STATE OF MONTANA
DEPARTMENT OF COMMERCE

HARD ROCK MINING IMPACT BOARD ORIENTATION

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TRANSCRIPT OF PROCEEDINGS

Helena, Montana
Tuesday, September 11, 2018
8:42 - 1:20 P.M.

BOARD MEMBERS PRESENT:

Keith Kelly, Helena, MT
Mark Thompson, Butte, MT
Donna von Nieda, Nye, MT
Jane Weber, Great Falls, MT

DEPARTMENT OF COMMERCE STAFF:

Jennifer Olson
A.C. Rothenbuecher
Anne Pichette
Jodee Prevel
Amy Barnes
Bonnie Martello
<p>| 1 | MS. OLSON: We can get started with the official transcript. We have a court reporter here, but just know, please ask any questions, we want to keep this as much as a learning experience for you. And then also if there's any questions that we can't answer, we'll definitely help you along the way and find out the answer to any of your questions. So with that, I'll hand it over to Anne. |
| 3 | MS. PICHETTE: Jane Weber? MS. WEBER: Present. MS. PICHETTE: Thank you. And then since some of our board members are new and some of our staff members are new, we thought we would like to take a few moments and have each of you tell us a little bit about yourself, introduce yourselves to your fellow board members and to the staff here. Would you like to start, Mark? MR. THOMPSON: Do I have to? My name is Mark Thompson, I'm the vice president of Environmental Affairs at Montana Resources, which is the copper mine in Butte. I'm also the president of the Montana Mining Association. I'm happy to be here. MS. PICHETTE: Thank you. MS. WEBER: And I'm Jane Weber and I'm retired Forest Service 31 years, so I have a forester's background from the University of Montana. And I've been a county commissioner in Cascade County for eight years and I'm very involved with the EPA Superfund sites over in the Great Falls area just because of my background, I've taken an interest in that and taken care of the lead of the county. So it is my pleasure to be here. This is the first time I'm getting orientation, so it's going to be great. MR. KELLY: Good morning, my name is Keith Kelly, I'm trying to go back to the first year, I guess. I retired, really, I moved back from Washington, D.C. after working for President Obama on Veterans Employment Training Service, was my last stint in Washington, D.C. As being an old Vietnam vet, they brought me back there, or somebody did, two and a half, three years. And so I retired from that. And then prior to that, of course, worked in Governor Schweitzer's administration, and I even go back far enough to Governor Schwinden's administration. And here on this, when the call was made to me, I had the good fortune prior to, the federal Whitehouse made me get off of it, but now I'm back on, the Bank of the Rockies board of directors, which is, their headquarters out in White Sulphur Springs, which is the community that may or may not be impacted coming down the road on hard rock mining. So my representation here, I do go to the bank board meetings monthly and kind of know something about banking, not a lot, but some. And I'm really happy to be here, look forward to this. |</p>
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<td>you would have seen that --</td>
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<td>MR. KELLY: Carried out there, too?</td>
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<td>MS. VON NIEDA: Yeah, it depends on if there</td>
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<td>are kids who play, they have paws out there, too. So</td>
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<td>yes, our, this is our homecoming week, so, yes.</td>
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<td>MR. KELLY: Boy, that whole town was painted</td>
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<td>from one end to the other.</td>
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<td>8</td>
<td>MS. VON NIEDA: It is painted, yeah.</td>
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<td>9</td>
<td>MS. OLSON: Well, now I have to ask, what is</td>
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<td>10</td>
<td>the mascot?</td>
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<td>MS. VON NIEDA: Huskies. And it's orange</td>
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<td>12</td>
<td>and black. So there's paw prints and black and</td>
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<td>orange all over the place.</td>
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<td>MS. OLSON: So maybe we'll share just a</td>
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<td>little bit about ourselves from staff. A. C., do you</td>
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<td>want to go?</td>
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<td>MS. ROTHENBUECHER: Sure. I'm A. C.</td>
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<td>Rothenbuecher, Marty is head bureau chief, but that's</td>
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<td>who I speak with, bureau chief. We've been through a</td>
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<td>reorg in the community development division. So I'm</td>
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<td>the operations manager responsible for supporting</td>
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<td>operations of the division as a whole and supervising</td>
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<td>our programmatic staff.</td>
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<td>We work on planning, infrastructure,</td>
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<td>community vitality, housing programs, and then our</td>
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<td>board administrative is attached to the Coal Board</td>
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<td>and Hard Rock Mining Board. I've been at the</td>
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<td>Department of Commerce for less than a year and a</td>
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<td>half. So this is also an opportunity for me to learn</td>
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<td>as well.</td>
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<td>MS. OLSON: So my name is Jennifer Olson,</td>
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<td>I'm the community development division administrator.</td>
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<td>I've worked for commerce for about 14 years. I've</td>
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<td>had the pleasure of working in a variety of</td>
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<td>different programs as the program specialist and the</td>
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<td>program manager as the bureau chief and now as the</td>
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<td>division administrator.</td>
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<td>So I have enjoyed my time and kind of get</td>
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<td>addicted to the work that we do because it helps</td>
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<td>communities in so many different ways, so it's pretty</td>
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<td>16</td>
<td>exciting to watch all of that development and growth</td>
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<td>and community strive.</td>
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<td>But on a personal note, I have three kids,</td>
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<td>all of which are at home for a moment before they</td>
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<td>20</td>
<td>head off back to college. And actually my daughter</td>
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<td>21</td>
<td>is just home actually moving, graduated from U of M</td>
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<td>and she moved out of state, came back, so she is</td>
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<td>trying to get her feet underneath her, but, anyways.</td>
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<td>So it's really great to have you all here.</td>
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<td>This board tends to meet more irregularly, I would</td>
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<td>say, than regularly, just simply based on need, and</td>
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<td>then also based on, you know, whenever there's an</td>
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<td>action or activity happening.</td>
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<td>So, but know that we're all here to help and</td>
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<td>support you, so if you ever have questions, we are</td>
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<td>happy to answer any of them, so.</td>
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<td>Jodee, do you want to introduce yourself?</td>
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<td>MS. PREVEL: I'm Jodee Prevel, I'm the</td>
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<td>administrative support supervisor and administrative</td>
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<td>assistant to the board. I've only been at Department</td>
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<td>of Commerce for about three months now, so this is</td>
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<td>all very new to me, but I'm ready to learn.</td>
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<td>MS. PICHETTE: Morning, everyone. I'm Anne</td>
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<td>Pichette and I am your administrative officer. So</td>
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<td>you can just reach out to me any time you have</td>
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<td>questions of the board or just think of anything you</td>
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<td>17</td>
<td>need and I will do my best to get you an answer.</td>
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<td>I've been in this position here as a staff</td>
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<td>to the Coal Board and the Hard Rock Mining Impact</td>
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<td>Board about a year and a half, but I've been at</td>
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<td>commerce for almost six. So I'm very excited to be</td>
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<td>here and I'm so glad to meet you all face to face</td>
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<td>instead of just on the phone and e-mail.</td>
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<td>MS. OLSON: Did you want to introduce</td>
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<td>yourself?</td>
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<td>MS. BARNES: Sure. I'm Amy Barnes, I am the</td>
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<td>legal counsel for the Hard Rock Mining Impact Board,</td>
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<td>but that's not all I do. I am actually legal counsel</td>
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<td>for the Department of Commerce, and then the Coal</td>
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<td>Board. I give legal advice to the Board of</td>
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<td>Investments, Montana Heritage Commission, I have got</td>
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<td>a lot of different roles, so it is pretty fun.</td>
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<td>But I've been at commerce for about three</td>
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<td>years now and I am excited to walk you guys through</td>
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<td>this impact plan process today.</td>
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<td>MS. MARTELLO: And I'm Bonnie Martello and</td>
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<td>I'm the paralegal here at the department, support</td>
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<td>Amy in her endeavors of the board and all of our fun</td>
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<td>that we have with those. And I've been at Department</td>
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<td>of Commerce since 2011, so, yeah, we're here to</td>
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<td>help.</td>
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<td>MS. OLSON: All right. So, like I said,</td>
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<td>we'll kind of keep this low key so, please, stop,</td>
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<td>interrupt us, ask questions as we go through.</td>
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<td>There's no, you know, so pressure is off today.</td>
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<td>The only decision you have to make today is</td>
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<td>when is the next meeting, so that's a good thing.</td>
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<td>But I think if there isn't anything else, we'll move</td>
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<td>to the next agenda item.</td>
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<td>MS. PICHETTE: Great. Thank you. And I</td>
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notice we have quite a few members of the public with us today. So for the start of our orientation, we just want to give an opportunity for public comment, if anybody here wants to make public comment. We would just ask that for the benefit of the folks who might be on the phone, if you would state your name clearly and spell it if it’s complicated. And you could come up to the podium if you like, if anybody --

MS. DAVEY: Go up to the podium?

MS. PICHETTE: If you want to do any public comment, you have an opportunity.

MS. DAVEY: I'm Maureen Davey, commissioner in Stillwater County. We are home of the Sibanye Stillwater Mine. And I'm very glad to see that you are meeting again. I went over your past minutes from a couple of years ago and I said the same thing.

It's very important to us that you meet at least once a year so you can do some of those duties that we need, the hard rock mines, need you to take care of. And new board members and, Keith, Maureen Davey from Columbus, we have known each other for quite a while.

MR. KELLY: Oh, yeah. Sure, now it's coming back.

MS. DAVEY: But glad to be here, glad to see that you are meeting and I'm going to say we have the best hard rock mine in the state.

MS. PICHETTE: And just for the benefit of everyone here, we want to make sure you all know that there is a sign-in sheet up front here, and there is a copy of the binder that the board will be going through today for their orientation. If you all want to look through that, make sure, that you're welcome to.

MR. BLATTIE: Morning, I'm Harold Blattie, it's B-L-A-T-T-I-E, and I'm a former Stillwater County commissioner. And in that capacity, participated in the amendments to the Stillwater Mine for the thousand ton per day.

And then as an adjoining county, neighboring county, affected county, I also participated to a more limited extent in the East Boulder plan. So one of the few people left around somewhat available that has had some hands-on experience in going through this process.

So I'm also retired executive director of the Montana Association of Counties and got brought back into service on a very limited basis, emphasis very limited, to kind of help out with special projects and like today, because of my natural interest in the hard rock plan, and this board.

And I would just like to make a comment to the board members, and those of you that have been on the board, you know and understand this, but for the new members, while it may not seem like you have a whole lot to do, when a plan is submitted, what you do is just critically, critically important.

Because that sets the whole stage for the tax base sharing and the distribution of the metal mines license tax and all of those things that is critically important to those counties that are affected.

So don't think you're on a do-nothing board just because you don't meet a whole lot, but when you do, you're going to have some very, very important decisions to make. Thank you.

MR. WALLACE: Bill Wallace, Sweetgrass County commissioner, also chairman of the MACo Hard Rock Mining Board Committee, just here to support you guys and tell you the work you do is very important as Harold said, keep up the good work.

MR. JOHNSON: I guess since we're doing introductions, I'm Dave Johnson, I'm the environmental manager of the Stillwater Mine. So I'm here representing the mine just to get a kickoff and hear how things progress as we start this, this new board and kickoff session. So, thank you, appreciate the opportunity to be here.

MS. PICHETTE: Well, thank you everyone. If nobody --

MS. DAVEY: Anne, could I say one more thing?

MS. PICHETTE: Yes.

MS. DAVEY: The previous board very diligently was going over the Guide to the Implementation of the Hard Rock Mining Impact Act, and I don't think they quite finished it, but I hope that it does get finished and that the efforts on it, several of these board members that are still here, continues.

MS. PICHETTE: So, yes, if nobody has any questions as we start, we'll just start going through your binder here, after the agenda, this is the kind of gray one first.

We just have a table of contents here so you have an idea of what we are going to talk about today. So think in your mind any questions you might have, we want to make sure everybody walks away today
feeling comfortable about their new board membership positions.

And to start here with Tab 1, just for all of your reference, we just have the contact information for everyone here. If sometime today you would take a moment and look at your own information and let me know if anything has changed, is outdated or is incorrect, I would appreciate that. That way we make sure we get all of your information to you in a timely fashion. And then if you want to turn to Tab 2, now that we know how to reach you, this is how you reach us.

So everyone who is here today who you may want to communicate with, we've given you e-mail and phone numbers here. Probably the most important e-mail is the one at the bottom, which is our shared e-mail address. That way you can reach any and all of us, whoever is able to answer fastest.

But we also wanted to make sure as your staff that we gave you all of our direct contact so we can get answers, too, as quick as possible. So please hold on to that, use it if you need.

If you have questions after today, you can e-mail any of us and give us a call and we're here to help you through all of this process and through each of your meetings, so please don't hesitate to contact us.

Next, you'll see on Tab 3, we have a few different board procedures, some information we want to make sure you have and feel comfortable, and A. C. has a presentation she's going to give about open meetings -- or Jennifer, I do apologize, Jennifer is going to talk to us about open meetings and your responsibilities.

MS. OLSON: Perfect. So if we want to just start with that tab. So I'm just going to go through some, some basic information about open public meetings and public participation and public records, there's a couple of dry things in here, but I think good information, particularly because of the, not only because the board's responsibility is to ensure that the public is engaged, but then also how do we records manage that and also how do we make sure that the public is always engaged regardless of the communication that it has that occurs. So we'll go through some basics here, but happy to talk through any questions.

So basic information, this all comes from the Montana Constitution, open public meeting laws that is found appropriate to state law, the public participation law and the public records law.

So as you can see, there's four different places that we look to see how boards operate and how that communication occurs amongst between board staff, board members and the public.

So as you can see at the very beginning, Montana Constitution Article II, Section 8, talks about the right of participation. So the public has the right to expect that the government will allow and promote public opportunities for participation and also provide a reasonable opportunity for that.

So part of what we do is try to ensure, or what we actually do ensure, that the agenda is announced; that if there's a decision about when that a meeting is going to occur, that we put it on the state eCalendar, we send it out to our doc list serve or any individual that is interested as well as making sure that you all have it.

So this is kind of a unique situation, I would say, from the orientation perspective because the chair, under the statutes for the Hard Rock Mining Impact Board, there are three ways in which a board meeting can be called.

It can be called by a forum or the majority membership. It also can be called by the chair or there could be another reason to be calling that. So with an orientation, we called this meeting because we wanted to make sure, number one, that you all were educated on what the responsibilities were, but then also there's no chair at this point.

So next meeting, that will be an agenda item that be will taken care so that there is a chair that could effectively carry out that responsibility, but really to ensure that that right of participation can be carried out effectively.

Also Article II, Section 9 is the right to know. So when board communications happen, the public also has a right to know in order to ensure that they have opportunity to be back or to provide feedback or an interest in the information that may be discussed or exchanged. And so Montana Constitution clearly establishes that there is an ability for that information to be made available.

The only thing that there is an exception to is, if there's an individual privacy concern. So, you know, while the board is administratively -- so, excuse me, the board is administratively attached to the Department of Commerce, provides staff, so you're not involved in the personnel matters, but that's a
good example of a reason that there would be privacy
concerns because of personnel matters. So doesn’t
necessarily come up very often.

So meeting, Montana Open Public Meeting Law
defines the term "meeting" as any convening of a
quorum. So right now we have a quorum of a five
board membership. Three would establish the quorum.
So right now we’re having a meeting even though it is
an orientation meeting.

The constitutional -- or the constituent
membership of the public agency, which is described
further in 2-3-203, which is that quorum. And also
it can include not only the physical meeting of
people, so this board being here at the same time,
same location, establishes a quorum, but that can
also be determined electronic.

So if there is an e-mail correspondence that
would be, you know, everybody is on, and they all
start to talk within that e-mail correspondence or
chain, that establishes a meeting. So when the board
staff set a meeting, you’ll notice that we say just,
we’re just going to give you information.

That sending the information does not
constitute a meeting. However, your reply all back,
if you were to reply back to everybody, would

constitute a meeting. So we try to send information
one way, which is here is the meeting or here is the
agenda or here is the location, logistics, or here’s
the website you can find all the information. That
doesn’t establish that meeting.

But, so we always try to make sure that
you’re aware that when you reply all, that could be a
violation of open meeting law. Any questions about
that? I want to make sure, and we’ll go into some
other, other conversations and examples here.

So a public agency, which is Department of
Commerce, is any public or governmental body bureau,
board, commission, agency of the state, or any
organization or agency supported in whole or in part
by public funds or expending of the funds.

So the Hard Rock Mining Impact Board
falls squarely within that definition. So if not
only -- you don’t, you not only apply to the
definition of meetings, but then you also apply to
public agency.

And the Montana Attorney General has held
that the Constitution requires that any meeting of a
public agency, so of the Hard Rock Mining Impact
Board, be open to the public, whether the matter
being considered involves large issues of policy or

characterized as a meeting.

Also, those meetings must be open to the
public. So one of the things we try keep the door
open and make sure that people know that it is,
you’re definitely welcome to come in, not only the
notification, but ensuring that there’s
accommodations. So typically in our notices we’ll
say, if there’s an accommodation that you need, let
1. the department know.

MS. WEBER: Jennifer, can I just ask, how far in advance will you typically notice a meeting?

MS. OLSON: So we’re required to notice them at least, it's in here, but my recollection is that we have to notice them at least 72 hours in advance. However, we try to get them out at least a week in advance so that there’s a little bit more time available for folks.

However, I’ll note that because if there is something that comes up and the board is saying, hey, the chair needs to have you guys meet and this is you know, we got to call a meeting because we got to take an action or make a decision on something, then that could also be why there’s a more restricted time frame, but, yeah, at a minimum we have to follow the law.

MR. KELLY: Can I ask a question here? If I’m not available or we’re out and about on a short notice and that, will a telephone call in constitute presence in the meeting?

MS. OLSON: Yeah. Great question, yeah. So a physical presence is not required to be, to establish a quorum, so can be a conference call or a webinar or any sort or other electronic means that you can fully participate, as well as the public. We offer opportunity for those folks that are chiming in in the conference call, a webinar, to also participate.

So there are some exceptions though, again, individual privacy, so -- excuse me. So if there is something that comes up regarding individual privacy, and if the presiding officer determines that the demands of the individual privacy exceeds the merits of public disclosure, but minutes still must be taken.

So the right of individual privacy may be waived, but the individual about whom the discussion pertains and in that event, the meeting must be open.

MS. WEBER: Jennifer, I'm sorry to ask another question.

MS. OLSON: Yeah, please do.

MS. WEBER: Are counsel normally at the meetings?

MS. OLSON: Depends upon the -- not necessarily.

MS. WEBER: Okay.

MS. OLSON: Depends upon the agenda and what meeting needs are there. Also, it depends upon if the board is looking for some direction specifically about an issue for legal counsel to be present. So we’ll talk a little, we'll go through, Amy will go through the hard rock mining impact. So Harold had talked about an amendment, you know, there’s a responsibility that the board has when an amendment comes up.

And so the board might say, hey, I’d like to call legal staff just to get some idea of what -- that orientation was two years ago, and I can’t quite remember what the orientation packet said about amendment, so what is my responsibility. So you can call Amy and directly ask. You also might say as a board, you know, we would like to have legal counsel come and just kind of walk through that process with us at the next time that we meet.

Legal counsel might show up in person or might be available via conference call or could send you a memo, too. So there’s a lot of different ways that you could be interacting with legal staff.

And there are some things, particularly from a public process when there’s a, we’ll go through the act again, when an impact plan is submitted and there’s a hearing involved that happens at the local government level, to ensure that there’s participation.

What you’ll kind of see is this little bit of reversal. Legal staff will make sure that, particularly Bonnie, who can help to make sure that we're walking through the hearing process because there is specific things that are called out to ensure that we have met all the criteria.

So then she, to support Amy, will come through and say, okay, these are the specific things that we need and then Amy will definitely be more engaged. But that happens only, well, only when there’s really a necessitated need, otherwise we have the four us to help you.

MS. WEBER: Thank you.

MS. OLSON: Yeah, go ahead.

MS. VON NIEDA: I know this is just a general thing, but at a later point, I think it would be good to address when we talk about regular meetings for the Hard Rock Mining Impact Board, I believe the act specifies that we at least meet once a year to approve the disbursements from the Department of Revenue.

And when we have, such as happened in the
1 last couple of years where, and happened in the past where we're not meeting, how can we address that. Because I think, while it is great that, quote, "nothing happened" with regard to misappropriation of funds, I think that it is not in keeping with the spirit of the act.

MS. OLSON: So we can, we can definitely walk through that, that statute. Amy is going to be walking through some things.

MS. VON NIEDA: Okay.

MS. OLSON: Actually, it's funny that you bring that up, we had, Amy and I had had that discussion, so I think that that's a great question that I would love to have her chime in on.

MS. VON NIEDA: Right.

MS. OLSON: And we'll go through some of the other things that the department does as part of the statute as well.

Montana Public Participation in Governmental Operations Act can kind of, continuing on this, the act applies to governmental agencies defined as any board, bureau, so this is getting again that this does apply to the Hard Rock Mining Impact Board as well other boards that are administratively attached to the Department of Commerce and other state agencies. And the Governor's policy is to provide as much public participation as possible in all of the board meetings and events.

So not only as the appointees from the Governor on this board, but then also as staff and the executive, we try to make sure that that does happen to ensure as much participation and public engagement.

So the agency may not take an action or on any matter discussed that is of significant interest to the public unless that matter is noticed, included on the agenda and public comment has been allowed on that matter.

So in keeping with that theme of public engagement, so when we look at the agenda for today, you can see that there was, there really is only one action. And the reason that is, is because -- well, first of all, we didn't have a chair to help set up what the agenda item should be, so really just an education. But then also wanted to make sure that we had the next meeting set up so that we can start to meet the needs and responsibilities of the board.

If there was something discussed today, that would be the board's opportunity to say we'd like to have more discussion on this and then it would be noticed on the next meeting agenda or action could be taken.

So I would encourage you, particularly as the next agenda is set to, you know, obviously let other board members know and let Anne know what specific items you feel like are important to be at the next meeting to be sure that the public is aware so that they can fully engage in that as well. Any question on that?

So no explicit time requirements, but we must give reasonable notice on the actions that are of significant interest to the public. So the Constitution states that any doubt as to whether an action is of significant interest to the public, should be resolved in favor of increased public participation. So any non-ministerial decision or action that has meaning to or affects a portion of the public requires notice and an opportunity to participate.

So you can see that there's, there's a lot of latitude or a lot of white-bread that is given as to what is the definition of public engagement when it comes to those significant actions.

So by default, if you are questioning of significant, I would say it's probably significant to ensure that it's part of that agenda, that allows more opportunity for conversation, feedback from the public and input.

So in an emergency situation, if it's affecting public health or safety, that could be a reason why the board needs to make a decision right away. Also to maintain or protect the interests of the agency.

Maybe if that's filing a lawsuit or becoming a party to an administrative proceeding, that could be another reason why there's limited public participation.

So that would be something that definitely we want to still take minutes on, follow up to make sure that we're able to capture the intent of why it met that exception. And, lastly, if there's just purely ministerial discretion decisions.

For instance, I think, you know, if there's something right at the meeting and you are like, gosh, I need some tablets or something, can we just make sure that we have tablets at the meeting to write on. If that's something that the board needs, we can definitely provide that. The public isn't really going to, you know, such as a minute thing and it helps you to do your job, we want to help you do
that, so.

So we have some department guidelines as well. So not only do we look at the Constitution of the public meeting law, but the department also establishes from that consistency perspective some guidelines on public participation.

So informational materials are provided at the earliest possible opportunity for the public to go to the website that A. C. was talking to ensure that they can see all of the information that you all are going to see.

Also provide a copy of the orientation binder here for the public to see everything that you are seeing as well. In case there is something from a length of some sort of technical document that can't put on the website or there is something that includes PII, personal identifiable information, or sensitive data, we will redact that or not make that available so that we can protect the interests of whatever organization or entity or individual is providing that.

So that includes something that they would want to be, the public would be able to find that's easily accessible and that would be interested to all individuals.

If, in the course of your work on the board, you find that there is something in the binder that wasn't available on the website or via e-mail, let us know. We want to make sure that we're helping you follow these laws as well. And we pretty much provide for the hard rock everything that you have here on our website and or make it available here.

So we're actually increasing our technology advancements. So we put our agenda on the website right now, so we are working to put more of the orientation binder and everything else like that on the website so that more people can see what we're, what we're doing and what's going on. And we're following suit, actually increasing how we are doing Coal Board as well to that end. So we're learning, we're going and we're improving, slowly, but we're getting there.

So the other thing is, is we want to make sure that the public can make informal and constructive contributions. So hearing it and seeing it and being able to read it, it is important to having that information available online is part of that public participation that the department likes to carry out. Also, if there is anything that is somewhat complex or technical, that we can provide that in a summary fashion.

So, notification. We maintain a list of interested parties and organizations that the electronic list that I was speaking of. Anybody can ask to be included as part of that list, so it doesn't have to be approved or anything. We still have to follow federal law. So they have to opt in to all of our e-mail systems and we send them an e-mail that they can document that.

We're actually changing to a new e-mail system to allow that to be easier because the current e-mail system actually is a little bit more restrictive. So we're going to be changing things in the next, well, before the end of the year, so the next three to four months to go to what we call gov delivery, and so that will help hopefully make sure that everybody is on a better e-mail system all of those notifications.

What we have been seeing is that some of our, what we call our e-mail lists have been going to spam or get lost somewhere along the way and then the recipients aren't getting that. And also if they opt out twice, we can't ever add them again with our e-mail.

So if I say, okay, so, Jennifer, Jennifer...
MS. OLSON: Yeah.

MS. WEBER: And that could be a way to just inform all of them.

MS. OLSON: And we typically do attend those meetings, our staff, so we can definitely update that. We aren't quite there with the e-gov delivery, so by January we'll have, hopefully be up and running to make sure that everybody has transitioned over.

The other thing we have done is, we used to have individual e-mail addresses, so it would be like doc hard rock mining or doc coal board or doc TCEP or on goes the list. And instead, we're trying to just make it simpler.

So doc CDD at MT dot gov, you can get us for anything, and then it will automatically come to the division and we can definitely get connected so there's no confusion along the way.

MS. VON NIEDA: And I think having, possibly for Bill and Maureen, and having clear instructions as to what the website address is, how to navigate to that, it sounds ridiculous, but, I mean, literally step by step is very useful when you're handing out information like that, click here, you know, this is what you'll see.

35

Because I think if we do have people who are in transition but they have those instructions, they can -- the commissioners and school board and others can still pass that information on and they can still stay current with knowing what, what is planned.

MS. OLSON: You bet. We're happy to help facilitate that. Those are great, great thoughts.

Anything else?

So at any rate, so we also notify any interested persons of any public hearings or other decision-making proceedings prior to the decision-making and supplement this with notification with informal notice to all interested persons or groups having requested those in advance.

So if somebody were to say, hey, I'd like to see copies of those meeting minutes when they become official, then we'll make sure that we provide that, make sure that we provide that information to them.

And we typically don't hand out, typically, we don't hand out draft meeting minutes because there could be edits or changes that you all want to make to that, so we like to make sure that that information is clear and consistent, reliable, so then we'll provide that after the board has approved them. And, again, we always post all of our meeting minutes after we have held the meeting on our website and those have been approved.

So some basic requirements that we also follow here at the department is publication. So on our agenda we post the notice of time and a place, the place of the hearing. And we also -- so 48 hours, see, I knew I was questioning that.

So the reasonable period before the meeting, that rule of thumb is 48 hours. So if there is some sort of an emergency situation or need to call that meeting right away, there could be, the chairman could call that and say 48 hours, we'll need to have a meeting. So then we help to set up that location. We help to set up the notification, send the e-mails out, post that on the state eCalendar.

But, the thing to point out here is it is a minimum. So we try to afford a lot more time than just 48 hours because, again, trying to communicate, engage the public is a primary responsibility not only for the agency and the board, but then also being encouraged by not only the constitutional meeting law and the Governor.

So new items, we were thinking about the

36

agenda, should not be added to the agenda at the hearing, but carried over to the next meeting that is regularly scheduled or a special meeting with notice.

So the role of the chair is important to control the discussion of those items in order to ensure that one is appropriate and you have time to comment, but then also that it is part of the agenda for the next time.

So if there is anything that we're looking at for the next meeting, we'll have a chair here, we'll start to add those, but the role of the chair is significant as you all know in order to help maintain, control the operations and the administration of those meetings.

Public should have the opportunity to obtain information related to every agenda item when notice is published. So decision-makers and public should be on equal footing with respect to that public decision or that decision that is being made by the board.

So if there is, so if the commissioners wanted to have a copy of the board packet, we would send that information along at the same time that you all would receive your packet.
Also, we're trying to make everything much more electronic so you'll start to see some changes in the coming 12 to 16, 18 months, that all the packets and whatnot become more electronic so that you can access instead of having the binder shipped to you if you want to, did I leave that, did I bring that, where did that go. Although I'm a tactile person, so I write on everything, so, anyways.

So if you have other means, just let us know. And actually we'll go through e-mail addresses here in a little bit, but that will be our primary way of sending information out.

So consent agendas should be treated as part of a regular agenda with respect to notice and open public meetings. So there is no expectation of board discussion or public comment, and items should not be a significant interest to the public and no discussion or comment may need to take place.

So some basic requirements for public comment. So we want to make sure that there's an opportunity to provide comment on each agenda item. So as you can see, the agenda as it stands for today, we open up with an opportunity for public comment.

However, before there's any decision being made by the board, each agenda item would need to have public comment so that the public has an opportunity to try to comment on any of those items.

So as an example, we were talking about payments, that could be something where before the board says, yep, I want to, we want to take some action on this, we need to open that up to ensure that the public doesn't have to, you know, insert themselves, but has an appropriate time to be able to provide that comment.

Some agencies limit comment period allowed for each speaker, but the courts haven't made a decision on this. So if we have a public meeting or hearing, the board, the chair, can decide that, you know, we have got a hundred people standing here and there's a lot of interest in this one topic, so we're going to limit everybody to five minutes or two and a half minutes so that you can provide an opportunity for everyone to participate, but then also provide a fair and equitable way to have everyone participate.

That, again, that responsibility definitely falls to the chair to mind the time of that and manage that. However, staff can definitely help keep track of the time so that the board doesn't have to, but rather just be the control for the conversation.

Public must be given opportunity to comment on items that are not on the agenda. So open public meeting. So at the beginning of the agenda, there's always an opportunity for public comment, plus an opportunity for anyone to come in and say, hey, you know, I'd like to talk about X, Y and Z, I'd like the board to take a, take some time and consider that, maybe go through some things, et cetera, et cetera. That's an opportunity for that to ensure that even though it might not be on the agenda, that the board is hearing the needs of the concerns of the public.

So Montana Public Records Act. So I'm sitting here thinking Bonnie is our records management guru, so I feel a little abashed by trying to do this on my own, but, so chime in, Bonnie, if I've said something that is not clear or you want to add to that.

So there's -- obviously, all of the records that we have for the board are part of the Montana Records Act, but the actions of the board takes the meeting minutes, are permanent public record. So we, department, are responsible to the ensure that that permanent record stays so that people can access that record.

So to that, considering that, public information is really subject to disclosure, so anything that the board is taking an action on, like meeting minutes, would be public information. So information prepared, owned, used or retained by any public agency related to the transaction of official business regardless of form would be something that the public can ask for.

So we have a public information process, meaning that we do keep track of who has been asking for what so that we can ensure that we not only fulfill that requirement to the degree that they need, but then also if it comes up, we can report back and ensure that we are able to provide information that was accurately and effectively.

MS. WEBER: So, Jennifer, has the department ever recorded the meetings and then posted them verbatim online on the website? Because, I mean, we meet so infrequently, the minutes would take forever to get approved.

So in the county what we are doing is recording ours, the minutes aren't there, but the recording is immediately put up on the website and
25 of 45 sheets

| 42 | then we time and date the minutes, so you can go to the website and listen to particular parts of the recording and that's what we approve then in our next meeting.  
But it at least gives the public an opportunity to hear the discussion. I mean, if they want to sit through eight hours of it, they can, but they can wait until the minutes are approved and then just go to the particular time/date stuff --  
MS. OLSON: Sure.
MS. WEBER: -- for a particular topic. Have you ever done that?  
MS. OLSON: For this specific board, not that I'm ever aware of. But the other thing I was thinking is, we just talk about kind of like the department as a whole and I wonder if Bonnie has a thought on that as well.
MS. MARTELLO: Yeah. So, again, I'm Bonnie Martello and we are transitioning to actually putting the actual recordings online so, and then it would be the action items would actually have, you could click on the action item and hear what was the discussion of the action item. So that's in the process, we're in the process of doing that. So then we would still provide the minutes that would have to be approved, because until records retention policy changes at the state level, we still have to provide that as the actual official meeting minutes, but we are kind of transitioning that way.  
And on that, is you guys will be able to go out to the website and get your packets that are right there also. So we're transitioning that way, but it is not quite there.
MS. WEBER: Great. It is convenient for the public.
MS. MARTELLO: Yeah.
MS. OLSON: And we have a court reporter here. As Jodee says, she's only been with the department for about three months, so part of what we're doing is transitioning there for her role, but then also, as an example, our Coal Board, and we do have that, we'll often provide a full transcript of, the court reporter is here, we'll provide that full transcript, which is a good nighttime reading if you have a copy.
So every person has the right to examine and obtain a copy of any public information of the state. So any member if the public or interested party can reach out to the department and say, I'm interested in knowing more about hard rock mining impact more and I'd like to, you know, get a copy of the orientation binder.  
So then we would take that request and we would help to fill that request, removing and redacting any, again, sensitive data or personally identifiable information that was not to be disclosed.
So agencies must adopt and follow records retention schedule. So most, as an example, most Coal Board grant and program-related records are kept for five years after project closeout because of grant award.
So here we do keep copies of all of the mine documents and the mining impact plan documents, excuse me. And then we also do keep obviously records of all meeting minutes or any handouts or that are either provided by the staff or received by the public as well.
So who is -- what is, excuse me, what is protected from disclosure. So confidential information, as we talked about sensitive information in PII is confidential information. So individual privacy clearly outweighs the merits of disclosure.  
Related to judicial deliberations in adversarial proceedings, so anything that might harm in regards to those judicial proceedings for deliberations. Those things that are necessary to maintain security of state facilities and information systems. And also designated as anything confidential, so by other statute, et cetera, so anybody that's got a secret sauce, you wouldn't be disclosing that.
Agencies may not distribute or sell a distribution list without permission of those on the list. So we, our distribution list we keep here and so we can constantly add to it, however we don't disclose it.
So if an individual calls us and says, hey, you know, was the other commissioners on there, we can say, okay, so we can look for the commissioners, but we can't give you a full list. We want to make sure that anybody who has asked to be part of that list, isn't, isn't part of a distribution list that is then being used for other reasons that wasn't the intent or the purpose of the hard rock committee, all the work engagement, that sort of thing. And it does not apply to a list of individuals who sign attendance sheets or sign-in sheets at an agency or hearing or meeting. So that...
So a good example would be, the amount of information is so vast that we can't provide that, and they didn't have something in place, we would -- or if they did, we would contact them and say, hey, this has been requested, you have ten days and they could then say, we're going to get a court order to not disclose that and then we would obviously follow that court order. So the court, not the agency, determines if information is public or confidential.

So what is that process. So upon receiving a request for information, the public agency must make the information available for inspection or copying. Or if the information cannot be readily identified and gathered, we'll provide the person with an estimate of time to fulfill the request and any fees that may be charged to cover actual costs.

So if there was some sort of secret sauce and they didn't have something in place, we would try to become electronic, that would be encrypted in order to ensure that that wasn't transferred electronically and then somebody had it and we didn't protect it. Personal information is first and last name with one or more of the following, so this is the personal information that is protected. Anything that would be Social Security number, EIN, IDs, driver's license number, ID card numbers, even a birthday, medical record information, any of that would be important.

So Bonnie is going to talk to you about your e-mail address were you did provide your birth date, that would be something that is a good example of it is protected personal information. If there was any specific information that the board has ever submitted to the Department of Commerce, that would be something that we would redact, so we are wanting to make sure that your personal information is also protected.

The department will continue to use nondisclosure agreements to provide process for conducting or providing protection for confidential information. So basically what we're talking about here is, again, those secret sauces.

If requested for identified information is received by the department, the department gives ten days notice to applicant to obtain an order protecting information. If nothing is given to us, then we release that.
Agency is not required to alter or customize information in any form specified by the requester, but we could do that and be charged a fee for that work. So if there is, say, they want everything exactly in this format and then this way and sent to me on this timeframe, then we would again have that, any potential fee. But of course the public then can do that and we're happy to help with that. This might cause a little more time to put it in that format and cost.

If an agency denies a request for information, we must provide a written explanation. Denial or failure to provide estimated time to fulfill a request, provides immediate standing for the requester to file a complaint in the court and if it prevails, may be awarded costs and attorney fees.

So we take this very seriously because there's implications not only about, you know, the responsibilities that we have to fulfill them, but even more so the public's right to know and the public to be able to participate to have access to them really is of paramount importance and clearly not only to the court, but then also to all of the statutes that we have looked at and the Constitution, it's really saying let's help them out.

So we do our due diligence and we make sure we go through everything and give them as much as we can in regards to the information that they are requesting that can't be redacted.

So there is some also guidelines that we have for just public inspection. Like I said, it can just be for viewing. So all files other than personnel files and those files required by law or requirements of personal privacy are to remain confidential.

And so the other ones are open to the public and public inspection can occur. So if the individual were to stop by this morning and say, hey, I'd like to see them right now, that could be a problem because it might not be available, we might have to go down to our current records and pull that out.

But we would definitely work with them and say, you know, we're happy to set up a time, let us figure out when you can come review and inspect them, we will have them available, set you up in a place that you can come and look at them.

They are located right here in the building that we are sitting at and copies of specific documents can be available either free or for a reasonable copy charge, plus the employee time.

So let's go through a few questions just to make sure that I haven't said something or missed something along the way and I want to just kind of walk through them.

So there are two different types of public comment that you must allow public meeting. So, and they are all in the agenda. What, do you remember what those two are? So there's an opportunity to comment on each item on the agenda and then there is comment not on the agenda.

So the public can say, I would like to comment on this orientation binder or the public can comment and say, can we have that in a different location or the board can think about a different location for the meeting.

So when a public -- when must a public meeting be open? Always, except for the one instance where, right here, sorry, if it's about personnel information that can be a closed public meeting.

So when must a public meeting be noticed and public participation allowed. Sorry, I wasn't following along. Yes, exactly. Yeah, exactly. So when an agency is making a decision on an item of significant interest. Remember, we chatted about, so what is significant interest. If there's a question, I would default to it is significant.

If it's, you know, ministerial and it's very minor, that could be definitely feedback for the public as well, or just conversation amongst the board members.

So how much time before a meeting must be noticed? I've confused you because I said it.

MS. VON NIEDA: 48 hours.

MS. OLSON: That's awesome. So 48 hours is the general rule of thumb. However, again, if there's an emergency, public health situation, it could be less, but it is highly unlikely that this board will experience that.

So here is an example, and this is getting to the conversation about ex parte communication, making sure that open public meeting law has occurred so that we don't violate the definition of meeting.

So Mary sends an e-mail to her fellow public agency board members about information she's learned from a friend about an item that is noticed on the
| 1 | board's meeting in two days. Joe and Jim, who are on  |
| 2 | the board, both reply to all, each giving their  |
| 3 | thoughts about the item and how -- and the  |
| 4 | information Mary has provided. So has any law been  |
| 5 | violated?  |
| 6 | MS. VON NIEDA: Yeah.  |
| 7 | MS. WEBER: Yes.  |
| 8 | MS. OLSON: And how many times?  |
| 9 | MS. WEBER: All three times. Mary, Jim and  |
| 10 | Joe.  |
| 11 | MS. OLSON: So, yeah, there's three. Yes,  |
| 12 | exactly, three times. So, yes, it is an open public  |
| 13 | meeting, but once for Mary's e-mail and then Joe's  |
| 14 | e-mail, and then Jim's e-mail to all, uh-huh.  |
| 15 | So every single time there's a reply to all  |
| 16 | we have violated open public meeting because we have  |
| 17 | had an essential meeting.  |
| 18 | So what constitutes a public meeting?  |
| 19 | MS. WEBER: Any time a quorum is  |
| 20 | discussing.  |
| 21 | MS. OLSON: Yeah, exactly. Any convening of  |
| 22 | a quorum that the members of the public or agency is  |
| 23 | here, discuss or act upon any matter, so you have the  |
| 24 | responsibility.  |
| 25 | So that's, again, so if you ever have  |
| 55 | questions, you can definitely call us, chat with us  |
| 56 | and say, well, holy cow, what is going on here, I  |
| 57 | don't know, we're happy to answer. Or you can e-mail  |
| 58 | us individually. So sending, a board member sending  |
| 59 | one e-mail to Anne is not a violation of open  |
| 60 | meeting.  |
| 61 | MS. WEBER: No, but I think we should talk  |
| 62 | about if I sent an e-mail to Donna, we discuss  |
| 63 | something, and then I send an e-mail to Keith, and  |
| 64 | relay to Keith what Donna and I have discussed, and  |
| 65 | then I contact Mark, and talk about what Keith and  |
| 66 | Donna and I discuss and what their opinions, then you  |
| 67 | essentially bypassed the whole system.  |
| 68 | MS. OLSON: Right. So if you are  |
| 69 | undermining the intent of the law, and the intent of  |
| 70 | the law is to allow the public to participate in the  |
| 71 | conversation and you're trying to, you know, usurp  |
| 72 | that by individually having conversations, I would  |
| 73 | say that that would violate.  |
| 74 | And, again, the courts have made a decision  |
| 75 | that, hey, we're -- if there's a significant interest  |
| 76 | and you haven't afforded the opportunity to the  |
| 77 | public, they are going to default to saying this  |
| 78 | allows for more of a public meeting law, then that  |
| 79 | could be where they are.  |

<p>| 1 | off-agenda items that they want to say. So I would  |
| 2 | just say that that would be a good rule of thumb.  |
| 3 | MS. OLSON: Yeah, definitely. Any other  |
| 4 | thoughts or comments? Questions?  |
| 5 | MS. WEBER: Thank you. That was real  |
| 6 | thorough.  |
| 7 | MS. OLSON: So we'll go ahead and move on to  |
| 8 | the next item on our agenda, which is Bonnie, who is  |
| 9 | going to go through e-mail accounts.  |
| 10 | MS. MARTELLO: So mine are going to be super  |
| 11 | fast because we don't quite have everybody's  |
| 12 | information to get you set up on the state system  |
| 13 | quite yet. There is in there.  |
| 14 | So if I can have you guys fill out the top  |
| 15 | part to where the black line is. Turn that into  |
| 16 | Jodee when you're done, and then -- so the state is  |
| 17 | going to, so that we can kind of better adhere to the  |
| 18 | records management and public records request, we're  |
| 19 | going to be giving, providing a state e-mail to all  |
| 20 | committee members.  |
| 21 | That is how you will communicate with us  |
| 22 | here at the Department of Commerce and that is how  |
| 23 | you guys will receive your information through the  |
| 24 | state website, or state e-mail. And it will be  |
| 25 | faster for you guys to be able to get your e-mails.  |</p>
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<th>Page 60</th>
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<td>you know, bank work and this stuff together, so it's</td>
<td>on and get the information we need.</td>
</tr>
<tr>
<td>easier to keep it separate, we are not getting a</td>
<td>MS. VON NIEDA: Perfect. Thank you.</td>
</tr>
<tr>
<td>request and it's coming out that we're having</td>
<td>MS. MARTELLO: Any questions? Okay.</td>
</tr>
<tr>
<td>personal information from you because we have had to</td>
<td>MS. OLSON: So that also will be our primary</td>
</tr>
<tr>
<td>go search your e-mail.</td>
<td>way, after it is set up, of communicating with you,</td>
</tr>
<tr>
<td>So this is mostly safeguarding you guys on</td>
<td>so that way we have all of your board packets and</td>
</tr>
<tr>
<td>that it is just board information and it is not any</td>
<td>whatnot.</td>
</tr>
<tr>
<td>other information that we're, we're out there looking</td>
<td>So, you know, if there's any trouble, you</td>
</tr>
<tr>
<td>for it if we have to.</td>
<td>have the access to the department's resources, so our</td>
</tr>
<tr>
<td>And later, once I have all the information</td>
<td>IT staff is here to help, kind of troubleshoot that</td>
</tr>
<tr>
<td>and we have assigned you guys your e-mail addresses,</td>
<td>with you, or anything that you might be challenged</td>
</tr>
<tr>
<td>I will do a full-blown walkthrough on how you guys</td>
<td>with in regards to accessing that, so Jodee can help</td>
</tr>
<tr>
<td>get on, how you access your e-mail, you know, how we</td>
<td>you with that.</td>
</tr>
<tr>
<td>deal with records retention and that kind of stuff at</td>
<td>Additionally, I would add that it is also a</td>
</tr>
<tr>
<td>that time.</td>
<td>double sign on, so it has an encryption. So you have</td>
</tr>
<tr>
<td>Once you guys provide this to Jodee, it will</td>
<td>a code that goes in that changes every 60 seconds as</td>
</tr>
<tr>
<td>go to our IT department. It will give you guys your</td>
<td>well as your regular password. But that allows for</td>
</tr>
<tr>
<td>information to make sure that you haven't, one, have</td>
<td>any information that, you know, if somebody is trying</td>
</tr>
<tr>
<td>a state ID before and if it does, then that's the,</td>
<td>to break in or whatever.</td>
</tr>
<tr>
<td>you know, that will then carry with you. And then,</td>
<td>So the state has that across the board, no</td>
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<tr>
<td>two, if it doesn't, then we'll give you a new one.</td>
<td>pun intended. But, anyways, so that everybody has</td>
</tr>
<tr>
<td>And then once they get to them, we shred</td>
<td>not only that safety and security, but then if</td>
</tr>
<tr>
<td>them, that information is then gone. But, so that's</td>
<td>there's any assistance, we need to bring on other</td>
</tr>
<tr>
<td>why we're asking for date of birth, is just to make</td>
<td></td>
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<tr>
<td>sure that if you were a state employee, we have the</td>
<td></td>
</tr>
<tr>
<td>right state employee, so that, you know.</td>
<td></td>
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<tr>
<td>So that's the only reason why. I know</td>
<td></td>
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<tr>
<td>everybody is kind of grumbling over why we ask, but</td>
<td></td>
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<tr>
<td>that's IT's and to make sure that we have the right,</td>
<td></td>
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<tr>
<td>the right individual attached to that e-mail.</td>
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<tr>
<td>So next meeting, possibly, or if we have to</td>
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<tr>
<td>have, you know, a webinar or whatever, I would then</td>
<td></td>
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<tr>
<td>go step by step how you can get on and how, you know,</td>
<td></td>
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<tr>
<td>how that looks and how you can communicate through</td>
<td></td>
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<tr>
<td>there with everyone, so.</td>
<td></td>
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<tr>
<td>MS. WEBER: Bonnie, I see a prepopulated</td>
<td></td>
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<tr>
<td>under the phone, you just want our mobile phone</td>
<td></td>
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<tr>
<td>number?</td>
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<tr>
<td>MS. MARTELLO: Correct, yeah.</td>
<td></td>
</tr>
<tr>
<td>MS. VON NIEDA: I live in an area where we</td>
<td></td>
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<tr>
<td>have no cell service, so I do have a Google phone</td>
<td></td>
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<tr>
<td>number which routes my number to my home.</td>
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<tr>
<td>MS. MARTELLO: That is fine.</td>
<td></td>
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<tr>
<td>MS. VON NIEDA: Is that okay?</td>
<td></td>
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<tr>
<td>MS. MARTELLO: That's fine. Yeah. It's</td>
<td></td>
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<tr>
<td>just in case we have to get a hold of you because,</td>
<td></td>
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<tr>
<td>you know, something went down or you are having</td>
<td></td>
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<tr>
<td>issues and we have to call you back, we have that</td>
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<tr>
<td>staff to help and facilitate the updates or changes.</td>
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<tr>
<td>So any questions about that?</td>
<td></td>
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<tr>
<td>MR. KELLY: Are you suggesting we need</td>
<td></td>
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<td>another new password, is that what you are saying?</td>
<td></td>
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<tr>
<td>MS. OLSON: Well, it is a little --</td>
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<td>MS. MARTELLO: I'm also going to go over</td>
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<tr>
<td>that once we have them deployed and I will, you know,</td>
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<tr>
<td>we'll bring a laptop here and we'll physically have</td>
<td></td>
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<tr>
<td>you guys log into it, make sure you're comfortable</td>
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<tr>
<td>with it.</td>
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<tr>
<td>Because, like I said, that is how most of</td>
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<tr>
<td>the state government is going, is everyone is being</td>
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<tr>
<td>assigned an e-mail account for safekeeping for you</td>
<td></td>
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<tr>
<td>guys so that we're not out getting your personal</td>
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<tr>
<td>information that's going to an e-mail or we're</td>
<td></td>
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<tr>
<td>figuring out stuff for Lewis and Clark County that we</td>
<td></td>
</tr>
<tr>
<td>probably shouldn't know about or other counties that</td>
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<tr>
<td>we are sending to, you know, we're sending that board</td>
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<tr>
<td>information to.</td>
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<tr>
<td>And then we get an information request that</td>
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<tr>
<td>we have to go out and search and we're finding, you</td>
<td></td>
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<tr>
<td>know, we have to turn it over, you know. So we're</td>
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<tr>
<td>trying to just safe keep you guys and the individuals</td>
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<tr>
<td>that you guys work for, that for your personal data</td>
<td></td>
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<tr>
<td>information that we don't really need, so.</td>
<td></td>
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</tbody>
</table>

16 of 45 sheets
HARD ROCK MINING IMPACT BOARD ORIENTATION

1 So that's something that we're, most boards
2 across the state are doing that are attached to the
3 state government, just trying to keep that
4 information, you know, here. So we'll make sure you
5 are comfortable, we'll make sure, you know, before I
6 walk out of here with them, we'll make sure you're
7 good to go, so, yeah.
8 I promise you, you will be comfortable
9 before you walk out. And then if I'm not
10 available, Jodee is always a good one to contact, too, if you have any issues with that kind of stuff, so, yeah.
11 MS. VON NIEDA: So after we fill this out, the birthday information will be shredded?
12 MS. MARTELLO: And I need your address.
13 Yeah, everything will be shredded. Once I give that
14 over to our security manager, Terry Lockhart, he will
15 enter you, make sure that you either have an account, or you haven't, and then he literally shreds it, it
16 won't ever be seen again.
17 MS. VON NIEDA: Okay. Great.
18 MS. MARTELLO: So you guys are the third board that we have started this with, so there's two
19 before this one, and so we're just trying to get everybody on the same page so we can move forward
20 with it.
21 MS. OLSON: And the other thing that we do is, so if the public wants to reach out to you, then it's also a state e-mail rather than a personal one.
22 MS. MARTELLO: It's not your personal e-mail address that we are providing to any, you know, members of the public who may want to have contact with you. And that's the one, the state e-mail would be the one that is posted out on the state website as a member of the Hard Rock Mining Impact Board, that is, the state e-mail will be there, so it won't be any personal information that's going out there.
23 MS. WEBER: So will we be able to get the state e-mail on our phone?
24 MS. MARTELLO: You can. I can show you, yeah.
25 MS. WEBER: Great. Okay. So I can have mine done.
26 MS. MARTELLO: E-mails, and they are ready to go. Just hand it to Jodee when you're done and we'll get you going at the next meeting and we will spend some extra time on it, make sure you guys are comfortable, so. Okay.
27 MS. OLSON: Okay. Any questions for

1 Bonnie?
2 MS. VON NIEDA: Thank you.
3 MS. OLSON: Thanks, Bonnie. All right.
4 Should we take maybe a five, ten-minute break. We'll convene at five after 10:00.
5 (Whereupon, a brief recess was taken at 9:55 to 10:18 A.M.)
6 MS. PICHETTE: So, thank you everyone. For the folks on the phone, we're starting back in from the break. We're going to be talking about board member handbook here.
7 And just as a reminder, for anyone who may be on the phone, if you have any questions, your line may currently be muted, so you'll need to hit the star key and then the 2 to be able to be unmuted for us to hear any questions you may have as we move through the orientation today.
8 MS. ROTHENBUECHER: Okay. Thank you. This is A. C. Rothenbuecher, I'm the operations manager for the community development division and I'm going to be working on talking slowly and clearly, I sometimes can be fast.
9 We have in Tab 4, which is the next tab we're going to go through on your orientation binder review, which is the board member handbook. This comes from the Governor's office.
10 I am not going to read the entire thing, I don't think that that's necessary, but one we want to talk about that is included for your review, when you have time and you would like to, you may have reviewed it already.
11 And then, two, we're just going to highlight a couple of specific areas in the handbook and then see if there are any questions, and then we're going to let Anne briefly go through the Robert's Rules of Order as we think about running our board meetings.
12 MR. KELLY: I do have a question.
13 MS. ROTHENBUECHER: Yes.
14 MR. KELLY: It is not clear to me. Are we getting advice from counsel or are we a decision-making board that we advise the department?
15 MS. OLSON: You are decision making.
16 MS. VON NIEDA: The guide calls us a quasi-judicial board.
17 MR. KELLY: Oh, we're quasi. So the third one down. Okay. Got you.
18 MS. ROTHENBUECHER: So since you bring that up, that's a great question, on Page 2 after the
1. cover page, quasi-judicial boards. These boards make
2. independent decisions and have unique governing
3. structures. While many of them are allowed to make
4. their own decisions, in most cases agency attorneys
5. will still advise and direct quasi-judicial boards to
6. ensure that they are making decisions within their
7. jurisdiction, which is kind of what we talked,
8. touched on a little bit throughout as you were
9. inquiring about the role and the presence of legal
counsel.

Questions? I'm going to then move on to
Page 2, just going to highlight a couple of things
on these pages. Some of these we've already
discussed in Jennifer's presentation.

But one of them is, you know, the right to
participation and the right to know. Jennifer walked
through that in her last presentation, I'm not going
to go through that.

Also, I want to highlight open government,
again, under Montana law, all meetings are open to
the public regardless of the nature of the issues
being discussed.

The other area which I had on my list to
highlight, but I don't know how much I'm going to hit
this one home again, so you had a lot of e-mail

1. conversation, but communicating by e-mail, just a
2. reminder to make sure you respect the public's right
3. to participate and know that even e-mail
4. communication can be subject to public review and
5. scrutiny, and the board has had some discussion
6. about some suggestions on how you are
7. communicating.

The next one I'm going to turn to is Page 3.

Jennifer mentioned briefly a quorum, so typically a
majority of a membership constitutes a quorum, the
minimum number of members who are required to be
present in order to do any business. As she
mentioned, we have a quorum today and for a
five-member board a quorum would need to be three.

We talked a little bit about meetings, on
kind of the announcements, so I'm not going to go
through that. Presiding officer or chair, as
Jennifer has mentioned, we do not currently have a
chair of this board, as this is an orientation
meeting and this could be an item that you want to
put on your agenda at your next regularly scheduled
meeting, so right now you see Anne and I and Jennifer
kind of running the show today.

So just a reminder as you are thinking about
roles of chairs, I think this is an area that I'd

1. like to highlight. So the role of a chair,
2. suggestions for the chair, are time management and
3. keeping members and the public on schedule, keeping
4. members and public comments to the approved agenda
5. items and topics. Being respectful by keeping
6. comments, meetings and all discussions respectful.
7. Providing services or other assistance to
8. staff as they help you, your board, by taking meeting
9. minutes or other services for your meeting. Again,
10. here having open meeting laws, ensuring an open
11. meeting, ensuring that the public has the right to
12. participate and that they introduce themselves when
13. presenting or commenting.

Motions. So we get to that point when we're
having a full meeting, ensuring and advising members
that they need to clarify or adjust motions when
necessary. Ensuring that the meeting follows
applicable rules for process to keep order.

Keeping discussion on the motion at hand
and following general procedures, which typically
include a motion, a second, discussion and then a
vote by members.

And something that we have talked a lot
about particularly, we're thinking about Coal Board,
making sure that it is clear to the public, but

particularly since we have so many of these meetings
maybe on conference call or provide that opportunity,
that you announce your name and say, you know, here I
am voting for or here I am doing this motion. We had
that issue where the public is not aware of who is
making the motion because we're adding this
technology piece.

And then the other thing that we want to
remind chairs and board members is when a chair needs
to leave early or has a conflict of interest, they
may recuse themselves and the position by assigning
to their vice-chair or another member, as guided by
their rules.

Okay. Then Page 4. Something we haven't
touched on yet in this orientation is legislative
communications. So every legislative session many
board members get involved in the legislative
process.

The most important distinction is to know
whether you are participating as a private citizen or
in your capacity as a board member. And in order to
participate and introduce yourself as representing
your board, you must follow specific steps.

So there is role of the Governor in these

types of communications I want to highlight here, is
this kind of last sentence under Governor's role.
Boards must work with their agency structure, so in this case, Department of Commerce, to coordinate all legislation and lobbying efforts.

And we're here to kind of walk you through and answer any questions you might have if you are asked a question or you're asked about your role or you should be representing, or if you just kind of want to walk it through one of the staff here, please let us know.

Approval. So boards must work through their public meeting rules to allow public comment and input on bills of interest. And also a vote of approval must take place for a board to move forward in the approval process.

Majority must support a bill either specifically or a concept generally to allow some flexibility in the legislative process and then they must seek agency approval.

So, again, agencies and the executive branch work to coordinate all these efforts and so this is to ensure there aren't duplicative or conflicting efforts.

So in terms of testimony, all board members should only give testimony that is factual, relevant and informative and approved by their board. And there's more information here on testimony to which you may want to read at a later date.

And then I'm not going to speak to advisory councils, they are just talking about a quasi-judicial board in this case. Questions on Page 4 on legislative communications?

MS. WEBER: Has that happened very often in the past for this --

MS. VON NIEDA: Actually, I spoke on behalf of the school board because there was a bill in the last legislative session regarding the allocation of impact monies and so that, you know, as part of the board, my school board, I spoke on behalf of that.

MS. WEBER: Not as part of this board?

MS. VON NIEDA: No, but I did reference that I was a member of this board just for the sake of clarity, but I was speaking as a member of our school board.

MS. OLSON: So to answer the question, no, not generally and actually as you can see, the legislative communications, you would want to make sure that if you're speaking on behalf of this board, that you have not only worked and been with the Governor's office, that they have, you know, not
or report on statements or actions taken by the
board. As a board member, you have the support of
the staff here at commerce. And so we have a
communications team, can assist you with, you know,
reach out to the press or the, you know, media
increase, but you're encouraged to let, you know,
media know that they can contact you outside of a
meeting either for assistance with a response or as
an informational update so they can keep other board
members, the agency and the Governor's office
informed of current and potential news stories.
You can answer those questions on your own
or can you work with us here and we can support you
in that. But it is much appreciated if you kind of
let us know that you've been asked, what you are
planning to do and if you need any support from our
staff here at commerce.
And some quick tips to consider. Always
ensure that your interactions with media are
respectful, of course. You have the right to not
comment and/or request to have another person
complete the conversation, whether that be commerce
staff or another board member.
Our staff is available and wants to help
you. As I mentioned, you must follow all
confidentiality rules as they apply to your work.
And, again, if you're speaking on behalf of the
board, please ensure that you have the approval and
support of your board along with an approved
response.
So just some additional resources here that
are included in the Governor's handbook that you can
see here, and then we can always, we can follow up
with getting you kind of the direct information for
our communications team if you ever should need that.
Any questions or additions?
MS. WEBER: So I just want to ask, again, do
you have any examples, I know that your role is
relatively new, but is there any recollection that
the board has actually done a statement to the media
on a decision that had been made by the board?
Because, again, we meet so infrequently, if
somebody wants to prepare talking points to give to
the media, it looks like board approval is needed,
and we would have to do that on a conference call, I
suppose, if that came up because it's usually time
sensitive with the media.
MS. OLSON: Right. Exactly. So from
our -- so we have a communications team. Our
commerce director typically will, you know, if
there's a call, say, from the media that they are
asking, hey, I hear that the board will be in Helena
having a meeting, what is that about.
So we handle those automatically, so we
don't always -- in fact, I would say our practice is
not to engage and involve you in our responses to the
committee, excuse me, to the media because of that
very reason. They typically want specifically.
Just to kind of compare it to our other
board, typically what I have seen with our other
board, is the media shows up to the meeting and then
eyou want to talk with the chair or the chair is
at a -- of course, a project for Coal Board, and then
the chair shows up for a ribbon cutting or a
groundbreaking, and then they ask the individual at
that time to give a comment.
So it is kind of that, more of that
interaction that would occur rather than typically
a -- I haven't ever -- well, I shouldn't say that. A
Coal Board chair has been called specifically by
reporters to ask them questions about, you know, any,
any number of different things as it relates to coal,
coal industry, coal projects, the Coal Board actions
and anything like that. And he has generally, you
know, decided, you know, whether or not to
participate on his own and then just lets us know.
But I can't say that the Coal Board also
has never kind of collectively had a talking point
for the media and developed that in order to get that
out, nor has this board.
MS. WEBER: Okay.
MS. OLSON: So I think it really just stems
from what is the board questions that went on.
MS. WEBER: Sounds safest to refer to the
staff.
MS. OLSON: Yeah. And we have a great
communications team. Not only do they help maintain
or set up some information so that it has the look
and feel of all of commerce, that sort of a thing,
but then handle all of those inquiries. And then,
you know, if there's any press-related events, then
they also work on that, you know, with us, with
staff.
So they are pretty great support. I would,
I would kind of make it akin to legal. They kind of
come in when there is media and then they kind of go
to the background when there's not.
MS. WEBER: Thank you.
MS. OLSON: Yeah.
MS. ROTHENBUECHER: Any other questions,
MS. PICHETTE: So your next tab will come in handy at your next time you get together when you’re having a meeting.  
So just briefly in here is Tab 5, is a short little packet about Robert’s Rules of Order, how to go through a meeting, some very basic information. I would say one of the most important is the first page where it has some very basic rules, why we use Robert’s Rules of Order to help a meeting.  
Stay on track, make sure the public is being able to be involved and to make sure that we have motions for decisions that are being made. And then I would say, too, just as a reminder on Page 2, at the bottom of the Page 2, as we have talked before about quorums here, it talks about the majority vote and how many members you need present for decisions.  
But also, as we kind of, to reiterate, keep in mind, too, the numbers of this board when you are all sitting somewhere together whether you’re a quorum or not.  
And I think each board is different, but just to give you sort of a hint, Coal Board meetings are typically most of the day. So people come in to town the night before, if the board is going to be having dinner together, is on the agenda with the public to come if they want.  
So, you know, it kind of depends on the business of this board, but just to kind of give you reference, it means outside of this building as well. You know, as you mentioned, the e-mails back and forth and, you know, if it’s one person, there’s time, what did you do.  
But just kind of to keep that in mind for when you are making decisions and whether or not you have a quorum to vote, but also kind of thinking of the other times you might have a quorum outside of meeting with the majority to make a decision.  
And then also I’d like to point out on Page 5, there’s some very basic information about making a motion. And then also just for your reference starting on Page 7, this guide has some of the frequently asked questions information that you might find helpful as we kind of move forward outside of the orientation setting.  
And then you’ll have kind of a bright pink divider page in there. And then you’ll find this little set of cheat sheets. And I think this will probably become the most helpful to you. It kind of just walks through the process of different motions, when you would use a certain motion.  
And I think after we did our introductions here, I suspect you all have some more information and then basic packet already in practice for meetings that you already are a part of. We just want to make sure you have this, know that you have this great cheat sheet as a guide for going forward when we start having a meeting that’s not an orientation.  
So just want to make sure you have that there for reference. You may want to bring these with you to each meeting so that you got some of your reference materials and have that there as needed.  
Are there any questions about the process of a meeting? Then I will also mention that I forgot when you came back from break to let you know that we will be breaking at approximately noon for lunch.  
We’ll be having lunch brought in, so it will just be out in the hallway. So once we’re ready to break, we’ll be out there. You can come back in. We should have enough. We would like the public to come join us as well, just grab it out there and we can make room for everybody to have a place to sit. So sorry I didn’t mention that when we came back from break.

MS. BARNES: Good morning, everybody. My name is Amy Barnes, again, I am your legal counsel. So I wanted to take this opportunity to go through the statutes and ARMs that are applicable to the board, and then also the guide. I’m not going to read through everything because that would take longer than a day.

But to start with, you’ll find the statutes found on, behind Tab 7 -- or Tab 6, excuse me, in your little handout. So if you just want to flip through just to kind of see how many statutes we have that apply to the board.

I think these are just, we have just the two main statutes. The Hard Rock Mining Impact Act itself is included, and then also the Tax Base Sharing Act is included as well. So those are found under Title 90, Chapter 6, Part 3 and Part 4.

And today I really want to focus on the Hard Rock Mining Impact Act because that is what is going to be the most relevant in terms of timing with this new impact plan that is coming down the pike.

And so we’re going to start with Part 3.
HARD ROCK MINING IMPACT BOARD ORIENTATION

So you'll see we have got 90 dash 6 dash 301 through 331, several statutes, but I really want to pay attention to just two of them, which is 90 dash 6 dash 302, the definitional section, and then we're also going to go through 90 dash 6 dash 307, the impact plan to be submitted.

So if you're focused on time and you want to manage your time in the most efficient manner, I would read those two statutes. And I would reread 307 at least twice. There is a lot of information.

Within that one section, it is multiple pages, and it, it is loaded with lots of information.

A majority of the guide is just reiterating what is found in that section over and over again. So read, please, please read Section 90 dash 6 dash 307, and I'm going to be talking about that a little more when I go through some slides. So we'll put that on hold.

And then you'll find also Part 4, which is your Property Tax Base Sharing Act. It is included in your binder as well behind the Hard Rock Mining Impact Act. And this is going to come into play after you actually have approved the impact plan.

So, again, that's what I'm focusing on, the Hard Rock Mining Impact Act itself today, so that will be the most relevant over the next few months.

There are some definitions in the Property Tax Base Sharing Act that could be applicable, even though they are not found in the other Part 3, Hard Rock Mining Impact Act.

So do keep the definitional section in mind when you are reading through the Hard Rock Mining Impact Act itself. So that's the only section I would really advise you to read as soon as possible.

So that's it for the actual statutes that I want you to focus on. And then we get to the ARMs, the administrative rules, and there are a lot more rules I want you to read as soon as possible.

So the first couple of sections of rules are just general informational sections, but I want you to focus on reading, we're looking at subchapter 2. So we're in Title 8, Chapter 104, subchapter 2. If you look at the table of contents, you can make marks on that, it might be easiest to try to highlight what I want you to focus on.

So if you look at Section 8.104.203, that is the format and the contents of the plan, an impact plan, so please read that. And then I'm going to have you read all the way through 8.104.211B, so that's where you see the definition.

And then submission, submission and approve the submission of the plan. The notice of receipt of a plan for review. Computation of time. The contents of an objection to a plan. Submission of objections to the board. Filing of objections during the extension period. Notification of board concerning negotiations on the plan.

Ex parte communications with board members, that one is really important. The implementation of approved impact plan. The waiver of an impact plan requirement and evidence of provision of service or facility.

So if we -- the only one I want to really read to you right now is, take the time to actually read it, is 8.104.210, the ex parte communications with board members. So if you can flip to that one.

Page 5. So subsection 1 is going to be what is applicable to you as a board member. It states, "No representative of any party to the plan may communicate with any board member outside the context of a public meeting on any issue related to the plan until the plan receives final approval."

So right now we are within a 90-day review period, an impact plan was just submitted from the Copper Butte project. So at this point this rule is applicable. So I really want you guys to keep in mind and if anybody contacts you and you're not sure about what you can or cannot communicate, feel free to give me a call or e-mail. Let me know if you want to talk through any, any situation that may arise.

But I want to reiterate that it says any party, no representative of any party to the plan may communicate with any board members.

Okay. So that's, those are the statutes and the ARMs that I want you all to focus on as soon as possible. Take some time to read through it, and I will try to help you.

So if there are any questions that come up while you're reading down the road, feel free to give me a call and I'm going to do my best to try to answer all of your questions.

So next I want to kind of walk through the guide a little bit just to try and give you a little bit of orientation as to how to handle this giant document that may seem a little intimidating.

So the guide is broken down into six different chapters, and if you flip to the table of contents in your --
MS. ROTHENBUECHER: You guys, it's a separate binder.

MS. BARNES: Your guide is a separate binder. So flip to the table of contents. You'll see that it has got six different chapters there and, again, my focus today is on preparing you for the impact plan process. Now that we have one that's been submitted, I want you all to be aware of what is going to be happening in the near future.

So I want you to highlight, and if you want, I brought some little tabbies, too, if you want to mark any of the appendixes in the back, you know, talking, just so you can find it in here later.

So if we look at Chapter 1, so I would recommend that you read subsection 2 and 3 there. When the plan is submitted and received for review, and then review and approval of the plan. So we're under Chapter 1, and then subsections 2 and 3.

So then we're going to skip to Chapter 3, and I want you to read the entire Chapter 3. This is the review and approval of an impact plan. And you'll notice that some of these things are reiterated multiple times throughout this document.

It is just trying to help, this document was created to try to help the board members, the turnover, the public and developers how to actually understand and interpret the statutes and the ARMs. So they say it multiple different times.

Third time is a charm, I guess. And then, let's see. And then in Chapter 4, subpart B and C, and that's out of the chapters, those are the ones that I want you to focus on. So then we're going to get to all the appendixes that are found after those chapters.

And it might be just easiest, because we actually flip to where the appendix starts and there's not really a great page number, it is just 1A dash 1.

MS. ROTHENBUECHER: It's a pink sheet between, yeah, the main part of your guide and the appendices, if that helps out, whatever.

MS. BARNES: So the first one is the checklist for requirements for a hard rock mining impact plan. Everybody find that, first appendix?

Okay. Great. So this is one that I would like for you to read. It has a lot a great little tidbits of information in there. Like I'll point out in the middle of that...
Statutes and ARMs, it is going to be very familiar to you, but if you're kind of struggling with how the ARMs actually -- or how the statute sets things up in the subsection, this has a nice chronological order to it.

So that was one that I would definitely double highlight, that's something that would be helpful to you. And you'll see on Page 6 of this appendix, it does include a timetable to try and give you an understanding of how long this process is going to take.

Like I said, we have entered already the 90-day review period. So you'll see that that's the first thing that's listed here. And then there's a 30-day potential extension of time, another 30 days of potential negotiations going on.

And then some of these things are just, kind of depends on if it comes up or if it doesn't come up whether or not this process will continue or could end in 90 days.

And then there's another checklist that's found, Appendix 6-D, dash D. I didn't actually highlight this one, but this is still part of Appendix 6. So if you find it helpful, then give it a second to read.

Or if it looks like you've already got this information down, then feel free to cruise through it quickly. Gives you a couple of different samples of notices and some documents that you may be receiving over the next 90 days.

Appendix 7 is an objection to a proposed hard rock mining impact plan. So if one of the local governments, they are not sure how to actually formulate their objection or want to see a sample of one, they can read this and kind of get a little idea of what, they can put in their objection.

So I don't have it highlighted for you. And then I think the next one I have is not for quite a while. So I skip through a lot of these samples that are included in here until we actually get to, I think it is Appendix 17, XVII dash 1, is the page I'm looking at. And it is titled Informal Consent to Pay Sharing Procedure.

So if we do have a hearing at the end of the 90-day review period, this is going to be a very important document to help us guide the process of holding a contested case hearing.

So they have written out this procedure to try and help myself, as legal counsel, but also you as board members, through the process of what needs to be done. So I put a flag on that just to read through it, kind of give yourself an idea of what will be expected if we get to a contested case hearing down the road.

Okay. So after that you'll see there is an overview of the Hard Rock Mining Impact Act and the Property Tax Base Sharing Act. These are also great documents to try and help you and other -- just another document to explain what, what's actually in these two different acts.

And this is nice because it pulls out in different sections what actually is happening. You'll see there's the purpose of the act, the role of the Hard Rock Mining Impact Board. If you don't like reading the statutes, if you don't like reading through the statutes, this is just kind of maybe a more easier way to digest the information, so I would flag that one. And that goes on for several pages.

And then you'll see after that there's a summary. And this one I would double flag because this one is going to be very helpful, I think. It breaks down the roles and responsibilities of the different interest parties that are involved in this process.

We have got the mineral developer, the local governmental units, the public, Hard Rock Mining Impact Board, Department of Environmental Quality, and the Department of Revenue. Did everybody find that one? At the bottom of the page it says Summary dash 1 and then dash 2.

And then after you have that, you have, I think they have also included the statutes and the administrative rules within your guide. They do have those also in your binder, too, so. You have them twice. If you lose one of them, you can have them someplace else.

And there's also a few more extra statutes that are actually included in the guide, including your Enabling Act found at 215-18-22, talks about -- also they have got the statute that relates to quasi-judicial boards and what rules apply to those boards, how you are allocated to the Department of Commerce board and purposes. So there is a few more statutes that are included in the guide.

Also the operating permits, which I'll be referencing that statute in a little bit. 82 dash 4 dash 335. It is where the developer actually applies for his operating, his or her operating permit. They include the metalliferous mines, mines license tax as
well, those statutes. And then also you have
administrative rules, which are several pages long.

Okay. So then the last thing I wanted to point out to you is at the very end of your, it is the last document basically at the end of your guide. And it is titled Hard Rock Mining Impact Board Formal Statement of Policies and Guidelines. So this is one that I would double flag as something that each one of you should take the time to read through. And it explains kind of a little bit more about what this guide is, but then also some of your general policies for just operating the board. What your responsibilities are. Some of the interpretations that have been made by past boards to actually go through statutes and ARMs.

MR. KELLY: You are on the impact guide on the Summary 1, is that where you're at?

MS. BARNES: So on that policies and guidelines, is what the page is page numbered.

MS. VON NIEDA: Almost at the end.

MS. BARNES: Yes, it's after the administrative rules.

MR. KELLY: Okay. Which ones now?

MS. BARNES: Sorry. I think that the --

MS. PICHETTE: Polices and guidelines dash

MS. BARNES: Yeah, that's the second page, yeah. So the title on the first page is Hard Rock Mining Impact Board Formal Statement of Policies and Guidelines.

So, like I said, I would double flag this one. One that you should definitely read through. And if you look at subsection C, subsection C, it says, "Policies related to operation of the board." This kind of walks through a couple more policy statements that the board has implemented. And you'll see subsection 5, C, subsection 5 at the bottom of Page 5. "Upon receiving the formal submitted -- formerly submitted impact plan, the board will notify the county of its responsibility to publish notice promptly of its receipt of the plan, to publish notice and hold a public hearing on the plan during the review period and to provide the board with a copy of each notice to the board. The board will also inform the effective local government units and the developer of the procedures and requirements for filing objections before making board recommendations or modifications to the plan after it has been submitted for review."

So that is something that is applicable that you're not going to actually find this language in the statute or even in the ARM. It is a little nugget in here that former boards thought it was important, that the board member actually itself is helping the local governments and the developer through this process.

So that's the guide. I hope, you know, to some focus attention on the specific things, it won't seem too daunting. And if there's anything that comes up while you're reading it, if that seems like it's complex in the statute or ARMs, feel free to give me a call and we'll walk through how to interpret it.

MS. VON NIEDA: Now, we have done a lot of work on streamlining this guide because --

MS. BARNES: Yes.

MS. VON NIEDA: -- you know, there is MCA and ARM references all over and if you actually read the guide, which we did, cover to cover, some of the examples are either, you know, redundant or not.

And one of the, one of the decisions that was made was to put the MCA and ARM references to the back with footnotes or superscripts and in the process of doing this, we found mistakes.

MS. BARNES: Okay.

MS. VON NIEDA: Related to that. So what's happened to the draft as it stands now?

MS. BARNES: Sure. So I think as far as I know, it was being worked on, right?

MS. VON NIEDA: Right.

MS. BARNES: They didn't actually approve anything?

MS. VON NIEDA: No, no, so we're in the process of it.

MS. BARNES: Right. I think that's where it is now.

MS. VON NIEDA: Okay.

MS. BARNES: But because we have an impact plan that's submitted, we knew it was coming soon. We didn't actually publish, I don't think we published the draft.

MS. VON NIEDA: Right.

MS. BARNES: Because it wasn't approved by the board yet.

MS. VON NIEDA: Right.

MS. BARNES: And I think the developer who submitted the plan was using this guide that you all have in front of you right now because that was what's been approved by the plan.

MS. VON NIEDA: Right.
MS. VON NIEDA: And in place.

MS. BARNES: So what do we do going forward with all of the work that was done on the guide previous?

MS. BARNES: I think it is up to the board on how you want to handle that. If you want to pick up, because, Donna, you were here before, you were part of the process.

MS. VON NIEDA: Right.

MS. BARNES: So if you remember, you know, kind of what your intent was to kind of -- what your edits were, what you were trying to accomplish, you can inform your other board members of what was going on and where you guys left off. And if the board decides that they want to continue down that road, they can go ahead and pick it up and continue making some changes.

But right now because we have an impact plan that's been submitted, I would say might be best just to kind of put that on hold for a little bit of time so we can get through this process.

MS. VON NIEDA: Sure.

MS. BARNES: So you are going to be busy.

Even though there aren't, you know, the first 90 days, there's not a lot for the board to be actually acting on, there's still a lot of things that are going to be happening. You're going to be receiving notices of things and having to give notices of what you're receiving. Does that answer your question?

MS. VON NIEDA: Yeah, definitely. Yeah.

And I'm fine with that. I was just, I was just interested.

Now, with regard to my question about the yearly disbursements, because my understanding from our previous information from, you know, the DOR and others, was that we are, even if it is kind of just a cursory approval, we're supposed to be an approval of those numbers that come from Stillwater Mine, at least that's really what has been happening for years.

And when we reconvene the board after quite a hiatus of not meeting, I think there was a time they didn't meet for four or five years --

MS. BARNES: Right.

MS. VON NIEDA: -- something like that, it was brought to the attention of the board by actually, I believe Maureen did this, that it was not in keeping with the, with the statutes, that we were not at least looking at those numbers and approving the disbursements.

MS. BARNES: So are you talking about the payment to counties, statutory appropriation? So if you look at Section 90 dash 6 dash 331 in your statutes, so it is the last one in your statutes, of Part 3.

MS. VON NIEDA: Of Part 3?

MS. BARNES: Yeah. So payment to counties, statutory appropriation. So I don't --

MS. WEBER: Can you get us to the page?


MR. KELLY: Page 9, you said?

MS. BARNES: Page 9, yeah. So it is that last section you'll find on Page 9, 90 dash 6 dash 331. So if this is the thing you're referencing on, it is the statutory appropriation. And it states that "Prior to each October 31st, all monies for which the funds have been held in deposit. The payments to the counties, statutory appropriation? So if you look at Section 90 dash 6 dash 331. So if this is the thing you're referencing on, it is the statutory appropriation. And it states that "Prior to each October 31st, all monies segregated by county in the hard rock mining impact trust accounts, all allocations in the hard rock mining impact trust account established in Section 90 dash 6 dash 304, sub 2, as of the immediately preceding September 30th must be paid to the county for which the funds have been held in deposit. The payments to the counties are statutorily appropriated as provided in 17-7-502. The funds received by the county must be deposited in the county hard rock mining trust account established in 7-6-225."

So I don't see anything in there referencing the board's approval of that statutory appropriation.

MS. VON NIEDA: Okay.

MS. BARNES: What could come into play is, and I'll talk about this when I get to my slides, if you have an impact plan that's talking about the developer actually making prepayments of taxes or issuing impact bonds, they could make those payments directly to the board.

And that would be in the impact plan. That's decided by the developer, how they actually want to pay for all the impact that they are causing from their development. And so if they decide, well, we don't want to pay the local government directly, we'd rather pay the board directly, they put that in...
the impact plan.
So then the board would receive those payments and would disburse those payments to the local governments based on the need. So the local governments would come to the board and say, hey, look, we need to build a new school or something, whatever the public service is that's being impacted, they let us know when they actually need the money. They request it from the board and I think that's when you would be approving the disbursement of those payments.

MS. VON NIEDA: Okay.
MS. BARNES: From the hard rock mining impact account.

MS. VON NIEDA: See, my understanding from John Beaudry, correct me if I'm wrong, Maureen, was that he was specifically here at least a few years to report to the board of the numbers from Stillwater Mine.

MS. BARNES: Sure.
MS. VON NIEDA: And that for the board approval, specifically. So I could --
MS. BARNES: If the board was receiving those payments.

MS. VON NIEDA: I don't know whether --

MS. BARNES: Harold, do you have something to add?
MR. BLATTIE: Yes. What Donna is referencing is the board is required to annually approve the distribution of the metal mines license tax.

MS. BARNES: Oh, the metal mines license?
MR. BLATTIE: Yes. And that's based upon the monitoring report that is submitted by the mine. There's two different monitoring reports, just to confuse things a little bit. But that changes each year based upon the employees, where the employees are at.

And so when the money comes to the county, it took 40 percent that goes into the trust, and then there is the balance. But there's the distribution to the schools at that time and that distribution to each of the schools has, that's what is being approved.

MS. BARNES: Okay.
MR. BLATTIE: And, yes, it really is a formality, but this is where you come into a quasi-judicial role is, you're adjudicating that. We'll say that one of the schools, affected schools, impacted schools came in, said that isn't right,

that's where you get to be the judge, jury and executioner. You don't need to put that in the minutes, the judge.

MS. VON NIEDA: And we have had within our impact area for Stillwater Mine, we have had, shall we call it discussion about, about the distribution of these metal mines money. So it has to do with student -- mine employee children accounting for each school and all of those things.

So at least in our neck of the woods it is a big deal. And there was, there was a concern that that wasn't being carried out prior and so since we hadn't met since 2016, we're again running into the same thing, where even John Beaudry, from the Stillwater Mine said, you know, you're just trusting the Department of Revenue to be sending these monies out but nobody is checking to see whether this is the correct money for each school, each district based on the numbers.

So that, I can definitely look into and clarify that it is just a formality, I'll definitely look that statute up and make sure.

MS. VON NIEDA: But it has to be, it has to occur, it should occur before the monies are disbursed.

MS. BARNES: Preapproval.
MS. VON NIEDA: Their approval, yeah.
MS. DAVEY: One thing, I've got the June 26th, 2015 minutes and it was approved in there.
MS. BARNES: Okay.
MS. DAVEY: So there was action taken in '15.

MS. VON NIEDA: And so we received what John used to give us, a report of numbers for each school and he would go through that.
MS. BARNES: So this is the money that Department of Revenue is collecting, not that is being paid directly to the board, okay.

MR. BLATTIE: The board receives a portion of that and then it is to pay the board expenses, then at the end of the year the board is allowed to retain a hundred thousand dollars as a reserve.

Any remainder of that that is unspent then is distributed back to the counties where as if it hasn't been needed to start with or the same percentage.

MS. VON NIEDA: Harold, do you have a copy of that sheet of paper that you had at the legislature that was showing --
MR. BLATTIE: I think it is still posted on
the department's website that shows that flow of the
distribution of the metal mines license tax. If it
isn't, it should be.

MS. ROTHENBUECHER: We'll double-check.

MS. VON NIEDA: That might be something for
our board.

MR. BLATTIE: Yeah, that should be in the
handbook.

MS. VON NIEDA: Wouldn't you agree? I'm
visualizing it, but you know what I'm talking
about?

MS. ROTHENBUECHER: Yeah, I'm pretty
sure I do.

MS. VON NIEDA: It has got columns and it
shows where, shows that 40 percent and then all the
distribution to the schools and county.

MR. WALLACE: And the reserve account.

MS. VON NIEDA: Yeah, and the reserve
account.

MS. BARNES: So under Section 90 dash 6 dash
304, accounts established, it does talk about money
being paid into the hard rock mining impact trust
account under the provisions of 15-35-117. I am
guessing that's referencing the metal mines license
tax.

MS. VON NIEDA: Probably.

MS. BARNES: So it states, "After first
deducting the administrative and operating expenses
of the board, as provided in 90-6-303, and then
establishing and maintaining a reserve amount of
$100,000, as provided in subsection 2 of this
section, the remaining money must be segregated
within the account by county of origin."

MS. VON NIEDA: Right.

MS. BARNES: So that's the payment that
you're interested in?

MS. VON NIEDA: Right.

MS. BARNES: Whether the board has to make
an actual approval of that distribution.

MS. VON NIEDA: Well, I think there was 2014
when this was first brought up, I think if I recall
correctly, John Beaudry was the one who was
concerned that it was no oversight. He said frankly
from his point of view, he's happy to give whatever
figures and let, let that happen, but from the
standpoint of the counties, that's probably not a
good idea without some kind of oversight.

MS. BARNES: Okay. I'll look into that a
little bit and see if I can get you a better
of what I thought you all should take the time to actually read through. So we keep talking about an impact plan, but I don't know if anybody has actually described what it is.

So the impact plan itself will describe the economic impact that a large scale of mineral development will have on local governmental units. And according to statute, it must include the following information: A timetable for the development, including opening and closing dates; the estimated number of people that are coming into the impacted area; the increased capital and operating cost to local government units for provide services; and lastly, the financial or other assistance the developer will give to local governments to meet the increased need for services.

So within the impact plan, they have to commit to pay all the increased capital and net operating cost to the local governmental unit and they can do that through one of three ways. Through tax prepayments, which is explained further in Section 90 dash 6 dash 309, or through special industrial local government facility impact bonds, which is discussed earlier in 90-6-310. Another way is through other funds obtained from the developer.

So when does a developer actually have to submit an impact plan. A developer has to submit an impact plan when they are a large scale mineral developer, and they file an application for a permit under 82-4-335, which is the operating permit. And they can submit the actual impact plan any time after they file that application. There's no deadline, like you have to submit it within six months or two years. But the guide, you'll see in the guide that they do recommend, the board has recommended that they wait until they are closer to receiving the actual operating permit, or they are further down the road in the environmental review before they actually submit the impact plan.

You don't want to be submitting your application for a permit and then submitting that plan the next day. You want to take the time to actually work with who you think are going to be impacted, the local governments who are going to be impacted and draft up your impact plan.

So the impact plan review and permitting process are supposed to be happening at the same time, which is what is stated in that one section.

And so when you submit, when the developer submits the impact plan, who do they actually have to submit it to, the affected counties and then the board. And that submission will actually trigger the 90-day review period.

And since the board received an impact plan last week, I believe, or two weeks ago now, August 31st, don't quote me on that, August 30th or 31st, now the local governments have 90 days to actually review what's in the impact plan. You'll see there's an ARM reference there talking about submission. So after --

MS. WEBER: Let me just ask a question, Amy.

MS. BARNES: Sure.

MS. WEBER: So the county has 90 days or the board also has 90 days?

MS. BARNES: Well, it's just a 90-day review period. The board is kind of sitting back.

MS. WEBER: Okay.

MS. BARNES: And the local governments are the ones who are actually going to be --
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| 114  | MS. WEBER: Providing comments?  
MS. BARNES: The board is going to be reviewing the actual impact plan, and there's nothing that you can do, but the local government is the one who will actually go through and read it and if there is something they want to object to --  
MS. WEBER: Okay.  
MS. BARNES: -- they got 90 days to actually review the impact plan.  
MS. WEBER: So after they receive the impact plan, the governing bodies of the affected counties have to publish notice of that receipt of the impact plan in a newspaper of general circulation within the county.  
So in this case, Meagher County will have to publish notice in the newspaper of general circulation within Meagher County.  
MS. WEBER: Then is it their responsibility also to post it on their own website so the public has an opportunity to see it, because I'm assuming it is this thick?  
MS. BARNES: So they would have to provide like how the public can actually get a copy of it and review. So whether that's going to be online or if they have to come into a county building to see a copy, it's really up to the discretion of the county, but they have to make it available.  
Okay. So now we're in the 90-day review period. This is where the public is going to come into play, going to participate. The governing body of the county where the fiscal impacts on the local government units are forecasted to be the most costly. They are required to hold a public hearing on the impact plan within 90 days of when they received it.  
So at any point there's not actually -- at any point during the 90-day review period is when they actually have to have a public meeting. But it's probably better to do it sooner rather than later so you can get public comment on it and then that may or may not impact how the local governments, how they object or don't object.  
So objections can't be filed by members of the public, it has to come from an actual affected local governmental unit. And it can come from those who are identified in the plan as an affected local governmental unit.  
Or if a local governmental unit wasn't actually identified in the impact plan as being affected, but they can prove that they actually were affected, they can also submit an objection.  
MR. THOMPSON: So most counties in Montana have a commission. I mean, they hold a public hearing, but the local fire department could file an objection, it doesn't have to solely come from the county to be --  
MS. BARNES: As long as they are an affected local government.  
MR. THOMPSON: So they could be affected either -- they believe they are affected or they have to be identified in the plan as being affected?  
MS. BARNES: No, it doesn't have to be identified in the plan. So let's say the plan only identified one local governmental unit that was actually affected, is what they believed, but in reality there were a couple others that were affected because they were going to have to see an increase in public services based on the development. So those other unidentified affected local government units can file an objection.  
MS. WEBER: So, for example, in an incorporated town. So that's probably the most logical thing.  
MS. BARNES: So you'll see under your definitional section in your statutes, a local government unit is defined as a county, city, town, school district or any of the following independent special districts.  
So you have rural fire department districts, public hospital district, solid waste management district, county, water and sewer district, county water district, sewer district or park district. So those are all considered local government units when we're talking about local government units.  
And then the other thing in our handy dandy Section 90-6-307, it states that an affected local government unit that has not been identified in an impact plan submitted to the board as being likely to experience increased capital and operating costs providing services that can be expected as a result of development, they may object to the impact plan under the provisions of this section if the local government unit clearly demonstrates that it is likely to experience increased capital and operating costs from the mineral development.  
So it has to clearly demonstrate, it can't just be, well, we disagree with whatever you state in the impact plan, we think we're going to have an impact, they have to show it.  
MR. THOMPSON: Okay. So there is a, I | 115  | | 116  | | 117  | |
MR. THOMPSON: Okay.

MS. BARNES: So if you can check off one of those boxes, the next thing you have to show is whether or not you can clearly demonstrate that your local government is going to have an increase in capital and operating expenses because of the developer development.

MR. THOMPSON: Okay.

MS. BARNES: So if you can show that, that you are actually an affected local government unit, but the developer just didn't add you into the impact plan or name you as an affected local government unit, then you could be considered an affected local government unit just not named in the impact plan.

So it is just, I think it is just a way to make sure the developer is, you know, just in case they didn't include somebody that was affected, this is a way to include them. Harold?

MR. BLATTIE: Could I offer a real life example of that?

MS. BARNES: Sure.

MR. BLATTIE: Okay. When the East Boulder plan was originally submitted to Sweetgrass County, Stillwater County and the county represents all of the jurisdictions of the governmental units in the negotiations, if you will, but Stillwater County objected on the basis of impacts specifically to the Reed Point School District, hence, it's Stillwater County because of the housing was where that was.

And so that was where the board had to exercise its quasi-judicial role and adjudicated that objection and found in favor of Stillwater County. And so Stillwater was then identified as a potentially affected unit, that's the terminology that's in that plan.

And, you know, I think it might be of some help to you to maybe review some of the existing plans so you get some feel for the things that are in there, but that's a real life example of a jurisdiction not being identified in the original plan submitted, but was able to demonstrate that there were impacts.

MS. BARNES: Thanks, Harold, for the example. Does that answer your question?

MR. THOMPSON: Yeah, for now.

MS. VON NIEDA: So going back to, you know, the whole, the whole -- I think we started with the opening up to public participation as much as possible. Let's say you have a public hearing and, you know, all of these individuals show up, they would have to, am I understanding correctly, they would have to become a part of, put their objection with one of these local government units in order to be heard, is that --

MS. BARNES: Well, they can be heard at the public hearing, I think that's the perfect forum for them to state whatever objections they may have to the impact plan. But that is not something that the board will actually review.

So the board will only, and we'll get there, we're kind of jumping ahead a little bit.

MS. VON NIEDA: Sorry.

MS. BARNES: No, that's okay. So the public's participation is going to occur at the -- they can come to any meeting, of course, any open meeting that the board is holding, but there are, I think their opportunity to actually make their comments is going to be at the public hearing that the county is going to be holding.

MS. VON NIEDA: Okay.

MS. BARNES: And then if they feel that they are representing another district that they feel is an impact-affected district, they can actually try and file an objection.

MS. VON NIEDA: Okay.

MS. BARNES: And whether or not that objection is going to stand because they can actually demonstrate it, will be determined by the board.

MS. VON NIEDA: Okay.

MS. BARNES: Okay.

MS. VON NIEDA: Okay.

MS. BARNES: So going to talk about that process.

MS. WEBER: So is it inappropriate for this board to attend any of the hearings to hear what is said?

MS. BARNES: To the public hearing that the county is putting on?

MS. WEBER: Right. Is it appropriate for us to be there or is that considered ex parte kind of, even though we are not having a conversation we would still be hearing what's being said.
MS. BARNES: You know, I can't remember reading anything in the guide, but that's something that I'll look through the guide and see if there is any guidance specifically on the board members attendance at the public hearing before I state my opinion.

MS. WEBER: Okay.

MS. BARNES: That's a great question. Okay.

Any other ones on this slide?

So they are going to hold a public hearing, and at some point after that objections could be made, or even before that, before the meeting, the hearing, objections can be made.

But then there's also an affected local government, if they need more time, they can request that the board approve a 30-day extension. So it's only 90 days, they are going to have another 30 days tacked on, so 120 days to review the impact plan and essentially make objections. But if one local governmental unit is making that request, that request only applies to them, the extension only applies to them.

And then we have got, I've got an ARM reference here on how you actually calculate the days. So if you're concerned about, well, let's make sure we get the days right, there's an ARM that is relevant. And there's nothing too different about how to calculate the time and the days.

If the 90-day falls on a Saturday, that's not actually counted, you go to the next business day which is, as long as it is not a holiday, that would be the 90th day.

Okay. So we're still on our 90-day review period and let's just say no local government actually files an objection to the impact plan. Then the impact plan is reviewed -- there is an approved by the board without any review, but that's probably unlikely, especially the Copper Butte project, but we'll see.

The other way -- so if we don't have objections, it will be approved, but if there are objections, there are two different things that are going to be happening. We are going to have reconciliation and/or a hearing. And I've got some ARMs reference there that you can look back on later.

So with the reconciliation, let's say we have got an affected local government or let's say one that wasn't identified in the impact plan, they believe they are an affected local government, so they file an objection saying you need to add us, and this is why they clearly demonstrate the number showing how their public services are going to be increased and operating expenses.

So they file the objection. We, as a board would notify the developer and the other local governments of the objection and then the local government and the developer are going to have 30 days to try and come to some sort of reconciliation about the objection. And if they do, then we just need to modify the plan, which is outlined in the ARM on how we actually go about modifying an impact plan that hasn't quite been approved yet.

But if they can't reconcile after 30 days of trying to negotiate what their objection is, then the board is going to hold a hearing. And the board won't hold hearings throughout this process. Let's say we get an objection within 30 days and then, you know, they have got 30 days to actually negotiate, so that's 60 days.

It is not like the board is going to jump in and hold a hearing just on this one objection. They are going to wait until the review period is done and hear all the objections and rule on all of the objections.

So if there are outstanding objections that haven't been reconciled at the end of the review period, then the board is going to hold a contested case hearing. And then the board is required to make findings regarding the actual impact plan that was objected to and make an amendment to impact plan as appropriate.

So that is generally how you get through an impact plan process. And then after, shortly after, the developer must submit to the board a guaranty, a written guaranty that will meet the increased costs of public service and facilities.

And the board in reply will notify the Department of Environmental Quality of its receipt of the guaranty and of any failure of the developer to actually comply with Section 90-6-307.

MR. THOMPSON: Is the written guaranty some kind of surety of some form or fashion or just a letter that says I guaranty this?

MS. BARNES: I think it's more than just an I guaranty. I think it is, I'm sure the guide has probably a sample of what is actually outlined for the guaranty. I can't tell you off the top of my head what they need to include in it.
MR. THOMPSON: Okay.

MS. BARNES: But if that's something you're interested in, this is a great opportunity to go to your guide and look at the table of contents to see if there's something, you know, a little bit more specific information that is written on it and review it. If you don't have the answer --

MR. THOMPSON: I was just asking the question, but I know I need to do my homework, too, so.

MS. BARNES: But that's great.

MS. WEBER: Yeah, the statute doesn't say much.

MR. KELLY: The guide at the end may suggest something.

MS. BARNES: Yeah. There may be a sample. I honestly can't tell you of the sample that's in there off the top of my head. Donna, do you have something to add?

MS. VON NIEDA: Yeah, the board must notify DEQ of its receipt of the guaranty, I can understand us doing that, but any failure to comply with the section.

So, again, what oversight procedure do we have and are there certain things that obviously it implies something that we're supposed to be doing with regard to some kind of assurance that we can make to the DEQ.

MS. BARNES: So this is coming out of Section --

MS. VON NIEDA: 90 dash 6.

MS. BARNES: Yeah, 90-6-307.

MS. VON NIEDA: Which is that big long one.

MS. BARNES: Yeah, our main statute that we're going to reread several times.

MS. VON NIEDA: Right. But, you know, having read that, that just jumped out at me because I don't remember there being any specific procedures or reference to how would we go about even knowing that any failure.

MS. BARNES: So I think it's when we're going through this process of the impact plan, let's say, the developer is refusing to cooperate in some way.

MS. VON NIEDA: Oh, okay. Something like that, okay.

MS. BARNES: Then we would notify DEQ, say, hey, look, don't issue the operating permit because they haven't complied with whatever --

And then to your question, I think a little bit the enforcement of commitments on Chapter 3, Page 16. So I was looking for a sample to answer the question as well, but I didn't see --

MS. BARNES: No sample.

MS. ROTHENBUECHER: -- I didn't see that yet, and there's not a whole lot of description, but maybe to point for the public as well there may be some benefit in us looking at --

MS. BARNES: Well, we can look at old ones, too, to see what was --

MS. ROTHENBUECHER: Old ones, too. I stand corrected. I stand corrected. In the appendices, Appendix 8 says sample written guaranty of compliance and then Appendix 9, financial guaranty requirements, a sample of financial guarantees.

MS. BARNES: Perfect.

MR. KELLY: I don't know if that addresses it, too, right at the very end of the policies and guidelines, the very last page in here kind of has got some, lays out some things what the board does and the DEQ then does meet this with some specificity it looks like --

MS. VON NIEDA: But that probably circles back to things like the metal mines reporting and
1 things like that for us to be able to know whether
2 those financial guarantees are actually being carried
3 out.
4 MS. BARNES: Okay. So any other questions
5 about the impact plan process in general? I'm sure
6 questions will arise as you go through the statutes
7 and the ARMs and the guide. So, again, feel free to
8 shoot me an e-mail or give me a call and I'm more
9 than happy to look up an answer for you or give you
10 an answer on the spot, if I can.
11 MS. VON NIEDA: It was very appreciated.
12 Thank you. Very appreciated.
13 MR. KELLY: What I get a sense is because
14 the one was filed, the clock is running, I mean, the
15 game has started, and we better get up to speed with
16 what our piece of the pie is.
17 MS. BARNES: Right.
18 MS. VON NIEDA: Do we have a copy of the
19 filing that was made?
20 MS. BARNES: I think you'll be getting it
21 after my presentation.
22 MS. VON NIEDA: Oh.
23 MR. KELLY: Next.
24 MS. BARNES: I know the excitement.
25 MS. WEBER: So is there any responsibility

1 on our part to make sure that the county does get
2 moving and get the public hearing scheduled? I mean,
3 what is our role in helping guide the county?
4 MS. BARNES: Sure. So that's what I pointed
5 out in your policies and guidelines, I think it was
6 subsection C through C-5. So in your guide, at the
7 end of the guide.
8 MR. KELLY: Yeah, that section is kind
9 of --
10 MS. BARNES: So policies and guidelines,
11 Page 5, at the bottom of the page, "Upon receiving a
12 formally submitted impact plan, the board will notify
13 the county of its responsibility to publish notice
14 promptly of its receipt of the plan, to publish
15 notice and hold a public hearing on the plan during a
16 review period and to provide the board with a copy of
17 each notice to the board."
18 MS. WEBER: So do you help facilitate that
19 as the Department of Commerce writing, drafting a
20 letter so there is something on the record that has
21 notified the county of their responsibility to hold
22 the meeting or how do we do that?
23 MS. BARNES: I think, I think the department
24 can handle that.
25 MS. WEBER: To me it seems like a staff

1 kind of exercise, so we make sure it has been
2 handled.
3 MR. THOMPSON: Is that something you
4 anticipate the department will put out and then copy
5 us so that we know it went out?
6 MS. BARNES: Yes. Yeah, that seems like
7 it's something -- or text me, unless you want
8 something, or one of you board members want to
9 volunteer.
10 MS. VON NIEDA: I think that would qualify
11 under that Number 3, that ministerial duty.
12 MS. ROTHENBUECHER: Action.
13 MS. VON NIEDA: Right, that Jennifer was
14 going through.
15 MS. WEBER: But I would ask that they at
16 least, somehow this board gets notified when their
17 public hearing is going to be held.
18 MS. BARNES: Sure. Sure.
19 MR. KELLY: Do you have an observation for
20 the research whether we should just on our own attend
21 those?
22 MS. BARNES: The public hearing?
23 MS. WEBER: You can let us know then?
24 MS. BARNES: Yeah, I'm going to read through
25 the guide for that specific point and see if it has

1 any guidance on whether board members should or
2 should not attend.
3 MS. WEBER: I would see an advantage to
4 being able to hear what the public has to say or
5 other governmental entities have to say.
6 MS. BARNES: You just need to be careful of
7 ex parte conversation.
8 MS. WEBER: Exactly. I mean, for us to have
9 any conversation with those folks would be
10 inappropriate. We would have to just be mute in the
11 back of the room without wearing any badge that says
12 we're on the board.
13 MR. KELLY: The only difference is the name
14 tag, we're protected --
15 MS. VON NIEDA: I do agree with Jane that if
16 we're to ever adjudicate something, the more
17 information we had just would be I think useful.
18 MS. WEBER: And I think we really would have
19 to control ourselves. And if somebody approached us,
20 we would have to say, I'm sorry, we're just here to
21 listen to the hearing, we would be involved in this
22 process later down the line and it is inappropriate
23 for us to engage and, you know, just hold fast to
24 that.
25 MS. BARNES: Right.
MS. WEBER: But you need to tell us whether it is appropriate or not.

MS. BARNES: Yeah, I will. I will definitely look into that.

MS. VON NIEDA: Alternatively, if there was a recording, we could maybe just listen to the recording.

MS. WEBER: Well, for me, I'm closer. I'd rather just sit through the meeting than go to sleep listening to an audiotape.

MS. BARNES: I think I'm going to be done pretty quickly. I don't want to overload the board members with too much information.

MS. WEBER: This is really good. This is really helpful. Very, very good. Thank you.

MS. BARNES: Okay. So I want to briefly touch on developer payments. Like I was talking before we got into the slide show about the impact plan specifying whether or not they want to make those payments to the local government themselves or to the board, they can do that within the impact plan.

And if they are made to the board, the board is going to deposit those payments into the hard rock mining impact account. And the board must pay the local government after it evidences it is providing or preparing to provide an additional service. And there's, I think there's a specific ARM on, well, what does that evidence actually entail, so there's a little bit more information in the administrative rules.

Okay. So I'm going to buzz through the next few slides because they are not really applicable to what's happening to the board currently, but I'm going to talk about a waiver of an impact next, which can be found in our still Section 90 dash 6 dash 307, subsection 14.

And this happens if you have a permittee, somebody who already holds an operating permit. They weren't a large scale mineral developer when they applied for that operating permit, so they didn't have to file an impact plan.

So if you have a current permittee with an operating permit who ends up becoming a large scale mineral developer, DEQ will make that determination. And if that happens, the permittee will be notified by the DEQ that they are now a large scale mineral developer and the permittee will say, okay, well, you know what, we are only going to be a large scale mineral developer for two years, there's not really going to be a big impact on any of the local government units, so, you know, we think we're going to make a decision to actually file for a petition to waive the impact plan requirement to the board, so then we file a petition with the board.

And they can't just make that determination for whatever reason. They actually, there has to be some criteria that are actually met. And the board doesn't have to do a full out waiver, it can do a conditional waiver. If certain conditions are actually met, then they can have a waiver of the impact plan or it could be a full-blown waiver.

And board is required by statute to set some criteria before they can grant the waiver, and that is found in ARM 8.104.218, included on the next slide. So if 1, 2 or 3 listed here in the slide, are present, one of these conditions are present, then the board can grant a waiver to the impact plan.

So I'm just going to read you two. For example, it says, the board will grant a waiver if no potentially affected local government unit requests the board to deny the waiver or to require an impact plan.

So you have got local governments that are actually, they get to comment, you know. And there's a public participation that is required. So if there aren't any objections or request to deny the waiver, then the board can go ahead and grant the waiver.

And then if the conditions in 1(a) or 2 -- in 1(a) or 1(b) are present, they can grant it, or if the condition in 3 is present, they can grant it. You can read through those if you're interested. So that's a waiver.

And the impact plan amendment is going to seem very similar to the actual process of the impact plan itself in the rule process. And it is found at Section 90-6-311. So there are two different ways to amend an impact plan.

The impact plan itself can provide for amendment under definite conditions. Otherwise, the governing body of an affected county or the mineral developer themselves can petition the board for amendment to approve the impact plan if certain conditions are present.

So those conditions you will see down below under Option 2, employment at the large-scale mineral development is forecast to increase or decrease by at least 75 persons, which is over or under the employment levels contemplated by the approved impact
plan.  It becomes apparent then that an approved impact plan is materially inaccurate because of errors in assessment and two years have not elapsed since the date the facility begins commercial production.

The third one is the governing body of an affected county and the mineral developer join together in a petition to amend the impact plan for whatever purpose they find necessary. So then we get notice. The board is required to publish the notice in this case, since they are receiving the petition to amend the impact plan, the board will publish notice of the petition. At least once in a newspaper of general circulation in the affected county within ten days of receipt of petition. And then we start a 60-day review period, as opposed to 90 days.

**MR. KELLY:** Did the board publish the notice of the amendment?

**MS. BARNES:** Of the petition to amend.

**MR. KELLY:** The petition to amend?

**MS. BARNES:** Yeah.

**MR. KELLY:** Okay.

**MS. BARNES:** And that sets off the 60-day review period. So just like with the regular or general impact plan process, if there aren't any objections to the petition to amend the impact plan, then it is approved as proposed by the petitioner.

And if there are objections, then we're going to go through our reconciliation and/or hearing process. And I put in here, there's also, if they wanted to propose some sort of amendment, or some sort of modification to the amendment before it gets approved, that's dealt with in ARM 8.104.213.

So during reconciliation, let's say that they actually want to change the amendment to somehow that's what was negotiated between the objecting party, they can go ahead and do that.

So then we have reconciliation. They've got 30 days to resolve the objection. And if all of the objections cannot be resolved, then the board will hold a contested case hearing on the proposed amendment. And, again, the board must make findings regarding the portions of the amendment that were objected to and amend the impact plan as they seem appropriate.

And of course after that is done, they can file notice with all of the parties, the affected parties and get the word out of what the findings are and the administrative tasks of that. So that is how you can amend an impact plan.

And then these last slides I included in here, but I don't think I'm going to take the time to go through them right now. This is what will be happening after the impact plan is actually approved.

So I did mention earlier, though, that we looked at the impact plan is going to, there's going to be a commitment to pay all of the increased capital and then operating cost to the local government. And they could do that through tax prepayments, industrial, special industrial local government facility impact bonds or other funds.

And so I went through and talked a little bit more about the property tax prepayments that the developer could choose to implement, which will be in the impact plan.

So as you're reading through the impact plan, this is something you can look for to see what the developer actually decided to go with. The tax prepayments, or are they proposing impact bonds or are they proposing other funds.

And then very, very briefly, because I'm sure lunch is here and you're all starving, the Property Tax Base Sharing Act. So this is found in Part 4, just after our impact plan, hard rock mining impact plan -- or Hard Rock Mining Impact Act, so it is 401 through 405. And the purpose of it is to share the burden and the benefits of the different taxing jurisdictions that are affected by this large scale mineral development.

So if one taxing jurisdiction is receiving a lot of the benefits but not many of the burdens, this is, the statute provides a way to try and equitably distribute all of those increase, the valuation of the taxes that are going to be going into the local government.

So whatever that increase in property tax base is, they want it equitably distributed across the different taxing jurisdictions that are affected, so that one jurisdiction isn't getting a windfall without the burdens that are associated.

And it comes into play when you have an approved impact plan that's been filed by a large scale mineral development. And it identifies an actual jurisdictional revenue disparity. So this is something else to think about as you are reading through the impact plan.
And the board does have the responsibility
to notify the developer, all affected local
government units and the Department of Revenue if
there is a disparity.

So the last thing I'll just point out is,
90-6-404 will step you through how to actually
allocate this increase in taxable valuation. It
tells you 20 percent is going to go to this
jurisdiction, the remaining 80 percent is going to
be allocated like this, it will step you through
exactly how to distribute the funds.

And the impact plan can actually request to
do it in a different way from what the statute says
if it finds that there is reasons to actually step
aside from the statute. And that is in, let me make
sure I get the words right.

Yeah. So the developer can actually modify
the distribution formula if modification is needed in
order to ensure a reasonable correspondence between
the occurrence of the increased costs resulting from
a mineral development and the allocation of taxable
valuation resulting from the mineral development.

So that's another thing to look to see if
the impact plan is proposing some other form of
allocation or if the statute is going to stand, or if

you have that in there for you to review.

And then Jodee here is going to talk to you
briefly about travel and how you get reimbursed for
the items you get reimbursed for for your time
today.

MS. PREVEL: Hand one out to everybody so
they can get one filled out for today.

So, again, I'm Jodee Prevel, I help assist
the board with logistics, getting things set up to
make the meeting. So part of that is going over
travel expense voucher.

So this top part, that needs to be filled
out completely, that is obviously just your
information. And then that second part, we need to
know the date of departure to the meeting, the time
that you left to attend the meeting, the time you
arrived either at the meeting or the hotel, how many
miles you traveled one way, and then the date that
you are leaving to go back home and then an estimated
arrival time.

The overnight lodging, that is mostly
something that I'll be doing. If you need a room
while traveling to a board meeting, I can definitely
assist with that, and get a hold of me. My number is
in the orientation book and I can definitely get that

set up for you if just let me know where you're going
to be staying. That way you won't have to be paying
anything up front and not having to attach any
receipts.
If you are having to pay it up front to stay
somewhere, please make sure you attach your receipt
with the voucher here. That way, we can get you
reimbursed.
The meal reimbursement, I will definitely be
doing all of that for you guys. This all depends on
your travel times. So once I have everything
calculated for you, then I'll have, put in a
calculation of what, which meals you qualify for on
that.
And then just make sure you sign it and date
it and give them to me after every board meeting and
I'll make sure to collect them, too. What else?
Sorry?
MS. ROTHENBUECHER: Did you want to go
through the list of --
MS. PREVEL: I think I just need the updated
information from Mark. Looks like on the member
sheet, it looks like we have a different address
previously. So if you want to fill out one of these,
we can get you reimbursed.
And then if you just want to turn to address
and telephone list to make sure all of that
information is accurate. If not, let me know and
I'll get you a W-9 and get it updated. This should
be at the very beginning of the orientation. Just
double-checking, and address there.
MR. KELLY: I was going to check, do I get
to claim overnight if I come in 15 miles into town or
not?
MS. PICHETTE: When you came in from Red
Lodge.
MR. KELLY: I was going to ask, but --
MS. ROTHENBUECHER: Any questions on
travel?
MS. PREVEL: Any questions, yeah?
MS. ROTHENBUECHER: Reimbursement?
MR. KELLY: Really, since you provide lunch,
you didn't claim that, right?
MS. ROTHENBUECHER: Like she said, if you
just filled in the time in and time out, she can
worry about the meals for you.
MS. PICHETTE: Probably then you can turn in
the form now because then we can figure out
approximately what time you would get home based on
how long it took you to get here. Sometimes that
might qualify you for the dinner.
So when she said don't worry about the
meals, she'll cover that, we really need to know just
how many miles and the time you left home this
morning to get here so we know how long it takes and
Jodee will take care of the rest for you.
MS. OLSON: And if you do have trouble
getting reimbursed or something like that, just give
Jodee a call, too. Sometimes, just go through with
the, you know, time when our fiscal people are
working on a ton of different things, they might be a
little bit slower than normal, but you can always ask
her for whereabouts they are, too.
MS. PREVEL: And also included in that
reimbursement is a $50 stipend. That's whether
you're here at the meeting or on a conference call,
you get that.
MS. PICHETTE: Great. So just give any of
us a call or send us an e-mail if you have any
questions on that and Jodee's information is in that
information about this e-mail list, because she's the
main contact once you get those for any difficulties
you're having.
So the next thing we'll talk about is any
other board matters for you going forward.
MS. OLSON: So is there maybe anything that
we didn't cover today that you are curious about and
then we do have, we did receive the Hard Rock Mining
Impact Plan from Tintina Sandfire America, so we'll
pass those out.
But I want to make sure that if there's
anything here, just kind of board operations, I know
that you didn't see this in advance, we walked
through everything, but, and we can always give it to
you guys next time, but if there is anything there
and then if there's anything kind of logistically
that you're looking for us to help with for the next
meeting, whenever that is, then also deciding on the
next board meeting. So that's some things to think
about.
So any thoughts about anything that we
didn't cover or want to present or want to go back
over or anything like that?
MR. KELLY: Just so I understand the time
frame, so we have an impact plan received, so the
clock is running. That would kind of necessitate a
board meeting in a couple of months, be something
with regard to this particular impact, is that right, the
timing?
MS. OLSON: And there could be a few things
25 that happen at the local level that would necessitate
24 the board getting together as well.
23 MS. WEBER: Because it seems like we should
22 be meeting shortly after the public hearing.
21 MS. BARNES: Or before.
20 MS. WEBER: Or before, okay.
19 MS. BARNES: Yeah, I mean, I don't know when
18 the public hearing is going to happen.
17 MS. WEBER: Right.
16 MS. BARNES: And if they end up waiting, you
15 know, 60 days or so.
14 MS. WEBER: So you think there is going to
13 be an actual --
12 MR. KELLY: Who triggers the public hearing,
11 the DEQ? Who triggers the public hearing?
10 MS. BARNES: So it is triggered by the
9 impact plan being submitted to the affected local
8 governments. So they, they should have received the
7 impact plan.
6 MR. KELLY: Yeah.
5 MS. BARNES: And so Meagher County is going
4 to have to hold a public hearing within 90 days of
3 the receipt of that impact plan. I don't honestly
2 know if they are thinking about doing it in the next
1 days or what, what their thought
2 process is.
1 MS. WEBER: So do you think we ought to meet
0 in October?

151
1 40 days or 30 days or what, what their thought
2 process is.
3 MS. WEBER: So do you think we ought to meet
4 in October?
5 MS. OLSON: I think you could meet in
4 November and be fine. There's two different time
3 frames that potentially could trigger. Correct me if
2 I am wrong, Amy, but one is, any local government can
1 ask for an extension that's already listed. And so
0 then the board has to consider that extension and
11 then either grant that extension or deny that.
10 And then also if there's any other local
9 governments that weren't specifically named that
8 would want to be included and then the board could,
7 would have to take an action on that.
6 MS. BARNES: They would file an objection.
5 MS. OLSON: An objection.
4 MS. BARNES: So that would be taken care of
3 with the objection process. So reconciliation, and
2 if that's not going to work out, then that will be
1 part of the hearing, a contested case hearing.
0 So even if we do schedule a meeting for
23 November at some point and something comes up in the
22 meantime that you need to act on sooner, we can
21 always reschedule.

152
1 MS. OLSON: Yes. Or have an additional
0 meeting.
3 MS. BARNES: Yeah. Yeah.
4 MS. OLSON: And then I was just looking at
3 the ten-day to notify the developer of any
2 objections. So if there was an objection, then the
1 board -- so even as that hearing is going on, there
0 could be other reasons why, you know, even starting
2 in November other things could be happening where
1 there will be more, those other needs for the board
0 to act on and make a decision.
3 MS. BARNES: But if there's just
2 notifications, then that would be something that I
1 think commerce staff could handle. If an objection
0 comes in and the board has to notify so and so of the
1 objection, I think commerce staff could handle that
0 notification, just like we talked about with the
2 guidelines with the submission of the impact plan,
1 communicating what the county needs to do and with
0 developer, so.
2 MS. WEBER: Well, I'll just throw out, if we
0 want to go early, Thursday, November 8th, I'm just
2 throwing dates out here.
3 MS. VON NIEDA: That's state volleyball, so
0 I'm going to be at MSU, probably.
one reason to have a meeting is to select a chair,
but is there any other business right now before the
board that would need to --

MS. VON NIEDA: Can we just do that
telephonically? That's the one thing we needed to do
is --

MS. OLSON: And then you could -- I think
Mark's point, you could choose later in November if
that would be --

MS. WEBER: Know more about the hearing
then.

MR. THOMPSON: Well, that's what I was
thinking, maybe if we could, we could kind of leave
it a bit looser to see how things play out and see
what comes our way, and then to try and pick a date
and not have anything and then having to meet the
next week.

MS. OLSON: So just --

MS. VON NIEDA: You're gone until March? So
you'll be gone until March, in November?

MS. OLSON: Oh, beginning in November?

MR. KELLY: Yeah.

MS. OLSON: And we can always, yeah, make
sure that you have your materials in so that you can
participate, so. So just to throw out some dates,
1 the year. You know, so every, every meeting is where
2 that per diem comes from.
3 So from a budgetary perspective, I'm just
4 trying to, if we have some more items in the, on the
5 agenda, that seems right.
6 MR. KELLY: Just to help for clarification,
7 it sounds like this board has not been too active the
8 last couple of years.
9 MS. OLSON: Right.
10 MR. KELLY: Saved a lot of money. But with
11 things happening now, we anticipate that that would
12 change so we could end up using five or six meetings
13 a year?
14 MS. OLSON: That's right. And we're, just
15 as a reminder, we're on a biennial budget, so we're
16 in the second year of the biennium from a fiscal
17 perspective. So any money that we didn't spend last
18 fiscal year --
19 MR. KELLY: Still there.
20 MS. OLSON: Well, it's -- yeah. Harder to
21 get to because we don't have those things, but the
22 administrative costs, yeah, we would be compressed
23 into this year. So, and then what happens on a
24 statute perspective, is there's $100,000 that's
25 always available for the board to use if the impact

1 plan is causing, that that development is causing the
2 board additional cost.
3 But that hundred-thousand dollars also goes
4 towards helping meet the needs of the statute to, if
5 we have to purchase a, or rent, excuse me, a facility
6 that would accommodate, you know, a large community
7 meeting, a couple of those over the course a couple
8 of times, et cetera, et cetera.
9 So I guess I would advise you if there's a
10 lot of meeting agenda items, probably be better to
11 group them. If there's only one agenda item to
12 select a chair, I would recommend, but it is up to
13 you.
14 MS. VON NIEDA: I think that is a good
15 idea.
16 MS. WEBER: So we're looking at November
17 then?
18 MS. VON NIEDA: Like the 27th, maybe or --
19 MR. KELLY: Thanksgiving.
20 MS. OLSON: 22nd is Thanksgiving, so then
21 that would be that following Tuesday of Thanksgiving.
22 MS. VON NIEDA: Or the week before, I guess,
23 you could look at the 13th maybe.
24 MR. THOMPSON: Keith, do you know when you
25 are leaving the state?

1 MR. KELLY: Pardon?
2 MR. THOMPSON: Do you know when you are
3 leaving the state?
4 MR. KELLY: Around the first of November.
5 MR. THOMPSON: Oh, around the first.
6 MR. KELLY: We haven't locked it in, but the
7 last weekend of October, first of November.
8 MS. PICHETTE: I'm going to say, as a
9 reminder, there are three holidays in November, so if
10 that helps you with your travel schedule.
11 MS. OLSON: Yeah, the last week of November
12 doesn't have any holidays.
13 MS. VON NIEDA: That would be the week of
14 the 26th, right. Yeah.
15 MR. THOMPSON: The end of November would be
16 coming up on the 90 days.
17 MS. VON NIEDA: Yeah, because they filed,
18 they filed on the 31st?
19 MS. OLSON: Yes. We can double-check the
20 date stamp just in case I am wrong, but I believe it
21 is the 31st.
22 MS. VON NIEDA: 30th or 31st.
23 MS. WEBER: So the only day that I
24 can do would be the 29th, which is a Thursday.
25 MS. VON NIEDA: 29th.
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<td>1</td>
<td>think about having it in White Sulphur?</td>
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<td>2</td>
<td>MS. BARNES: The meeting. I think we could</td>
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<td>3</td>
<td>have it here in Helena, I mean.</td>
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<td>4</td>
<td>MS. WEBER: That creates all of the staff</td>
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<td>5</td>
<td>having to travel.</td>
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<td>6</td>
<td>MS. OLSON: Yeah, I think it depends</td>
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<td>7</td>
<td>on -- we can always change those logistics,</td>
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<td>8</td>
<td>particularly based on if there's anything, as the</td>
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<td>communities are moving faster, but, yeah, that's up</td>
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<td>10</td>
<td>to you if you want to, we can --</td>
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<td>11</td>
<td>MR. KELLY: Let me suggest if you stay away</td>
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<td>from the last Thursdays in the month. The other</td>
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<td>conflict is I have bank board meetings, are always on</td>
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<td>that last Thursday, which happen to be in White</td>
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<td>Sulphur, so if you want to come to that.</td>
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<td>16</td>
<td>MS. PICHETTE: If we just have the meeting</td>
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<td>in the same place, you can call into one place.</td>
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<td>18</td>
<td>MS. VON NIEDA: And what time is your</td>
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<td>19</td>
<td>meeting?</td>
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<td>20</td>
<td>MR. KELLY: The bank boards?</td>
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<td>21</td>
<td>MS. VON NIEDA: Yeah.</td>
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<td>22</td>
<td>MR. KELLY: Yeah, they run pretty much into,</td>
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<td>23</td>
<td>I think it's all afternoon, I think.</td>
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<td>24</td>
<td>MS. VON NIEDA: Afternoon.</td>
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<td>25</td>
<td>MR. KELLY: Yeah. If you bump up -- if it's</td>
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<td>1</td>
<td>away from Thursday, but I can work around that.</td>
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<td>2</td>
<td>MS. WEBER: If you do it by telephone and I</td>
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<td>don't have to travel, I have some times open, but I</td>
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<td>don't have four hours open on the other days of the</td>
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<td>week, I have two hours open.</td>
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<td>6</td>
<td>MS. OLSON: So is one -- the 29th doesn't</td>
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<td>work because Keith will be --</td>
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<td>8</td>
<td>MR. KELLY: Well, I'm traveling to and</td>
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<td>there, I mean. But, so Wednesday would be better.</td>
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<td>10</td>
<td>MS. OLSON: Okay.</td>
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<td>11</td>
<td>MR. KELLY: Unless there is some magic about</td>
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<td>Thursdays.</td>
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<td>MS. VON NIEDA: Well, Jane doesn't have</td>
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<td>14</td>
<td>Wednesday.</td>
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<td>MS. WEBER: I'm free on Wednesday from about</td>
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<td>9:30 until 11:30, I have two hours.</td>
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<td>MR. KELLY: An 8:30 meeting?</td>
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<td>18</td>
<td>MS. VON NIEDA: If it was by phone, you</td>
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<td>19</td>
<td>said?</td>
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<td>20</td>
<td>MS. WEBER: Right. If it was by phone. I'm</td>
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<td>free 9:30 until 11:30.</td>
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<td>22</td>
<td>MS. VON NIEDA: I'm just wondering if the 90</td>
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<td>days is November 30th whether that's really pushing</td>
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<td>up against that.</td>
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<td>25</td>
<td>MS. OLSON: So the other date that was</td>
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<td>brought up was November 15th.</td>
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<td>MR. KELLY: Yeah. That gives you a little</td>
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<td>breathing room.</td>
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<td>MR. THOMPSON: Well, the other thing I think</td>
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<td>we need to consider is, you know, we're going to be</td>
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<td>electing a chairman, too, it would be nice to have as</td>
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<td>many in-person people sitting in.</td>
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<td>8</td>
<td>MS. VON NIEDA: Right.</td>
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<td>9</td>
<td>MR. KELLY: I do, too.</td>
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<td>MS. VON NIEDA: Maybe John needs to be told</td>
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<td>as far as -- is he available by phone?</td>
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<td>12</td>
<td>MR. KELLY: Either that or just elect him</td>
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<td>13</td>
<td>absentia right now.</td>
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<td>MS. PICHETTE: So would that be a discussion</td>
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<td>that would be put on the next agenda as a consent</td>
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<td>agenda item that doesn't require him to have any</td>
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<td>comment about it?</td>
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<td>MS. ROTHENBUECHER: He's coming back in the</td>
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<td>19</td>
<td>next couple of weeks.</td>
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<td>MS. PICHETTE: I think we will be able to</td>
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<td>have contact with him starting at the end of next</td>
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<td>22</td>
<td>week or the beginning of the following week.</td>
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<td>23</td>
<td>MS. ROTHENBUECHER: So if you guys are</td>
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<td>24</td>
<td>proposing a date, we'll reach out to John and see if</td>
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<td>it works.</td>
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<td>MS. VON NIEDA: The 15th of November.</td>
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<td>2</td>
<td>MS. WEBER: And even the 14th would work if</td>
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<td>3</td>
<td>we are doing it by telephone, not looking at all day,</td>
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<td>4</td>
<td>I have from 9:00 until 11:00 on the 14th.</td>
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<td>MS. VON NIEDA: And Mark thought we should</td>
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<td>all like be together.</td>
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<td>MR. KELLY: So November 15th possibly in</td>
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<td>person.</td>
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<td>MS. WEBER: I could travel on the 15th.</td>
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<td>MS. VON NIEDA: On the 15th, okay.</td>
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<td>MS. ROTHENBUECHER: Right now we're sort of</td>
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<td>hearing Helena maybe, a location for trying to be in</td>
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<td>person?</td>
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<td>MS. OLSON: Maybe, because I think if the</td>
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<td>public hearing is on the 15th in White Sulphur</td>
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<td>Springs, we may not want to be there that --</td>
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<td>17</td>
<td>MR. KELLY: Oh, the same day.</td>
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<td>18</td>
<td>MS. OLSON: Well, no, I'm just saying, we</td>
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<td>19</td>
<td>don't know that, so if you would like, we can confirm</td>
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<td>a location, we can tentatively put Helena and then we</td>
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<td>can let you know.</td>
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<td>MR. THOMPSON: Let's see what the</td>
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<td>developments are on the plan that's submitted and</td>
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<td>then we can -- I'm thinking if there's a lot of, if</td>
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<td>there's a lot of public comment, it would be better</td>
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for us to go there instead of a bunch of White Sulphur Springs folks trying to make a middle-of-the-day meeting in Helena.

MS. OLSON: So that kind of gives us a little opportunity, about ten days is when we particularly provide that comment, so about November 8th, so that if the community is having that public meeting, we'll kind of get some feedback potentially, and then you can decide on the location or we'll firm up the location, but we'll put Helena tentative on our website so that people know that it's subject to change.

MS. KELLY: Tentative November 15th meeting in Helena.

MS. OLSON: You got it.

MS. ROTHENBUECHER: We'll reach out to John and let you guys know if that's an issue.

MR. THOMPSON: And we were going to look into the Stillwater question that was posed earlier as to do we have some role in assigning money to school districts, was it?

MS. BARNES: The approval of the --

MS. VON NIEDA: Amy is going to check on that.

MR. THOMPSON: So that may be something for --

MS. OLSON: For the agenda.

MR. THOMPSON: -- for the agenda as well.

MS. OLSON: So we can follow up with any questions that you had for Amy and then the flowchart as well, provide just kind of an update on the agenda of any sort of questions from the orientation, we can call that an agenda item, and the chair.

Any other agenda items.

MS. VON NIEDA: Do we have minutes that have to be approved from old meetings?

MS. OLSON: I don't, I don't know. We'll look into that to make sure that the last meeting minutes, if that was something that --

MS. VON NIEDA: I don't remember doing that, so.

MS. OLSON: So we can --

MR. THOMPSON: There's only a few people that can vote on that.

MS. OLSON: And we might want to just ask, you know, if there's anything that, from a legal perspective.

MR. THOMPSON: And, Keith, we might have to abstain from --

MS. VON NIEDA: I'm just asking because as a board, we always have to approve the old minutes.

MS. OLSON: Yeah.

MS. VON NIEDA: Before they are actually published. But, yeah, that could be a problem.

MR. KELLY: Yeah. What are you talking about.

MR. THOMPSON: Looked good to me.

MS. VON NIEDA: So we have November 15th as a tentative meeting in Helena, right?

MS. OLSON: Uh-huh.

MR. KEITH: In person.

MS. VON NIEDA: In person. Sounds good.

MS. OLSON: Anything else that you are thinking about for the agenda or anything like that, we'll add the chairman.

MS. WEBER: We'll also have the e-mail instructions?

MS. OLSON: Yeah, e-mail instructions, yeah.

MS. PREVEL: And that's starting at 8:30, sorry?

MR. KELLY: 8:30 our time?

MS. OLSON: Uh-huh. If there is anything, let us know, otherwise we'll probably just look to an hour or two-hour meeting.

MS. VON NIEDA: Okay. That sounds good.

MS. PICHETTE: And, Jane, to answer your question, Bonnie will do an actual hands-on training for you once we have -- you'll have basic instructions in there, but she promises some training to make sure it works for everyone.

MS. WEBER: Do we need to make a motion for adjournment?

MS. OLSON: I was going to say, unless there's anything from the public, we're adjourned.

MS. SCHLEPP: Just really quick, I just wanted to let you know that we are very proud to put in our impact plan. All of the work on it has been done by John Beaudry, who was the planner for Stillwater County and then worked for the Stillwater Mine until he retired.

So he's been working on this for the last year and really put some scientific efforts into it. And it has been a little challenging because one of these hasn't been done in Montana for a really long time, so to make sure that we cover everything. And but happy, happy to answer any questions at any time on it. My name is Nancy Schlepp and I work for Sandfire Resources America.
THE COURT REPORTER: Spell your last name.

Ms. SCHLEPP: S-C-H-L-E-P-P.

Ms. OLSON: Okay. Anything else? Anne,

A. C.?

Mr. KELLY: I do have one question. Some of

you ladies in your former life want to be a school

teacher or what? Homework assignments.

Ms. OLSON: We can adjourn.

END OF ORIENTATION

* * *
CERTIFICATE OF REPORTER

STATE OF MONTANA )
    ) ss.
County of Cascade )

I, Gregory A. Frank, RPR, Court Reporter and Notary Public for the State of Montana, residing in Great Falls, Montana, do hereby certify:

That I was duly authorized to and did report the transcript of proceedings;

That the foregoing pages of this transcript constitute a true and accurate transcription of my stenotype notes of the testimony.

I further certify that I am not an attorney nor counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 17th day of September, 2018.

/s/Gregory A. Frank
Gregory A. Frank, RPR
Notary Public, State of Montana
Residing in Great Falls, Montana.