

November 1, 2022

The Logan County Board of Commissioners met in regular session with the following members present constituting a quorum of the members thereof:

Byron H. Pelton	Chairman
Jane E. Bauder	Commissioner
Joseph A. McBride	Commissioner

Also present:

Alan Samber	Logan County Attorney
Jennifer Crow	Administrative Support Specialist
Debbie Unrein	Logan County Finance Manager
Marilee Johnson	Logan County Tourist Center
Jerry Caseboldt	Logan County Emergency Manager
Roger Hollard	Stratus Sterling LLC
Richard Dean	Stratus Sterling LLC
Shane Nichols	
Julie Nichols	
Susan Michels	
Carol Waterman	
Jack Darling	
Linda Gebauer	
Nicole Bailey	
Chris Kloberdanz	
Trae Miller	
George Good	
Jeff Rice	Journal-Advocate

Chairman Pelton called the meeting to order at 9:30 a.m. and opened the meeting with the Pledge of Allegiance.

Chairman Pelton asked if there were any revisions for the agenda.

Chairman Pelton continued with consent agenda.

The Board continued with the Consent Agenda items:

- Approval of the Minutes of the October 18, 2022, meeting.
- Acknowledge the receipt of the Veteran's Service Officer's report and Certification of pay form for the month of October 2022.
- Acknowledge the receipt of the Sheriff's Fee Report for the Month of September 2022.

Commissioner Bauder moved to approve the consent agenda. Commissioner McBride seconded and the motion carried 3-0.

Chairman Pelton continued with New Business:

Commissioner McBride moved to approve Resolution 2022-28 to amend the IRC Section 125 Flexible Benefits Plan to allow a participant to redirect on a non-tax basis, a portion of the gross compensation for reimbursement of health expenses to the extent that such expenses do not exceed \$3,050.00 per plan year. Also

amended is the maximum Health Flexible Spending Account (FSA) carryover, it will be \$610.00. This carryover amount is in addition to employee's election for the new plan year. Commissioner Bauder seconded, and the motion carried 3-0.

Commissioner Bauder moved to approve Resolution 2022-29 establishing permitting criteria and procedures for roadside memorials within a county road right-of-way in Logan County. Commissioner Pelton seconded and the motion carried 2-0. Commissioner McBride abstained from discussion and voting.

Commissioner McBride moved to approve an agreement between Xcel Energy and Logan County and issuance of right of way permit number ROW 2022-12 for the use of the county right of way under Willow Road for an electrical distribution. Commissioner Bauder seconded, and the motion carried 3-0.

Rob Quint, of the Logan County Planning and Zoning Office explained the request of Stratus Sterling, LLC for a conditional use permit to operate an aggregate mining pit in an industrial zone district located in the southeast quarter (SE1/4) of Section 32, Township 8 North Range 52 West of the 6th Principal Meridian, Logan County, Colorado.

Roger Hollard of Stratus Sterling LLC Companies purchased the property in April of this year with the intention of looking at aggregate mining possibilities as well as other industrial opportunities. There is an old sugar factory, a rail spur opportunity, and a farm opportunity but the biggest opportunity is the aggregate mining. They are working through various endeavors to create economic development opportunities.

The EPA is currently doing some assessments on the factory structure as to what it might take to mediate that structure to rehabilitate it or take it down whatever it may be. IHC Scott's Tony Roberts was called away today on an OSHA incident and could not attend the meeting today. He is the expert on mining and was going to talk to the intensions on the mining.

Within the application is a phased plan. One of the early questions was, should they seek approval from the county before the state mining permit is obtained. The state process is fairly perfunctory, and what it really comes down to is local control. They felt it would be best to reach out to the county first and get a feel for what the county would like to see.

The site was tested by IHC Scott. They found a lot of very usable aggregates, a lot of sand and some smaller rock, nothing real big. This creates an opportunity to use the aggregate statewide and locally. There are a lot of very usable aggregates such as sand and small rock that can be used locally as well as statewide. With the rail spur opportunity with Burlington Northern or Union Pacific Railroad, they have the opportunity to take the aggregate out on rail.

The intent is to mine the pits and deposit the aggregate at a collection area near the factory building for distribution from that point. Once done, the pits will become adjudicated for water storage, either by lining the pit or by doing a slurry wall around the pit to make sure they are compliant with all legal requirements with augmentation of water, use of water, etc.

Commissioner McBride asked about the impact of the operation on the city park nearby. Mr. Hollard said the intent is that it will not be a 24-hour 7-day a week operation. It will operate from 7 a.m. to 7 p.m. five to six days a week or whatever boundaries that the county puts on it. Mining of this character produces noise and dust until it is closed in and there is a water pit level. The contractor will use appropriate measures to contain the dust and will keep water onsite to keep the dust down. The mining itself will be dry mined until they get to the

groundwater which will require augmentation and other protections of the waters. The loading will all be done via conveyor belts up toward the aggregate site where it will be put on trucks to be moved offsite.

Commissioner Bauder asked if the mine will produce silica sand. Mr. Hollard did not have an answer to that question. The intention is that there will not need to be any crushing or grinding of the aggregate onsite. Commissioner Bauder stated that when you use silica sand you need to wear a ventilator facemask and that she would be concerned about the neighborhood. The dust would be so fine and there is a nursing home not that far away. Jeff Reeves commented from the audience that silica is present in all sands depending on the gradation of it.

Commissioner Pelton noted his concerns with maintenance of Edith Avenue and County Road 26 and the narrow railroad crossing. The county cannot widen County Road 26 because of the irrigation ditch on one side and houses on the other. Part of County Road 26 is paved and the other part of it is gravel. It is heavily used and very hard to maintain and will be even harder to maintain if there is more truck traffic on it. He would like to see a condition of the permit that Stratus would have to take some of the responsibility of maintaining that road. Mr. Hollard stated that at the Planning Commission meeting, the contractor had stated that they would not use County Road 26 and would stay away from it. Mr. Hollard agreed that the condition in the conditional use permit would be agreeable to a maintenance schedule or that they would repair any of the county public improvements that could be repaired by them or put them on a maintenance schedule. The total dust created is a concern.

Commissioner Pelton was also concerned that the land be reclaimed at the end of the project. The agricultural area will be taken out of production. It will need to be reclaimed in a manner that the state laws require. Contractor IHC Scott out of Utah is a privately held billion-dollar contractor. In the Colorado region their sales are around half a billion dollars. They will lease the property from Stratus Sterling, LLC and are very familiar with what is necessary and required for reclamation. There will likely be water pits for water storage.

Commissioner McBride asked what other conditions that the Planning Commission had added to the permit.

Rob Quint added several statements. Tony from IHC Scott attended the Planning Commission meeting and explained the entire operation and the staging areas and which roads would be used, etc. It is a disadvantage for the applicant that he is not here today because he is very good at explaining all of that. Normally, the process is that applicants have their state permit in-hand before applying to the county for a county permit. After discussions with the County Attorney, it was agreed that Stratus Sterling, LLC could present to the Commissioners prior to obtaining a state permit if they put a condition (to get the state permit) on it. Part of the condition that the Planning Commission put on the use permit at their meeting was that after their state permit was obtained that they would like Roger Hollard and Tony to come back before the Planning Commission again and explain the whole process and a detailed plan and what the State of Colorado is requiring. The public would be invited to this meeting.

County Attorney Alan Samber stated to the Board that he did not know how they could approve the permit today, leaving open ended conditions to be tacked on to it later. His suggestion is to hear the public comments today and take it under advisement, but don't act on it formally to approve or deny today. The Board can give the applicant tentative approval, subject to further review if that is what they need to be assured that the application will be looked upon favorably in this county to begin the state process.

Commissioner Bauder asked about water rights and if they have rights for water storage. Mr. Hollard said that they are working through that issue. They have acquired 64 shares of the Sterling Number One Ditch which is not adjudicated for storage. The intent was to bring this before the commissioners to see "what the

temperature” was before taking it to the state as it takes a tremendous amount of money to acquire a state permit. They want to be a good partner with the city and county and make sure all of the county’s concerns are adequately addressed.

Commissioner Pelton opened the public meeting and entered into the record Exhibit 1A, a letter from Mr. Randy Stahley in opposition to the application. Copies of the letter were shared with the audience.

Jeff Reeves, Logan County Road and Bridge Manager explained the issues with Edith Avenue and County Road 26. It will need additional paving and re-stabilization. The length of the permit will be 99 years however the length of probable mining will be 15-20 years.

Carol Waterman, a resident of County Road 26 spoke in opposition to the application. Mrs. Waterman felt that the company pushed the Planning Commission to send the application to the Commissioners. The chairman of the Planning Commission kept saying that they needed more information. Ms. Waterman is concerned that the operation will affect her well water and the ground water. If they build a berm around the pit and it runs water off onto her property, it is against the law, and she intends to sue. Ms. Waterman also mentioned the road and the dust, the noise, and the city property down by the river. According to the ditch company bylaws, the ditch cannot be moved, and the water must be used for irrigation. They are taking ag property out of production.

Susan Michels, a resident of County Road 26 spoke. She said that they talked about expanding the (rail) spur on County Road 26. She would like to see plan for the expansion and how it will affect the county road and where it is going to go. If other industries come into that land besides the gravel pit, lighting pollution will be a concern. There will be more spotlights and security lights. This will have a big impact on the residences on County Road 26.

Linda Gebauer stated she is a resident of the City of Sterling living across from Columbine Park. Mrs. Gebauer spoke in opposition to the application as she is concerned about dust and noise. Since they are not using County Road 26, she assumes they will be coming down Front Street and making a turn to go down Highway 6. Front Street is a mess as it is. Division, and Delmar Streets, are not taken care of by the city like they should be. This gravel pit dust and noise will affect Columbine Park, and the park is an asset for Sterling. Once the state signs off on it the permit, it will go to the county to sign off on it. Mrs. Gebauer feels it should be put to a public vote.

Trae Miller, Logan County Economic Development Corporation Executive Director spoke in favor of the application. He stated that Stratus Sterling, LLC has been a wonderful community partner throughout the whole process. There are a lot of aspects of the project that they did not need to take on, in his opinion, that they that they chose to take on. That includes going through the EPA assessment process and working through the Brownfield program with the EPA. It is a huge community benefit that really opens up more of a can of worms for them than they needed to take on. It is important to start to look at how we address that and their willingness to allow that to happen is a big deal.

Mr. Miller argued that Stratus’ application is bringing a heavy industrial property back into production. This property has traditionally been used for industrial purposes for well over 100 years. It has been idle and now has a chance to see some of that use come back. There is significant economic benefit with linking up with this project. This property is zoned for heavy industrial use and though a gravel pit requires a conditional use permit, there are a lot of industrial manufacturing processes that will be used by the likes of anybody interested in this property. Over the last seven plus years, there have been a lot of projects with interest in this property both rail related uses, and other things. There have been multiple challenges with the site itself as most of those

things haven't worked. It is important to keep in mind that it is zoned heavy industrial use. The property has been on the market since 2008 – 2010.

Commissioner McBride asked if there were any water rights to the project. Mr. Hollard stated that there are Sterling Number One Ditch water rights. Ditch company water rights are very strict in that the water must be used for irrigation. If there is water storage it is up to the state. Regarding ground water, the intent of the contractor is to build a slurry wall around the outside perimeter of the pit so that the ground water in the pit stays separate from the groundwater outside of the pit. The slurry wall is an impervious wall that goes down to bedrock.

Jeff Reeves stated that there will likely be discharge monitoring reports required and groundwater monitoring reports required to make sure water wells are not affected. This will be similar to the landfill water well monitoring reports. The county could put a condition on the permit to make sure the gravel pits get reclaimed after the mining is finished. This would also be in the state permit requirements or guidelines in the state permitting. The state mining permits are complicated and are stringent on protecting the environment.

Susan Michels asked if the EPA was also looking at the land around the sugar factory building. Some of the previous owners' tractors had fallen into tanks. It took large tractors to pull those tractors out of the tanks. She was standing with the owners while the tractors were being pulled out of the tanks. Mr. Hollard stated that they recognize the fact that the building itself is the obvious problem and that there are a lot of subsurface problems as well. Through this process, they worked with their own environmental consultants prior to the EPA, to test the property, to look at groundwater issues and they believe that there is a variety of things that are "toward the factory". The old tin building that sits east of the factory - that whole area up through there up to the northwest - they are not going to touch that area. They will be looking at that for reclamation and future industrial uses. There is always that potential for contamination out in the field. If they run into a below ground storage tank that was previously not identified in the area, it will have to be determined how to deal with it.

Commissioner Pelton asked if there is a possibility that one of the four phases might not be used due to the close proximity to the housing on County Road 26. Mr. Hollard answered that there is a high probability that through the state process and working back through the county the project will be modified to meet both the state requirements and the county needs. The intent is not to mine the entire property, only a significant portion of it to make it economically feasible. The project can be modified as necessary, whether it is eliminating a phase or pulling the setback further away from County Road 26.

Carol Waterman noted that property values in the area will be devalued by \$50,000-\$75,000 and asked the Board members if they would like a gravel pit across the road from their houses.

Commissioner Bauder asked about the noise. Mr. Hollard answered that the noise will mainly be from machinery on gravel and electric motors for conveyors for loading. The operations will not be 24/7 operations.

Mr. Hollard noted that they would like to move forward with a state application as they have already lost a lot of time. They would agree to another meeting with the county to allow Tony from IHC Scott to attend and answer questions that he cannot answer today. Commissioner Pelton noted that moving forward that public meetings involving the residents in the neighborhood of County Road 26 and the City of Sterling would be important.

Linda Gebauer suggested visual aides at a public meeting and that she would like to see what a gravel pit and the equipment used will look like. She would also like to know how they will get truck drivers to haul the gravel with the labor shortage. Mr. Hollard agreed on the public outreach. They need the direction from the

Commissioners to move forward towards a state permit. The cost of the state permit will cost approximately \$1 million to the company. The cost of personnel will be up to IHC Scott. They are in this business and know how to operate it.

Commissioner Pelton noted that it will be important to involve the City of Sterling because they will be using their roads. Mr. Hollard noted that they have had meetings with the City of Sterling. They intend to be a good neighbor.

Speaker unintelligible – wants incentive for property owners.

Commissioner Pelton closed the public hearing.

Commissioner McBride moved to table indefinitely Resolution 2022-30, the request for a conditional use permit (CUP) #257 on behalf of Stratus Sterling LLC to operate an aggregate mining pit known as the Stratus Sterling LLC Pit in an industrial zone district located in the southeast quarter (SE1/4) of Section 32, Township 8 North Range 52 West of the 6th Principal Meridian, Logan County, Colorado. Commissioner Bauder seconded, and the motion carried 3-0.

Rob Quint explained the application of Patricia Collins for a special use permit to operate a RV Park for a family situation on her property. Commissioner Pelton opened a public hearing concerning the special use permit. No members of the audience spoke for or against the application.

Commissioner Bauder moved to approve Resolution 2022-31 granting Patricia Collins a special use permit to operate a RV Park, with related equipment and structures, on the property described as follows: A tract of land in the Southeast corner of said Section a tract of land in the SE1/4 of Section 2, Township 11 North, Range 53 West of the 6th P.M., County of Logan, State of Colorado. Also known by street address as: 35361 County Road 35, Peetz, CO 80747. Commissioner McBride seconded and the motion carried 3-0.

Other Business

The next meeting will be scheduled for Tuesday, November 15, 2022, at 9:30 a.m. at the Logan County Courthouse.

County Offices will be closed on Friday, November 11, on observance of Veteran’s Day. We take this opportunity to honor all those who have served our country in any branch of the military and give them our deepest gratitude and thanks.

There being no further business to come before the Board, the meeting adjourned at 10:46 a.m.

Submitted by:

Administrative Support Specialist

Approved: November 15, 2022

BOARD OF COUNTY COMMISSIONERS
LOGAN COUNTY, COLORADO

(seal)

By: _____
Byron Pelton, Chairman

Attest:

Logan County Clerk & Recorder