

MINUTES
Town of Crested Butte
Special Town Council Meeting
Friday, February 26, 2016
Jerry's Gym, Crested Butte Town Hall

Mayor Michel called the meeting to order at 6:05PM.

Council Members Present: Jim Schmidt, Erika Vohman, Chris Ladoulis, Roland Mason, and Laura Mitchell

Staff Present: Town Manager Todd Crossett, Town Attorney John Belkin, Town Planner Michael Yerman, and Town Clerk Lynelle Stanford

Michel encouraged all to attend the Miner's Ball after the meeting. Michel explained the order of events at the meeting: Belkin would speak about the MOU, then there would be questions of fact, public comment, Town Council discussion, and finally the Council would vote.

Schmidt moved and Mason seconded a motion to approve the agenda. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

A. Town Council Discussion and Possible Approval of Memorandum of Understanding for Mt. Emmons (Mt. Emmons Project) by and Among Mt. Emmons Mining Company, a wholly owned subsidiary of Freeport-McMoRan Inc., the Colorado Department of Public Health and the Environment, Water Quality Control Division and Air Pollution Control Division, Colorado Department of Natural Resources, Division of Reclamation Mining and Safety, Gunnison County, Colorado and the Town of Crested Butte, Colorado Regarding Certain Matters in Connection with the Mt. Emmons Mine Site and Project, the Historic Keystone Mine and Associated Waste Water Treatment Plant and Other Related Matters.

Belkin presented to the Council. He thanked the Mayor and the Town Council. He stated that the community had been working on the Mt. Emmons issue for 40 years, and he listed former Mayors that had served over the time period. He said the MOU represented the efforts of: the Town Council, High Country Conservation Advocates (HCCA), the Red Lady Coalition (RLC), and the Coal Creek Watershed Coalition (CCWC). Belkin reviewed the history of the surety, to include U.S. Energy's depressed financial position last year. He explained that the State of Colorado Department of Health and the Environment, Water Quality Control Division (Division) coordinated a meeting with the Town and the County in October 2015. The Division agreed to reach out to U.S. Energy (USE). The State and Freeport shared conversations with the Environmental Protection Agency (EPA). Belkin said they had about five face-to-face meetings to include Freeport at the Division office in Denver. Since early November they had been working to understand perspectives, and they had developed trust. Freeport had been clear and straightforward about what they wanted, and the community wanted the plant run in

perpetuity and for mining to go away. The MOU represented the launching point. It was the first point that would require implementation of many processes. Freeport was staunchly committed to protecting the environment. They were uninterested in mining the site, and they were interested in upholding environmental standards.

Belkin addressed questions that had been included as a part of a Q & A in the packet:

1) Who was the Mt. Emmons Mining Company (MEMCO)? He explained that Freeport acquired MEMCO by reverse merger when Freeport acquired Phelps Dodge.

2) Why would Freeport take on liability of operating the water treatment plant?

Because MEMCO was a legacy owner of the Mt. Emmons Mine Site, along with it came the responsibility for water discharge treated by way of the water treatment plant and the plant itself under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). MEMCO could have liability for the project should the project be identified as a Superfund site. MEMCO felt it was better to take the project from USE so that they could control the outcome going forward rather than risk the project becoming a Superfund site with the liability under CERCLA. Schmidt asked if MEMCO expressed that they would improve the plant to reduce their operating costs. Belkin said that Freeport would like to cut costs to run the plant, and they would like it to be efficient. He thought that at the end of the day, they were committed to upholding environmental standards, and they could be open to it.

Mason said MEMCO talked about providing financial security for running the plant for two years. He believed they were responsible for running the plant into perpetuity. Belkin said there was a joint hearing in 2005 when USE's permit was up. They tried to get the State to provide surety. With a legacy change of ownership, the plant became Freeport's. In August, the Council asked for surety into perpetuity. They requested a longer term, but ultimately Freeport was comfortable with two years. He would say Town was comfortable. They would have liked more, but Freeport had to operate the plant per the permit with or without the guarantee. Michel asked what it meant in the big picture. Belkin said they started in November, and at one point, the MOU was eight pages long. It was down to two pages. A MOU was not binding, but once it was written, directionally everything was going that way.

The discussion was opened to Public Comment:

Alli Melton - Red Lady Program Director for High Country Conservation Advocates (HCCA) - Office located at 411 3rd Street

- Handed out a letter addressed to the Mayor and Town Council.
- HCCA had been working to keep Red Lady mine free since the 70's.
- It was quite exciting to see the monumental shift in conversation.
- HCCA was very encouraged, and they encouraged the Council to approve the MOU.
- The MOU addressed two big concerns: 1) the community brought up the concern of the wastewater treatment plant and not having funding in place, and two years

provided the framework to figure out a permanent solution and 2) the reference of the disposal all of the mining interests was pretty historic, since the company had no real interest in mining.

- HCCA supported the Town Council approving the MOU.
- Michel thanked HCCA.

Bill Ronai - President of the Red Lady Coalition (RLC)

- Stated that the board of the RLC strongly urged the Town Council to authorize the Mayor to sign the MOU.
- It was a very good document to set the framework to move forward to protect the water and to lead to the elimination of mining.
- Ronai thanked everyone, and Michel thanked the RLC.

Sue Navy - 324 Gothic Avenue

- It was a momentous occasion. 39 years ago, she heard the mine proposed. Tonight had a better feeling.
- Thanked the Council, Belkin, and anyone else involved who wasn't present.
- Supported the signing of the MOU.
- Agreed with what Melton presented on behalf of HCCA.

Jeremy Rubingh - 321 Whiterock Avenue

- Handed out a letter.
- Thanked the Council. Stated they couldn't have made progress without the Town Council being open and governments cooperating.
- Thanked HCCA, RLC, and the people in Crested Butte who had worked for years.
- Mentioned his documentary film chronicling the battle over Red Lady. He also made a short version, which he urged people to view.
- Encouraged the Council to approve and to sign the MOU. He listed reasons including: the MOU moved towards long-term protection of the water, and the geology of the Upper Gunnison area had an extremely high likelihood of producing acid mine drainage.
- With a less favorable administration it could become a problem down the road.

John Hess - 225 Sopris Avenue - Treasurer and Secretary of Coal Creek Watershed Coalition (CCWC)

- The issue was water quality in Coal Creek.
- The MOU made a whole lot of sense.
- He thanked everyone involved.
- Stated that CCWC was involved in collaboratively working to site-specific water quality standards.
- CCWC had been monitoring water quality since 2003.
- Said those involved had done great work.
- Michel thanked the CCWC.

Ashley Bembenek - 125 Teocalli Road in CB South - Technical Coordinator of CCWC

- Stated CCWC was involved in site-specific water quality monitoring.
- Felt the MOU was a wonderful step forward.

Suzanne Pierson - 37 Willow Court

- Wondered, since the mining claims would be disposed, if the mountain would ever be bought or developed.
- She wanted it settled correctly forever.
- Wanted to know what the future looked like.
- Suggested that they didn't take anything for granted.

Neil Windsor - 208 3rd Street

- Wanted them to flush out in more detail the sources of funding and how the plant would not be a liability to tax payers.

Denis Hall - Bad Dog Alley and 7th Street

- Worked with HCCA and RLC for many years.
- Recalled attending a meeting 40 years ago (on the mine).
- Wondered aloud why they were having the meeting. He said it was the transparency thing again.
- Told the Council to approve signing the MOU.
- Thanked everyone for past and current efforts.

Public Comment was closed.

Belkin referred to Pierson's questions during Public Comment about what would happen with the mining claims and property. Belkin said there would be no condos, ski area, or waterslides. He referred to mining and mill site claims on the map provided. He said there were two different types of claims, and they would have to be withdrawn from mineral entry. He showed patented acres under the 1872 mine law. How they structured various transactions was open for discussion. Freeport wanted to be educated about how Town would like to see it happen. Belkin said the property would never ever be used for mining or extractive practices. It was more than likely to go back to the Federal government with the caveat it could never be used for governmental purposes.

Next, Belkin addressed the funding question asked by Windsor. Belkin summarized that Freeport was going to have to pay to run the plant. The Town, County, and State would help Freeport with some funding to help them improve the plant. However, it was unconstitutional for the community to pay to operate the plant.

The meeting was opened to board discussion. Schmidt saw no downside to signing the MOU. Mason agreed with what Hall said during Public Comment.

Schmidt moved and Vohman seconded a motion to approve the MOU, as presented by the Town Attorney, and in doing so, authorize the Mayor to execute the same. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

ADJOURNMENT

Mayor Michel adjourned the meeting at 6:57PM.



Glenn Michel, Mayor



Lynelle Stanford, Town Clerk (SEAL)

