the 35-acre property in 2020 and lives nearby. She uses portions of the property for grazing and agricultural purposes. He said that she hopes to build a barn on the property in the future. Access to the site is via an existing road with an easement. Mr. Holsinger reviewed the petition for a permit to allow resource extraction to facilitate reclamation of the existing site, which includes a dangerous highwall, and put the material to beneficial use. He stated that the previous owner mined into a hillside, creating the highwall. The gravel pit has been in existence and in use since at least 2005. Mr. Holsinger stated that a significant amount of material has been removed from the site without proper permitting. He said that Ms. Sanders has obtained a permit from the Colorado Division of Reclamation, Mining and Safety (DRMS) for mining of up to 9.95 acres and is seeking County Special Use Permit (SUP) in response to a Notice of Violation. He said that a traffic study was also conducted in April of 2022 that stated there were no significant traffic safety issues, provided that certain mitigation measures were put in place. A plan to bring the site into compliance was developed and submitted. Following concerns expressed by Planning staff with the plan for compliance, the proposal has been dramatically scaled back from what was originally proposed. The current proposal is for a total disturbance of around 2 acres. Mr. Holsinger said that initially staff had recommended approval of the scaled proposal, but subsequently changed their position.

Mr. Holsinger reviewed that gravel pits are regulated by both the state and the County, but that reclamation is under the sole jurisdiction of the state. Mr. Tony Waldron, a consultant representing the petitioner, presented photos of the pit in its current condition. He pointed out the significant and dangerous high wall, which is approximately 50 ft. high. He reviewed his experience with mine site inspection and reclamation. He said that the site needs to be cut back to a slope that will blend in with the existing area prior to being top soiled and revegetated. He said that cutting the site back will achieve the best geotechnical stability. Mr. Waldron said that cuts and fills are not as stable. He said that under the DRMS permit any materials found in cutting the slope back could be mined. Mr. Waldron noted that the court order from the state was

not received until after the initial mine plan had been submitted to the County. He reviewed the discussions with staff that led to the revision of the mining plan to what is being presented today, which is only the reclamation of the site with the removal of the material needed to create the stable slope. Mr. Waldron stated that although the state issues permits for the life of the mine, the County will only issue permits for a maximum of ten years. Under the current minimal plan to disturb only 2 acres at a time, minimal traffic would be generated, but staff is recommending a reduced two-year term, which will increase the amount of traffic need to remove the material. Mr. Holsinger reviewed the plan to salvage the topsoil and grade the slope. He stressed that successful reclamation depends on three things: geotechnical stability, proper application of sufficient topsoil and proper revegetation. He estimated that approximately 50,000 tons (60,000 – 70,000 cubic yards) of material would be removed from the site and sold. (Although this is what was said, these numbers are flipped. The proposal is for 50,000 cubic yards (60,000-70,000 tons). He stated that a bond with the state had been posted pending the successful reclamation of the site. In response to a question from Mr. Holsinger, Mr. Waldron estimated that about 30,000 – 60,000 tons of material had been removed from the site previously. He acknowledged that illegal mining and violations had occurred at the site but offered that through the DRMS permit and an SUP from the County, the site will be brought into compliance.

Mr. Waldron reviewed a site plan and indicated the area to be cut out to achieve the 3:1 slope. He said that the reclamation would include the creation of a building site and a small swale to direct drainage into the proposed settling pond/sediment trap. Mr. Waldron noted that resource extraction is an allowable use in the A/F zone district. He said that the proposed operation would include minimal mixing and perhaps rudimentary screening, but no crushing. The material will be pit run, for which there is a demand. Mr. Waldron presented photos of the existing site to indicate what the final reclamation would look like.

Mr. Holsinger said that the proposal includes extensive mitigation measures to address any potential off-site impacts. He said that only tandem axel dump trucks will be used, and appropriate signage will be installed. He said that the site is sufficiently far from existing residences and the sight distance at CR 129 meets County standards. He added that because the site is in a natural depression, it cannot be seen from CR 129. He reviewed the other mitigation measures included in the suggested conditions of approval. Mr. Holsinger said there is a demand for the material in the area and if it does not come from this site, it will be hauled from farther away. He offered that the proposal is consistent with the County Master Plan and Zoning Regulations and the use is compatible with surrounding and historical uses.

Mr. Goldich reviewed that Planning Commission had determined that the proposed use is not appropriate on this site and has recommended denial with the findings of fact listed in the communication form. He said that the application was submitted prior to the adoption of the new Master Plan, so was reviewed under the 2003 Master Plan. He said that the original application was for a two-phase, 9.9-acre pit. It was revised to essentially phase I of the original proposal in response to concerns

expressed by staff. He said that in considering this application the Board should review it as a new use. He said that the effort to try to correct a situation created by the previous landowner is not the basis for approving a Special Use Permit. Mines are an allowable use in the A/F zone district if they are determined to be appropriate for the particular site. Mr. Goldich offered that if the permit is denied, there is a way to rectify the situation by obtaining a Grading and Excavating (G & E) Permit from the County. With cuts and fills, the area could then be graded to achieve the necessary 3:1 slope. A G & E Permit does not allow material to be removed from the site. Mr. Goldich added that demand is not a consideration for determining if the proposed use is appropriate for the site. Regarding the comment that the previous landowner had removed material from the site, Mr. Goldich stated that there is no documentation of complaints having been received, so staff cannot comment on that. He said that a complaint was received in 2021 about material being mined and hauled. He noted that the current landowner is responsible for their land and what occurs on it, even if they did not create the existing conditions. He reviewed that when a cease and desist order was issued, operations ceased and the applicant applied for a permit with DRMS and for an SUP with the County.

Mr. Goldich presented a vicinity plan and indicated the four residences within 2000 ft. of the site, including that of the applicant. He said that the neighbor to the west had stated that noise was an issue when the pit was operating in the summer of 2021. He indicated the access road, which is a private driveway approximately 12 ft. wide. He noted the drainage on the west side of the road. Mr. Goldich reviewed the proposal to remedy a dangerous situation by cutting the highwall back to a 3:1 slope. He said that the applicant is requesting to remove 50,000 cubic yards, which equates to approximately 75,000 tons. He said that dump trucks that would haul the gravel typically have a capacity of 10 cubic yards. Mr. Goldich said that hauling the material would require approximately 10,000 truck trips. If the permit is approved with the 4.5 month/year operating window recommended by Colorado Parks and Wildlife (CPW) and the 2-year permit term recommended by staff, 27 trucks per day (54 truck trips) would be required to haul the requested amount of material off of the site.

Mr. Goldich said that while it is the goal of both the applicant and staff to remedy the current unsafe situation, the method of doing so differs between the two parties. Mr. Goldich presented a diagram of the applicant's proposal to cut back the slope and remove material. He then presented an alternative method to demonstrate it is possible to reach the 3:1 slope by cutting and filling without removing any material from the site. He said that although more difficult and time consuming, stable slopes can be created through cuts and fills. Mr. Goldich stated that because it is staff's opinion that gravel extraction is not an appropriate use on the site, the method that requires the minimum amount of material to be hauled should be employed to rectify the current situation. Mr. Goldich presented a chart of the existing permitted gravel pits in the County, comparing the sizes of the pits and the sizes of the parcels on which they are located to the Sanders proposal. He noted that all permitted gravel pits have direct access to the County Road or state highway system. He reviewed DRMS permitting and noted that off-site impacts are not addressed by the state, which deals exclusively with on-site

operations and reclamation. He added that the finding of fact cited by Planning Commission in its recommendation to deny the petition address the exact issues cited by DRMS as out of its jurisdiction. Mr. Goldich said that CPW expressed concern regarding elk and sharp-tailed grouse and recommended restricting operations to a 4.5-month window. Mr. Goldich said that Road & Bridge did not have concerns with the traffic the operation would generate on CR 129, but did recommend signage and the removal of a bush to increase sight distance. Road & Bridge also recommended that the private access driveway be widened to 22 ft. to allow safe passage of vehicles and trucks. Mr. Goldich stated that five letters of opposition had been submitted.

Mr. Goldich reviewed the mitigation measures proposed by the applicant and referral agencies. He said that staff does not believe that strategic placement of stockpiles to reduce noise impacts would be possible given the small work area. Mr. Goldich said that widening the access road, as recommended by Road & Bridge, could have unintended negative impacts such as increased erosion from runoff.

Mr. Goldich reviewed the Master Plan policies and Zoning Regulations standards cited by Planning Commission in its decision to recommend denial of the application. He explained how each one applies to the proposal.

Mr. Holsinger stated that while staff has asked the Board to evaluate the application as if this were an application for a new gravel pit, that this is not the reality. The gravel pit has been in existence since at least 2005. He said that the proposal provides an opportunity to reclaim the pit the right way. Regarding truck trips, Mr. Holsinger offered that the two-year permit term that was used to calculate the trips per day is unreasonable for the work that needs to be done to properly reclaim the pit. He added that this pit would help to meet an existing demand and thereby reduce the truck traffic on CR 129 by reducing the haul distance. He stated that the noise standards cited by staff are not in line with state standards.

Commissioner Redmond asked if mixing would be considered processing. Mr. Goldich said that staff generally thinks of crushing, screening, and other intensive operations as processing. The applicant is proposing only minimal mixing. Commissioner Redmond asked for a clarification of the noise standard. Mr. Goldich read the state statute. Commissioner Redmond asked about the potential that CR 129 has been damaged in the past by haul trucks serving the unregulated pit. Mr. Goldich said that he could not answer that question.

Commissioner Melton asked for a clarification regarding the County's distinction between extraction operations and industrial operations. Mr. Goldich said that the County's definition of industrial does not include extraction. He said that the proposed operation, however, is considered commercial as material is proposed to be removed from the site and sold. He said that most gravel pits in the County are in close proximity to growth centers but are not close to residences. Ms. Winser added that when the existing pits were permitted, they were evaluated for off-site impacts and determined to be located in appropriate locations.

Regarding the noise from extraction operations, Mr. Holsinger cited Section 9.2.D of the Routt County Zoning Regulations, which states that the state noise standard shall not be exceeded within 100 ft. of any residence. Mr. Waldron noted that County does have a definition of resource extraction that distinguishes it from commercial and industrial uses.

In response to a question from Commissioner Corrigan, Mr. Goldich confirmed that it makes no difference in the permitting whether the material is to be given away or sold. The issue is whether it is removed from the site. He also confirmed that it is not up to the County to determine if the easement on the access road supports the proposed use. Commissioner Corrigan asked Mr. Waldron why he believes it is necessary for the material to be removed from the site. Mr. Waldron said that the cut needs to occur to create a geotechnical stable foundation for the reclamation. He said that the material cut away would need to be removed from the site in order to make room for the reclamation and to preserve the building site. He said that some of the material will be used on the site for a future structure. The tonnage cited by staff represents the maximum amount of material that would be removed. Mr. Waldron added that the cut and fill option would not produce an adequate amount of topsoil for proper reclamation. Commissioner Corrigan asked about the role of demand in the evaluation. Mr. Goldich said that the decision is whether the proposed use is appropriate on this site. The assessment of demand does not affect the evaluation of the off-site impacts of the operation.

Commissioner Melton asked about the future building site. Ms. Sanders said that she would like to build an agricultural barn on the site. In response to a request from Commissioner Corrigan, Mr. Goldich reviewed the applicant's proposal and staff's alternative for balancing the cuts and fills instead of exporting the material. He added that if an expert geotechnical opinion is needed, the Board can request it. Ms. Winser said that staff feels the site can be made safe without exporting material off site. Mr. Goldich said that if the petition is denied, he will contact DRMS to find out what the next steps are. He said that the applicant only provided a single alternative. Mr. Waldron said that the original proposal was a full mine out of the material. He acknowledged that the cut and fill alternative could be accomplished but it would not preserve an area sufficient to build a structure in the future, and would result in less topsoil and less successful reclamation.

## **PUBLIC COMMENT**

Mr. Mike Miller, of Rogue Resources excavating company, stated that fill slopes are much more unstable than cut slopes. He noted that there had been no accidents at the site when it was operating illegally. He said that allowing this pit to operate will cause less damage to County Roads by reducing haul distances. He said that there is a need for gravel that exceeds supply within as well as far beyond growth centers.

Mr. Richard Wilson of Mad Creek Construction said that if the area is filled in, the site for the proposed barn would be lost. He suggested that if the material were clay, no one would care if there moved, but because it is useable, it is a problem.

Mr. Jamie Weiss of D&D Asphalt said that it is always helpful to have the source of materials closer to jobs. He said that this is a small operation and should be approved.

Mr. Scott Eckburg, an adjacent landowner, said that his property also has a small pit that was used to build the roads on the property. He said that when he purchased his property 14 months ago the pit was being operated illegally with about 20 trucks per day, but was soon shut down. He said that the pit is directly on the shared lot line with his property and would be within very close proximity to the location of his proposed home. The drainage from the site leads to his pond. He said that the question is whether this is an application to reclaim a site, or whether it is an application to extract and sell 150 million pounds of material. Mr. Eckburg said that he had consulted with a couple of other excavators who had confirmed that although the cut and fill alternative would not be as stable, it would be possible. He said that his property values would be negatively impacted by having a gravel pit next door. Mr. Eckburg stated that the proposal is not in compliance with the new or old Master Plan, or with the Routt County Zoning Regulations, which is why it was denied unanimously by Planning Commission. He offered that the proposal is not to remedy a dangerous situation but rather to operate a for profit gravel pit.

Ms. Chris Brookshire, speaking for her husband, Troy Brookshire, stated that Mr. Brookshire remains opposed to the application. She cited the noise and the danger of meeting dump trucks on the easement. She said that the entrance onto CR 129 is also dangerous, particularly with the ever-increasing traffic on the road. She said that the comments made regarding the usefulness of a pit in this location do not take into account the impact the pit would have on the nearby residents and landowners.

Mr. Clay Meyer, an adjacent property owner, expressed concern with the easement, which he uses every day to get to his house. He said that it was inappropriate for a commercial pit to use his driveway to haul gravel. He acknowledged that Ms. Sanders has a right to use the easement, but no more right than the other users. He offered that trucks on that easement are incompatible with the residential traffic that also uses the road.

Mr. Arie Hoogendorn, an adjacent property owner, said that his primary concern is with the safety of the access easement. He said that trucks using that road will make it unsafe for other users. He also stated that if additional truck traffic is approved that appropriate measures be put in place to ensure the safety of the other users.

Seeing no further comment, Commissioner Melton closed public comment.

Commissioner Redmond expressed concern with the shared private access road. He said that he is not comfortable with the information that was received regarding the alternatives for reclamation. He said that the highwall must be reclaimed in a safe way, and that he wants to protect the neighbors and the wildlife as well. He said he was shocked by the number of trucks that had been using the access road while the pit was operating illegally. He said that he could not support the application.

Commissioner Corrigan said that the BCC does not always uphold the decisions of Planning Commission or concur with the opinions of staff. He stated that all parties agree that the geohazard created by the existing highwall needs to be remedied and offered that the actions needed to do so will be extensive and expensive. He said that the need to reclaim the site must be balanced with the safety impacts of trucks entering and exiting CR 129 and the impacts on the neighboring property owners and users of the easement. Commissioner Corrigan said that it is his opinion that the highwall could be mitigated without exporting material. He offered that if DRMS disagrees, then the applicant can reapply for an SUP. He said that he would oppose the application.

Commissioner Melton expressed her agreement with Commissioners Corrigan and Redmond. She said that she had heard the representatives for the applicant state that their goal was to reclaim the site and put the material to beneficial use. She suggested that the beneficial use was the motivation of the particular plan presented. She stated that while the pit is not a new use, hauling the material off site is a new use. Commissioner Melton stated that the safety of trucks entering and exiting CR 129 as well as the safety for the other users of the access road are significant concerns. She said that she does not believe, however, that this proposal is in violation of the noise regulations and requested that this finding be removed. Commissioner Melton said that she does not believe the proposal would decrease truck traffic in the area.

## **MOTION**

Commissioner Corrigan moved to deny item PL2021004, a request of an SUP for a gravel pit, with the following findings of fact:

1. The proposal does not comply with the following policies of the Routt County Master Plan:

- a. 3.3.A – Growth Center proximity
- b. 4.3.B – Altering historical use
- c. 5.1.1 and 7.3.C – Significant safety concerns
- d. 7.3.T – Sufficient separation distance from other mines
- e. 7.3.R – Limitation of haul distances

2. The proposal does not comply with the following standards of the Routt County Zoning Regulations:

- a. 6.1.2 – Consistency with Master Plan
- c. 6.1.7.K, 6.13.B, and 9.2.A – Land Use Compatibility
- d. 6.10.J and 9.2.B – Sufficient separation distance from other mines



e. 6.2.4.N, 6.2.4.Q, 9.2.F – Haul routes

3. The application does not represent the minimum amount of mining and hauling necessary to achieve a safe site.

Commissioner Redmond seconded the motion; the motion carried 2–1, with the Chair voting no.

## **EN RE: ROUTT COUNTY SHERIFF'S OFFICE**

Joseph Boyle, JBBS Project Manager was present.

### **AXIS HEALTHCARE GROUP/CARE MIND HEALTH INMATE MENTAL HEALTH CONTRACT**

Sgt. Boyle stated that Axis Healthcare Group/Care Mind has been selected to provide the Routt County Jail with Telepsychiatry and Teletherapy for the inmate population. Mental health has become a progressively more important topic of conversation across the nation, especially in correctional facilities. The demand for better mental health services within correctional facilities has increased dramatically, as we are seeing and becoming more aware of the severity of mental illness that is present in our inmate population. Because of Routt County's rural location, lack of providers, and the increase in mental health services needed for the community, the jail has struggled to have consistent counseling and psychotherapy for its inmate population. This is a problem for a number of reasons. First, it's morally and ethically unfair to the individuals who are suffering from mental illness and in our custody and trying to navigate the criminal justice system. Second, it's the jail's legal responsibility to provide adequate and consistent care for individuals in its custody both medically and mental health. Not having a consistent provider opens the jail and County up to liability and possible litigation. Axis Healthcare Group/Care Mind is guaranteeing to provide both one on one counseling and psychotherapy for the jail inmate population using telehealth equipment that is already available at the jail. Their services will be funded through the JBBS grant that was secured and was confirmed through the Office of Behavioral Health.

### **MOTION**

Commissioner Redmond moved to approve and authorize for the Chair to sign and renew the contract between the Routt County Sheriff's Office (Jail) and Axis Health Group, also known as Care Mind Health.

Commissioner Corrigan seconded; the motion carried 3-0.

**SUBSTANCE USE DISORDER GROUP THERAPY FOR THE ROUTT COUNTY JAIL**

Sgt. Joseph Boyle applied for and received a Jail Based Behavior Services (JBBS) Grant to provide group therapy counseling to inmates who have been screened and identified with a substance abuse diagnosis in 2019. The intent was to develop a program to work in tandem with medical treatments for withdrawal that are currently being administered to inmates with the therapy for life skills to reduce recidivism rates of drug related arrests. Craig Thornhill was selected for his vast experience in the field and the success of the program he developed for Moffat County.

The Commissioners took the opportunity to thank Sgt. Boyle for the work he has done in this area.

**MOTION**

Commissioner Corrigan moved to approve and authorize the Chair to sign and renew the contract between Routt County Sheriff’s Office (Jail) and Craig Thornhill Counseling, LLC to provide substance use disorder group therapy for the jail.

Commissioner Redmond seconded; the motion carried 3-0.

**EN RE: COUNTY MANAGER/LEGAL/COMMISSIONERS’ COMMITTEE UPDATES**

The County Manager, the County Attorney, and the County Commissioners gave updates on County business and Commissioner Committee updates.

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

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Jenny L. Thomas, Clerk and Recorder

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Tim Redmond, Chair

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Date