

**STATE OF COLORADO  
COUNTY OF ROUTT**

**OFFICE OF THE CLERK  
October 2, 2018**

Commissioner Douglas B. Monger, Chair, called the regular meeting of the Routt County Board of County Commissioners to order. Commissioner Timothy V. Corrigan and Commissioner Cari Hermacinski, and County Manager Tom Sullivan were also present. Those present recited the Pledge of Allegiance. Tegan Anderson recorded the meeting and prepared the minutes. Deputy County Manager Dan Weinheimer was absent.

**EN RE: WARRANTS**

**EN RE: WARRANTS**

**MOTION**

Commissioner Corrigan moved to approve and authorize the Commissioners to sign the Warrants Sheets that included:

Accounts Payable Check- Cycle Date:	9/24-9/28	\$662,817.57
Accounts Payable Check: Manuals	9/24-9/28	\$0.00
Accounts Payable Wires:	9/24-9/28	\$0.00
Total:		\$662,817.57
Payroll Checks- Cycle Date:	9/24-9/28	\$497,559.80
Payroll Checks- Manuals	9/24-9/28	\$0.00
Payroll – IRS & State Income Tax	9/24-9/28	\$200,311.47
Total:		\$697,871.27
Total Disbursements Approved:	9/24-9/28	<u>\$1,360,688.84</u>

Commissioner Hermacinski seconded.

Mr. Sullivan advised of Accounts Payable items of note for run date September 27, 2018.

Vendor	Amount	Department
CORRECTIONAL HEALTHCARE MANAGEMENT	11,257.54	Adult Detention – Inmate Health Care, OCT 2018

KILGORE CO	38,443.67	Road & Bridge – Gravel for road base
Distribution of dedicated property taxes: Developmental Disabilities, and Museum and Heritage Funds		
SCHMUESER GORDON MEYER INC	22,500.75	Road & Bridge – engineering design for 5 minor structures
FRONTIER STATION INC	29,616.02	Noxious Weed – Herbicide Chemicals
ADVANCED TOWER SERVICES INC	16,016.72	Comm Center – King Mtn. Improvements per State Contract
AP Run Date Total	827,204.07	

The motion carried 3-0.

**EN RE: ITEMS OF NOTE FROM PREVIOUS DAY’S WORK SESSION**

Commissioner Monger noted that the Board received updates from the County Manager, County Attorney, the Clerk, Emergency Operations Director, Communications Manager, and the Sheriff.

**EN RE: CONSENT AGENDA**

The following items were presented for consideration, approval, and signing on the consent agenda:

- A. Approval of County Commissioners Minutes: Regular Meeting of August 21, 2018.
- B. Approval of and authorization for the Chair to sign the Sears Zone Change Resolution; PL-18-142.

**MOTION**

Commissioner Corrigan moved to approve items A and B on the consent agenda and authorized the Chair to sign the related documents. Item B is resolution 2018-072.

Commissioner Monger seconded; the motion carried 3-0.

**EN RE: PUBLIC COMMENT**

No members of the public were present for comment.

## **EN RE: ADMINISTRATIVE / HELENA TAYLOR**

### **APPOINTMENT OF MEMBERS TO THE CITIZENS REVIEW PANEL**

Ms. Taylor stated that the County has a Citizens Review Panel that is convened to discuss grievances concerning the Department of Human Services staff conduct. This panel is only convened after the complaint has gone to the County Manager and no satisfactory resolution has been met. This panel was created pursuant to Section 19-3-211, C.R.S. and convenes in response to citizen complaints. The panel has not convened in over a decade therefore some of its members are no longer in the area or interested in serving. The members of the panel shall represent the community, have demonstrated personal or professional knowledge and experience with children, and not be employees or agents of the state department or any county department. At least one member of the Citizen Review Panel in each county shall be the parent of a minor child at the time of his/her appointment to serve on such panel.

Ms. Taylor noted that the request is to consider appointing the following four members to the Citizens Review Panel:

Thomas Gangel, Mind Springs Health  
Nancy Smith, Judicial District G.A.L.  
Tammi Havener, Discovery Child Care Center  
Brian Hoza, Father/Former Foster Parent

Commissioner Monger asked who dictates the regulations of the Citizens Review Panel. Ms. Taylor replied that there are state regulations and she acts as the staff assistant to the Citizen Review Panel.

### **MOTION**

Commissioner Corrigan moved to approve the following members to the Citizens Review Panel: Thomas Gangel, Nancy Smith, Tammi Havener, and Brian Hoza.

Commissioner Hermacinski seconded; the motion carried 3-0.

## **EN RE: PURCHASING / JULIE KENNEDY**

Steve Faulkner, Facilities Manager, was also present.

### **WAIVER REQUEST FOR JUSTICE CENTER BOILER REPLACEMENT**

Ms. Kennedy stated that this is the request to waive the formal purchasing process and approve the award and authorization of the County Manager to electronically sign the purchase

order to T-M Service Co. in the amount of One Hundred Five Thousand Eight Hundred Ten (\$105,810.00) Dollars. She is also requesting the Chair to sign the Notice of Award for this project. This will require a supplemental budget of \$87,000.

Commissioner Corrigan questioned why only \$18,000 was budgeted for the boiler replacement. Mr. Faulkner replied that he believes Tim Winter was aware that there was some type of problem with the boiler however he is not sure how Mr. Winter was calculating for the replacement.

Commissioner Monger asked if replacing two boilers will result in some savings instead of replacing one. Mr. Faulkner replied that the price includes materials, equipment, labor, and travel. To only replace one boiler the cost would be about \$87,000.

Commissioner Corrigan asked if the boiler could have been purchased from TMS then hire a local company to do the installation. Mr. Faulkner replied yes however that would not have had a warranty using a local installer and the boiler would have been marked up 20%.

### **MOTION**

Commissioner Hermacinski moved to waive the formal purchasing process and approve the award and authorization of the County Manager to electronically sign the purchase order to T-M Service Co. in the amount of \$105,810.00 and for the Chair to sign the Notice of Award for this project.

Commissioner Corrigan seconded; the motion carried 3-0.

### **EN RE: EMERGENCY MANAGEMENT / MO DEMORAT**

Matt Stensland, Steamboat Pilot & Today, was also present.

### **FIRE RESTRICTIONS**

Mr. DeMorat stated that he was on the fire restriction call with the interagency partners and neighboring jurisdictions this morning. Things have remained status quo throughout the northwest region. Both North Routt and Steamboat Springs Fire Protection Districts recommend remaining in Stage 2 Restrictions at this time. There has been some discussion regarding the weather forecast however he recommends waiting until precipitation hits the ground before coming out of Stage 2 Fire Restrictions.

Mr. DeMorat noted that there is a planned fire call on Thursday to reassess the fire danger once this region should have begun receiving some precipitation. If the fire danger significantly changes he will request a special meeting to reconsider reducing or rescinding the fire restrictions. Currently Routt County is still at 5 of the 7 indices and the moisture levels are at historic lows.

Commissioner Monger noted that the Board is available to meet on Friday for a special meeting in response to the precipitation if necessary.

## **EN RE: PLANNING / CHAD PHILLIPS**

Kristy Winser, Planning; Tim Borden, applicant; Todd Carr, Building Official; Stephen Elkins, Harry Thompson, Pete Wither, Ed MacArthur, Jamie Jenny, Paul Hoffmann, Gates Gooding, Jim Spillane, Nancy Spillane, Sara Floyd, Jon Quinn, Chris Dillenbeck, and Jim Boyne, citizens; also were present.

### **TIM BORDEN SPECIAL USE PERMIT; PL-18-167**

Ms. Winser stated that this application is being processed as a Home Industry for the non-commercial storage and manufacture of fireworks as incidental to the residential use of the property. The permit boundary incorporates two parcels on either side of County Road 129. This activity currently occurs in three accessory structures on the west side of County Road 129 and the residence is located on the east side of the road. Ms. Winser added that the applicant has State and Federal permits. The intent of the County review is to not duplicate the purview of those agencies but instead review at a local level potential impacts to public roads, wetlands, wildlife habitat, noise, visual amenities and scenic qualities.

Ms. Winser discussed a visit Planning staff made to the site during the review for a tour to see what occurs during the process of making fireworks. Based on that tour and the conditions of approval staff felt that the potential impacts are low. The majority of the use is conducted indoors and there are small incidental portions that occur outside such as a process called “baking” and potentially testing of fireworks.

Ms. Winser added that Planning Commission heard this application on September 20<sup>th</sup> and they recommended approval with a vote of 6-0. Planning Commission amended several of the conditions of approval from the original ones listed in the staff packet. The original conditions were based off of the information in the applicant’s narrative however the Planning Commission amended the conditions for more flexibility in hours of operation and for the outdoor “baking” step.

Ms. Winser noted that during the Planning Commission hearing a neighbor came out with some concerns regarding noise impacts that occurred this past summer when the City requested that the applicant perform a training session at his site that included lighting off of fireworks. That neighbor indicated that they are alright with this if prior notice is provided. The original conditions of approval required all activity to be indoors with no testing or display however Planning Commission amended it to state that all activity related to the use shall be conducted inside with the exception of transportation, baking, and training. Condition of approval 14E was also amended by Planning Commission to state that no testing or display of fireworks on the property without prior notification of neighbors and proper permitting by local authorities. Mr. Borden noted that he is happy to notify neighbors prior to testing.

Mr. Phillips clarified that every use in unincorporated Routt County has to be listed in the zoning regulations uses by zone district chart (section 4.19) and uses that are not listed are not

allowed. To be considered an accessory use such use must meet the definition of accessory. The proposed use of constructing very large fireworks is not considered customary and commonly associated with a residential or agricultural use. The regulations allow for certain home industries that include fabrication, processing, assembly, preparation, research, storage, and warehousing. The application and the permit recommended for approval by the Planning Commission is for a fireworks fabrication facility. The applicant has expressed to staff that there will only be one firework made for this year's Winter Carnival but he would like the permit to accommodate multiple devices annually and the permit would be for a life of use. The not for profit nature of the operation does not affect the land use. Evaluations made through the process of the Routt County Zoning Regulations focus on any possible negative impact to the neighbors, community, and wildlife, not the exchange of money. The Routt County land use process avoids duplication of state and federal permits. Typically preservation of agricultural land and wildlife habitats, impacts to the county roads, and surrounding land uses are the focus.

Mr. Borden discussed the supervision this operation is subjected to. The ATF comes to his property about every three years and spends an entire day reviewing the site and weighing each firework. He has needed to retrofit containers in order to meet their standards.

Mr. Borden noted that he has filed for a building permit for the building that was originally built in 2000. Commissioner Monger asked if it was originally built as an exempt agricultural building. Mr. Borden replied yes.

Mr. Borden continued that he met with the Routt County Building Official, Todd Carr, and it was realized that the containers will need helical piers to tie them to the ground and the roof will need to be modified. Those things will cost about \$1,000 to retrofit. He is looking for some relief from those two requirements if possible. Commissioner Monger stated that this meeting is to discuss the land use application therefore the building permit part will need to be discussed later with the Building Department. Mr. Borden noted that he brought this up because having a building permit is a condition of approval.

Mr. Borden added that this is a hobby of his and the Planning Director has made it very clear that the commercial aspect has no relation to the requirement however he challenged the Board to give some thought to an exemption for community members who are participating in a short term contribution project. He wants to cooperate with the land use application but now he is caught up in the building permit process as well. He believes that the County could be creative for these types of projects to allow short term activities to happen.

Commissioner Monger stated that in all of the applications Mr. Borden indicated that there are visitors and guests in the structure to volunteer and inspect. Part of the process of the Building Department and their code is to make visitors on your property safe. Mr. Borden noted that very few visitors are permitted to access the building.

Commissioner Hermacinski stated that she would like to keep the building permit and the land use permit concerns separate. She noted that Mr. Borden would not be in the position of trying to get a retrofitted building permit if he had not been drug in there to get a Special Use Permit. Commissioner Hermacinski added that she apologizes to Mr. Borden for being here today and she believes it was a complete failure on the part of the County. She noted that elected officials are sometimes the last line of defense against what sometimes becomes the insanity of government. She has concerns about how Mr. Borden became involved in this

process after he has been on the cover of the newspaper, magazines, and news channel for years. Frankly, she disagrees with the staff assessment that a Special Use Permit is necessary.

Commissioner Monger questioned where the need for an SUP would start or stop. Commissioner Hermacinski added that the County typically only enforces land use issues on a complaint basis but she was told that this was not a neighbor complaint but instead Planning staff reading about it in the newspaper.

Commissioner Corrigan stated that he is struggling with the discussion that is moving into the territory of whether or not the regulations are properly written during a SUP hearing. Commissioner Hermacinski replied that she thinks that this is an interpretation issue and it is her belief that there are probably lots more citizens that are engaging in way more robust activity on their property than what Mr. Borden is but they are never hauled into the planning process and forced to retrofit their buildings to this extent. Commissioner Monger responded that he feels that statement is a stretch.

Commissioner Hermacinski added that she is not trying to get into a big conversation regarding the code however she supports this SUP and would like to put as few conditions on it as possible so that Mr. Borden can continue to work while getting into compliance with his building permit.

Commissioner Corrigan added that he is struggling with the question of why we would not want these buildings to be built to code. Our rules are pretty straight forward. You do not need a building permit for a building that is used exclusively for agriculture but if it does not meet that requirement then a building permit is required. Commissioner Hermacinski suggested making a condition of approval to allow him to continue to work while he works to get into compliance.

Commissioner Hermacinski asked if Mr. Borden is at a standstill. Mr. Borden replied yes because of the building code issue. Commissioner Monger added that the Board can allow some flexibility to allow him to continue working.

Mr. Borden added that the parameters for the hours of operation between 8:00 am and 6:00 pm could be problematic for this operation. He hires an out of state expert that occasionally comes to work with him. That expert sometimes works earlier in the morning or later at night however it is indoor work and creates no noise or disruption to the neighbors. Commissioner Corrigan replied that he sees no objection to changing that condition to better suit the operation.

## **PUBLIC COMMENT**

Mr. Hoffman stated that this is disappointing that we are here because the County is delving into regulating people's hobbies. The point that he believes the Planning Department has got wrong is when they claim that the activity cannot be considered accessory to the residence because it is not common or customary. If the County is going to get granular on the activity there are many things that are happening that he would imagine the Planning Department will want to stop. The bottom line is that the activity is a hobby and the County is attempting to reach out and regulate people's hobbies. Although the activity could be characterized as odd or unusual, this is a hobby.

Mr. Elkins stated that he has concerns that a citizen participating in a creative volunteer activity however the process in both the City and the County make it difficult for him. He would love to see a streamlined process created for activities like this. It is his belief that it would encourage more creativity and innovation in the community.

Mr. Quinn thanked Mr. Borden for the work he has done and the contribution he has made to the community. He sees that the county process has got away from itself and recognizes that this might be an attempt to find a solution for a problem that didn't exist.

## **MOTION**

Commissioner Hermacinski moved to approve the Special Permit for Home Industry with the findings of fact that the proposal, with the following conditions, meets the applicable guidelines of the Routt County Master Plan and is in compliance with Sections 4, 5, 6 and 8.17 of the Routt County Zoning Regulations. This approval is subject to the following conditions: General Conditions:

1. The SUP is contingent upon compliance with the applicable provisions of the Routt County Zoning Regulations including but not limited to Sections 5, 6, and 8.17.
2. Any complaints or concerns that may arise from this operation may be cause for review of the SUP, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
3. In the event that Routt County commences an action to enforce or interpret this SUP, the substantially prevailing party shall be entitled to recover its costs in such action including, without limitation, attorney fees.
4. No junk, trash, or inoperative vehicles shall be stored on the property.
5. This approval is contingent upon the acquisition of and compliance with any required federal, state and local permits. The operation shall comply with all federal, state and local laws. Copies of permits or letters of approval shall be submitted to the Routt County Planning Department prior to the commencement of operations.
6. Fuel, flammable materials, or hazardous materials shall be kept in a safe area and shall be stored in accordance with state and local environmental requirements.
7. All exterior lighting shall be downcast and opaquely shielded.
8. All trash shall be stored either inside a garage or inside Interagency Grizzly Bear Committee (IGBC) certified receptacles
9. Prior to the issuance of the permit, the Permittee shall provide evidence of liability insurance in the amount of no less than \$1,000,000 per occurrence. Routt County shall be named as an additional insured on the policy. Permittee shall notify Routt County Planning Department of any claims made against the policy. Certificate of liability insurance shall include all permit numbers associated with the activity.
10. Accessory structures/uses associated with this permit may be administratively approved by the Planning Director, without notice.
11. The permit shall not be issued until all fees have been paid in full. Failure to pay fees may result in revocation of this permit. Permits/Approvals that require an ongoing review will be assessed an Annual Fee. Additional fees for mitigation monitoring will be charged on an hourly basis for staff time required to review and/or implement conditions of approval.
12. Transfer of this SUP may occur only after a statement has been filed with the Planning Director by the transferee guaranteeing that they will comply with the terms and



conditions of the permit. If transferee is not the landowner of the permitted area, transferee shall submit written consent for the transfer by the landowner. Failure to receive approval for the transfer shall constitute sufficient cause for revocation of the permit if the subject property is transferred. Bonds, insurance certificates or other security required in the permit shall also be filed with the Planning Director by the transferee to assure the work will be completed as specified. Any proposal to change the terms and conditions of a permit shall require a new permit.

13. The Permittee shall prevent the spread of weeds to surrounding lands, and comply with the Colorado Noxious Weed Act as amended in 2013 and Routt County noxious weed management plan.
14. The Special Use Permit is limited to the uses and facilities presented in the approved project plan. Any additional uses or facilities must be applied for in a new or amended application. The use is limited to:
  - a. Non-commercial firework manufacturing and storage
  - b. No outdoor storage associated with the Home Industry
  - c. All activity related to the use shall be conducted inside, with the exception of transportation, baking and training
  - d. No testing or display of fireworks on the property without prior notification of neighbors and proper permitting by local authorities.
15. The Special Use Permit (SUP) is valid for the life of the use provided it is acted upon within one year of approval. The SUP shall be deemed to have automatically lapsed if the uses permitted herein are discontinued for a period of one (1) year.
16. Any required permits from the Building Department shall be obtained and any inspections completed within 180 days of the approval of the SUP.

Commissioner Corrigan seconded;

Under discussion Commissioner Corrigan stated that he hoped that this SUP could be considered without going into the appropriateness of the regulations. The question of where the line is drawn is the concern that sticks out to him. Regarding the public comment implying the hobbies are being regulated, he does not believe that the County has even a comparable activity application previously. This was a very unique situation. Although he doesn't feel great about the process that took place today he cannot justify arbitrarily and capriciously waiving the regulations.

Commissioner Monger noted that he supports Mr. Borden but he also supports the land use code. A lot of things can be hobbies but if a citizen wanted to create a hobby demolition derby on their property then someone might need to know about it. We are in a new time in this community when more land uses are coming forward that are not agriculture or farming so the County is trying to fit some oblong pegs into square holes in the land use code.

Commissioner Hermacinski stated that she wants to clarify that her position is not arbitrary and capricious.

The motion carried 3-0.

**EN RE: ACCOUNTING / DAN STRNAD**

**BUDGET WORK SESSION – ROUTT COUNTY SHERIFF'S OFFICE 2019 BUDGET**

No recording or minutes are produced for Budget Work Sessions.

**EN RE: HUMAN RESOURCES / KATHY NELSON**

**HAYS BENEFITS CONSULTANT HEALTH INSURANCE PROPOSAL**

The Hays staff discussed the updated 2019 medical benefits proposal and provided the Board with the updated financial report and renewal analysis.

**MOTION**

Commissioner Corrigan moved to approve the UMR contract for the administrative renewal.

Commissioner Hermacinski seconded; the motion carried 3-0.

**MOTION**

Commissioner Hermacinski moved to move forward with Berkshire Hathaway as the stop loss carrier for 2019.

Commissioner Monger seconded; the motion carried 3-0.

**MOTION**

Commissioner Hermacinski moved to not accept any of the presented medical plan change options and moved to pursue increasing the high deductible plan out of pocket maximum to mirror the PPO plan.

Commissioner Corrigan seconded; the motion carried 3-0.

**MOTION**

Commissioner Hermacinski moved to accept contribution option #2, which will maintain the ratio between employer and employee and result in a 9% increase across the board.

Commissioner Corrigan seconded; the motion carried 3-0.

**MOTION**

Commissioner Hermacinski moved to keep the dental and vision plans the same.

Commissioner Corrigan seconded; the motion carried 3-0.

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

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Kim Bonner, Clerk and Recorder

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Douglas B. Monger, Chair

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Date