

Hard Rock Mining Impact Board
Meeting Minutes
October 10, 2019
Helena, MT

Board Members Present

Chair Donna von Nieda, Vice-Chair Mark Thompson, Keith Kelly, John Rogers, and Jane Weber.

Montana Department of Commerce Staff Present

Jennifer Olson, Division Administrator; A.C. Rothenbuecher, Operations Manager; Amy Barnes, Attorney; and Anita Proul, Executive Assistant.

Public Present

Nancy Schlepp	Tintina Montana / Sandfire America
William "Bill" Gowen	Helena Abstract and Title Co.

Welcome – Call to order

Chair von Nieda called to order the meeting of the Hard Rock Mining Impact Board at 9:05 a.m.

Roll call

Ms. Rothenbuecher called the roll for board members. The following board members were present: Vice-Chair Mark Thompson, Keith Kelly, and John Rogers. On the phone via conference call was Chair Donna von Nieda and Jane Weber. Chair von Nieda asked if Vice-Chair Thompson would take over conducting the meeting. Vice-Chair Thompson agreed and Chair von Nieda seceded the meeting to Vice-Chair Thompson.

Opportunity for Public Comment

- No public comment provided. No public on the phone.

Approval of Minutes (November 15, 2018)

- Vice-Chair Thompson called for discussion from the Board regarding the minutes and any comments from the public. Vice-Chair Thompson confirmed that the previously requested public review had taken place. Ms. Rothenbuecher confirmed that the specific individuals had been contacted, one individual corrected the name of his company, and that the minutes were corrected accordingly.

Action by the Board: Mr. Kelly made a motion to approve the minutes. Ms. Weber seconded. Vice-Chair Thompson called for a vote - all were in favor of the motion, motion passed, and minutes were approved with the correction indicated.

Approval of Minutes (May 31, 2019)

- Vice-Chair Thompson called for discussion from the Board regarding the minutes and any comments from the public – no discussion or comments.

Action by the Board: Mr. Kelly made a motion to approve the minutes. Chair von Nieda seconded.

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Vice-Chair Thompson called for a vote - all were in favor of the motion, motion passed, and minutes were approved.

Sandfire Resources America, Black Butte Copper Project Draft Financial Guaranty

- Ms. Olson reminded the board that the mine cannot start any production activity without their review and approval of the financial guaranty and explained changing or accepting the financial guaranty.

Vice-Chair Thompson asked Ms. Schlepp to provide an update on the permitting on the Black Butte project

- Nancy Schlepp, Tintina Montana / Sandfire America – DEQ headed toward final EIS, weeks away, and expect a record of decision to follow shortly after that. Ms. Schlepp deferred to Bill Gowan from Helena Abstract and Title for any questions that the board might have on the Financial Guaranty.
- Ms. Barnes notified the Board that they could waive their attorney client privilege of the Escrow document with comments which could then be handed out to the public to follow along.

Action by the Board: Mr. Rogers made a motion to waive the attorney client privilege of the comments received from council. Ms. Weber seconded. Vice-Chair Thompson called for a vote - all were in favor of the motion, motion passed. Copies were passed out to the public present.

Board Discussion:

- Vice-Chair Thompson – concerned that the entity entering into the agreement is not present and has not seen the comments and if the board moves on any comments, the entities might find something objectionable. Also, no local government entities present, as well, to see comments. Suggested the following options - going through each comment with Ms. Barnes leading or postpone taking action until getting feedback from other parties that comments are acceptable to them.
- Chair von Nieda – something not commented on but would like board opinion on – at the end of the document there is a place for the Hard-Rock Mining Impact Board Chair to sign but understand that it is not a legal requirement for document. Would Board like that removed or kept?

Public Comments:

- William C Gowen, Vice-President Helena Abstract & Title Co:
 - On the Board signature – the Board is a party to the agreement in the first paragraph and I would suggest the board should be a signer on the agreement.
 - In the paragraph regarding how the payments are made – my escrow account is prohibited from ACH out, I cannot make an electronic transfer of funds, we can do it by wire transfer, certified check, or escrow trust check. The difference between an escrow trust check and certified check is pretty much moot in the state of Montana because we have to have funds to issue, suggest that changed to either wire transfer or certified funds.
 - Toward the end on the city and school districts signatures – once the request is made, the disbursements are made directly to the county, the county then distributes on to those other entities so I am not quite sure why they would be a party to it when the county would have control of that disbursement.
- Nancy Schlepp, Sandfire America – if you do take Mr. Gowen's advice, which I agree with, and take the city and school off of the signatures, you may also want to take them out of the first paragraph and they're also talked about in another section. Everything in here has been agreed

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and the disbursements are agreed who they go to, but it is the county that asked for the funds and distributes them, as I understand it.

Board Discussion:

Vice-Chair Thompson – Board signatory block, are we not legally required to sign?

- Ms. Barnes explained that removing the City of White Sulphur Springs, the school district, and the Board from the first paragraph allows the three signatory blocks to be deleted. Ms. Barnes also explained the legal reasons/responsibilities the three entities were included in the first paragraph and made a party to the agreement and given signatory blocks – If the entities are a party to the agreement they have the ability to file a contract claim/breach of contract claim on the contract. If the Board isn't a party to it, the Board's ability to enforce the agreement is more difficult.

Vice-Chair Thompson – Question to Mr. Gowen, would you be able to enter into an escrow agreement with the added city, school district, and the Board signing?

- Mr. Gowen – yes, I believe we could, I don't see any issues with it.

Action by the Board: Mr. Kelly made a motion to edit paragraph 7B to reflect no ACH. All payments will be made by wire transfer or certified funds, or electronic funds transfer. Chair von Nieda seconded.

Vice-Chair Thompson called for a vote - all were in favor of the motion, motion passed.

Public Comments: Vice-Chair Thompson called for public comment on the date in section 2 – Ms. Schlepp indicated possibly the first week in November. Also proposed a shorter time frame for review, if it could be done legally.

Action by the Board: Mr. Kelly made a motion, regarding section two on page one of the escrow agreement, to change the date to November 2019. Ms. Weber seconded. Vice-Chair Thompson called for a vote - all were in favor of the motion, motion passed.

Action by the Board: Mr. Rogers made a motion to post the proposed escrow agreement for public comment for two weeks. Chair von Nieda seconded. Vice-Chair Thompson called for a vote – all were in favor of the motion, motion passed.

Hard Rock Mining Impact Trust Account Annual Payments

- Ms. Rothenbuecher reviewed the memo to the MT Department of Revenue and distribution reports showing the breakout of the payments to be made to the impacted local governments and that no Board action was required.

Public Comments:

- Ms. Schlepp – If possible, would like a copy of documents. Also, our information is just going into you and we will be hiring someone to update it yearly, when is that information due to you? Ms. Schlepp clarified her question was more specific to yearly population statistics – when is that due to board?
- Ms. Olson – explained process of payments, uses, and disbursements. Typically meet twice a year – one to review payments in May and one in October. If you are wanting to report back to the board, May is suggested.

Action by the Board: No formal motion made, but the Board requested the minutes to reflect that they reviewed and accepted the reports.

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Opportunity for public comment

- No public comment provided.

Adjournment

Mr. Kelly made a motion adjourn. Ms. Weber seconded. Meeting adjourned by Vice-Chair Thompson at 10:13 a.m. The next meeting is scheduled for October 30th via teleconference.