



Red Rock Citizens Advisory Council

MEETING MINUTES



Date & Time: Wednesday, March 28, 2012 at 7:00PM

Location: Blue Diamond Library, 14 Cottonwood Drive, Blue Diamond, NV 89004

BOARD MEMBERS PRESENT:

Max Heeman, Vice-Chair
Evan Blythin
Robert Matthews
Michele Ward, Secretary

POSTING LOCATIONS:

Blue Diamond Library
Blue Diamond Post Office
Blue Diamond Village Market
Calico Basin Mailboxes
Kulka Road Mailboxes

BOARD MEMBERS ABSENT:

Barbara Luke, Chair
Susan Sellmann

OTHERS PRESENT:

Approximately 12 other people were present.

I. CALL TO ORDER

A. The meeting, being legally noted and posted in conformance with the Nevada Open Meeting Law, was called to order at approximately 7:00pm by Max Heeman. The pledge of allegiance was recited.

II. ADMINISTRATIVE ITEMS

- A. The Council welcomed Chris Munhall, our Town Liaison; Jordan Bunker, Water District Representative; Tim Wakefield, BLM Red Rock Field Manager; and Bob Ross, BLM Las Vegas Field Manager.
- B. *Mr. Heeman made a motion to approve the agenda for the March 28, 2012 meeting, with a change to move Fire Dept. business and the Water District report before BLM-related business. The motion passed unanimously. Mr. Heeman made a motion to postpone the approval of the minutes from the February 29, 2012 meeting, due to the fact that Ms. Luke had wanted to some edits that required discussion, and the motion passed unanimously.*
- C. Ms. Ward read two notification letters from the Clark County Dept. of Business License concerning the following proposed amendments to Clark County Code:
 - i. Title 6, Chapter 6.12, Section 6.12090, Apartment Houses – to add new definitions and requirements for obtaining and maintaining an Apartment house license
 - ii. Title 6 and Title 14 – to add a new regulated business license category for vehicle storage lots
 - iii. These letters can be viewed at the Blue Diamond Library.

III. GENERAL BUSINESS (including Water District Report)

- A. Ken Moultray, Chief of the Blue Diamond Volunteer Fire Dept., notified the Council of upcoming capital expenditure priorities for the department. These included a new, “type 2” engine with four wheel drive for access to remote areas (~\$275,000); a new water tender with a 1500-2000 gallon capacity (~\$250,000 new but may be found used); and restroom upgrades and a hose rack for the station house (~\$20,000). *Mr. Heeman made a motion to pass along the Chief’s requests to the County for approval. The motion passed unanimously.*
- B. Water District representative Jordan Bunker gave his report as follows. The Blue Diamond wells’ March 2012 water levels have dropped about 4’ in the past 3 months, and they are down a little over 2’ from last year. The drop is due to drought conditions and an unusually dry February.

BOARD OF COUNTY COMMISSIONERS

SUSAN BRAGER, Chairman • STEVE SISOLAK, Vice-Chair
LAWRENCE L. BROWN, III • TOM COLLINS • CHRIS GIUNCHIGLIANI • MARY BETH SCOW • LAWRENCE WEEKLY
DONALD G. BURNETTE, County Manager

- C. Mr. Bunker explained that 699 acre-feet per year (afy) total is available for the mine and village from the two wells, with 150 afy specifically earmarked for the village of Blue Diamond. The remaining 549 afy still belong to the mine. When Gypsum Resources (hereinafter referred to as "Gypsum") purchased the land, 49 acre-feet were acquired for pre-construction and reclamation activities (*note: Mr. Bunker was not sure whether or not this 49 af was per year*).
- D. Regarding the Council's previous request to find out the potential impact to the water table in Blue Diamond Village of the proposed mining and reclamation activities, Mr. Bunker referenced a 3-year study. The study showed that if both wells were pumped all 699 afy continuously, after one year each well level would drop a minimum of 5.5', *assuming no natural recharge*. The lowest level on record is 20' below, which occurred when the Kern River Gas Line was being installed. Mr. Bunker felt that a 20' level drop would signify trouble for the wells, whereas a 5.5' drop would not. Mr. Blythin expressed skepticism at this determination due to previous experience during the 20' level drop, and it was noted that the current monitor on the water system is broken. ***Mr. Blythin motioned that the Council request that the State Engineer should be monitoring the water system and creating a crisis level and agenda for curtailment if necessary. Mr. Matthews suggested that we have the Blue Diamond Water Coop and the mine here to discuss the matter in a future meeting. The rest of the Board agreed with Mr. Matthews suggestion. Mr. Blythin asked Mr. Munhall to invite the southern representative of the State Water Authority to the meeting as well.***
- E. The Council discussed the current Gypsum mining and reclamation activities, including potential long-term mineral extraction through blasting, their use of the mine road and potential overlaps/conflicts with BCC restrictions on the use of Highway 159 for development purposes.

Mr. Heeman explained that County road 831T across the street (hereafter referred to as the "mining road") was a mining support access road to the previous landowners. However, the federal Right-of-Way (ROW) to the mining road was relinquished in January 2012. This relinquishment is currently being appealed by Gypsum. This federal ROW designation conflicts with the fact that this same road was designated as being an RS2477 County-owned road in 1979. Mr. Heeman also explained that the BLM file states that the access is only short-term, which conflicts with what Gypsum said in a prior RRCAC meeting about mining the land for years to come.

Mr. Ross from the BLM explained that the 140-acre parcel owned by the BLM can only be reclaimed, not mined. This reclamation also includes salvaging any valuable materials. Mr. Ross explained that the BLM would like the land reclaimed a.s.a.p. and will be writing a letter to Gypsum very soon to explain this as well as exactly what land should be reclaimed. Mr. Ross stated that it is possible that the reclamation activities required by the BLM could include reclaiming the mining road itself back to a natural state. However, the BLM may still need to provide access to the proposed development via the mining road so that Gypsum is not landlocked. However, this access would need to go through the ROW process and the BLM has not received an application from Gypsum for a ROW on this land to date.

Regarding the RS2477 claim, Mr. Ross explained that an Internal Memo (IM) issued from the Department of Interior (DOI) in early 2009 (IM-259) instructed BLM not to adjudicate or validate the County RS2477 claims. Therefore, the BLM cannot make a determination on the mining road until the Secretary of the DOI gives further instruction. This inability to make a determination also means that the BLM cannot override the RS2477 claim and require the road to be reclaimed back to a natural state at this time. The RS2477 statute also states that access cannot be blocked, and yet BLM has put up the gate at the entry of the road as well as a sign stating that permission must be obtained to access the road because they are responsible for protecting the public lands adjacent to this road. To date, there has been no request from the County to open the gate. Both Mr. Wakefield and Mr. Ross stressed that they are a Cooperating Agency with the County at this point.

A third layer of approval for the road comes from the 1866 Mine Act, which permitted roads to be constructed on public lands for public use. Rick Colville from Blue Diamond wondered if the BLM is required to give Gypsum access to the mining road as long as they are mining. Mr. Ross explained that the BLM is required to give them access, but not necessarily on that road. Mr.

Blythin asked for clarification on this preemptive easement through the 1866 Mine Act. Mr. Ross explained that this law is exclusive to activities on public land, not private land.

The Council wondered if a new road through the National Conservation Area (NCA) would take an act of Congress. Mr. Wakefield explained that NCA legislation states that no new ROWs should be issued unless they benefit the NCA. However, he went on to say that the BLM cannot say that they would *not* issue a ROW if one was requested, because that would be pre-decisional.

When asked to clarify the Gypsum ROW appeal process, Mr. Ross explained that Gypsum was appealing to the judicial portion of the DOI called the Interior Board of Land Appeals. He also explained that the decision made by this board could also be appealed in federal court.

Pat Van Betten from Blue Diamond asked if the BLM had been up to the area in question to see what Gypsum was doing, and if they had a timeline. Mr. Ross explained that although he personally has not been up there, inspectors from both the BLM and the Nevada Department of Environmental Protection (DEP) have been up there. He also stated that the request for a timeline will be made before the end of next month, in the letter they plan to send to Gypsum regarding reclamation activities. Ms. Van Betten stated that this was not a road. Mr. Heeman pointed out that Nevada State Law referred to this road as an "accessory road". Ms. Van Betten also complained that many people have called the County to complain about Gypsum's recent activities and get more information, and they have received no answer. BLM staff stated that since there is no ROW application, and no request for sale or lease, there is nothing to act on. This land is considered disposal land in the current Las Vegas Resource Management Plan (RMP), which means it could be put up for sale in a bidding process. However, the disposal classification may be taken off the disposal list in the current RMP revision if there is enough pushback from the public, and the BLM is open to comments from the public. The Draft Environmental Impact Statement for the RMP revision is expected by the end of this calendar year, after which there will be public meetings for discussing any issues of concern.

When asked if Gypsum has specific hours in which they are supposed to be doing their reclamation, Mr. Ross reported that he would look this up and let the Council know.

When asked how long the appeal process would take, Mr. Ross guessed probably about 6 months.

Mr. Matthews asked about Don Purdue's claim in a prior meeting that James Hardie Gypsum made a deal with the BLM that they would not mine the Margo Claim in exchange for listing the land in question as disposal land. Mr. Ross replied that the disposal boundary was created in 1998, and that there were boundaries created in exchanges with Gypsum at that time, but that it is no longer standard BLM practice to exchange land.

Mr. Heeman wanted to know if Gypsum submitted an updated Plan of Operations for Mining, and pointed out that according to a letter from Robison Engineering in the BLM project file, James Hardie Gypsum created the last plan and that Gypsum was creating a new one now. Attachment A of the letter stated that Gypsum has no plans to reclaim anything until March 2013. Mr. Ross stated that his office will clarify with Gypsum that the reclamation needs to happen sooner rather than later. Mr. Blythin pointed out that the conveyor belt is supposed to be part of the reclamation according to the current plan, yet nothing has been done with it yet.

Mr. Heeman motioned that the Board keep water and the mining road issues on the agenda open for further discussion in future meetings when all 5 board members can be present. The motion passed unanimously.

Mr. Colville asked how it would change things if the County were to decide to relinquish their RS2477 claim on the mining road. Mr. Ross replied that in that case, Gypsum could only use the road until the public lands are reclaimed. Mr. Matthews asked Mr. Munhall to have County staff put together a list of the pros and cons of keeping the road under the County.

IV. COMMUNITY CONCERNS

- A. Someone noted that random expensive vehicles have been having meetings along Highway 159. They also asked if the BLM was monitoring who was going in and out of the gate to the mining road, and pointed out that many times the gate is left open all day long and unmarked vehicles are going in and out. Someone else pointed out that non-construction vehicles are entering the site as early as 6 a.m. in the pitch dark.
- B. Mr. Colville asked BLM to have Gypsum document who has keys to the gate.
- C. Ms. Van Betten asked the BLM to get a timeline from Gypsum a.s.a.p.
- D. Mr. Colville pointed out that when he went up to the site, there were no survey stakes that would signify Gypsum is laying out a road, but that he did see road-building equipment on the site.
- E. Mr. Heeman noted that there was a new “terraced area” on the ridge of the proposed development and would like to know what that is.
- F. Mr. Heeman mentioned that the RS2477 law is self-enacting if the road qualifies under three aspects, one of which is that the road be a free, open unrestricted pathway. He pointed out that the mining road cannot be an RS2477 road since it does not meet these criteria.

V. REPORTS (note: Water District Report included with General Business above)

- A. Mr. Munhall, our Town Liaison, gave his report as follows: 1) He sent the following email to District Attorney Rob Warhola:

I'm heading out to Red Rock CAC this Wednesday night and I was hoping to address a concern that was raised at two previous meetings where the preliminary Specific Plan was discussed. The Specific Plan shows much of the the core of the development, as well as other parcels, being used for various public purposes like schools, parks, fire station, libraries, trails, etc. This land is not owned by Gypsum Resources; rather, it is BLM land. Members of the Red Rock CAC asked if this was appropriate given that one of the conditions of the Concept Plan was: The portions of the Concept Plan on BLM lands are not approved. Could you please advise.

Also, they want to know if the Red Rock CAC will be required to hear and make a recommendation on a final Specific Plan and PFNA, which we are led to believe will be submitted very shortly, in light of another condition of the Concept Plan: Right-of-way approval from the BLM for primary access is required prior to approval of Specific Plan. The CAC believes that this issue should be resolved prior to the final plan coming before them for the same reasons the BCC does not want it to come to them. As of last week, the applicant had yet to even file an application with BLM for the right-of-way. Again, could you please advise. Rob is working on a response.

2) NW Planning Area 2007 Land Use Plan is being updated. The process will kick off in late April or May and will at some point be presented to the Council for their opinion. 3) There will be a Town Board Chairs meeting on May 22. 4) He's been working with Christie Breeden on a grant application to get some of the stuff requested for the Spring Cleanup. 5) Laura Glismann has requested a better opportunity to recycle in the village. Nina Mata pointed out that there is currently a general recycling bin at the village store.

VI. ADJOURNMENT

- A. The next meeting is scheduled for April 25, 2012. The meeting was adjourned at 9:30 pm.