

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 20th DAY OF FEBRUARY 2018  
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Wayne Jackson..... Chairperson  
Dean Draper..... Commissioner  
James I. Withers..... Commissioner  
  
Pat Finlinson. .... County Attorney  
Marki Rowley. .... County Clerk  
Jamie Hair. .... Deputy County Clerk

ALSO PRESENT: Barb Clark. .... Chronicle Progress  
Jason & Jennifer Christensen..... J & J Swine  
Demar Iverson, Leo Stott, Karen Wardle, Kelby Swallow & Sherri Callister... Citizens  
Lynn Zubeck ..... DWR  
Jim Webb & Matt Robinson. .... Smithfield Foods  
Steve Styler. .... Styler-Daniels P.C.  
Ronda Williams..... Hinckley Lion Club  
Steve Snelgrove, Samuel C. Quigley, & Tiffany James. .... Magnum  
Bonnie Gehre..... County Auditor  
Sheri Dearden..... County Treasurer  
Pat Manis..... County Assessor

Note: Not all agenda items were followed in order.

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN PROVIDED TO each member of the governing body, posted at the principal office of the Millard County Commission, posted on the Utah Public Notice Website, and provided to the Millard County Chronicle Progress, a newspaper of general circulation within Millard County, Utah, as required by law, the following proceedings were had:

PUBLIC WAS WELCOMED

The meeting began at 10:00 a.m., after a brief welcome by Commissioner Jackson to the public and Commission members.

OPENING STATEMENTS

Commissioner Jackson asked if anyone had an opening statement to give. Commissioner Withers said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

## APPROVAL OF FEBRUARY 6, 2018, COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held February 6, 2018, were presented for consideration and approval. Commissioner Draper made a motion to approve the minutes of February 6, 2018, as presented.

Commissioner Withers SECONDED the motion. The voting was unanimous and the motion carried.

## FOLLOW UP ACTION ITEMS FROM FEBRUARY 6, 2018

Commissioner Withers asked for clarification concerning hiring a landfill consultant, and if the Commission will have an opportunity to review the proposal before it is sent out for bids. Attorney Finlinson confirmed that the Commission would be able to review the proposal.

## RATIFY THE APPROVAL OF MOVING FORWARD WITH HIRING A CONSULTING PARTY TO REFINE MAGNUM'S PROPOSAL.

Attorney Finlinson said that there was a favorable recommendation given from the Planning and Zoning Commission, with the contingency that engineering studies and some consulting work be done on Magnum's proposal. He said that it was recommended that Bruce Parker, who was the consultant involved in the initial zoning ordinance and was instrumental in putting the energy corridor together, review the proposal in order to make sure that it works with the County's plan and vision for the future. He said that the Commission doesn't need to take action on this right now, as it will be addressed during the public hearing section of this meeting regarding the zone change and CUP scheduled at 11:00 a.m..

Commissioner Withers made a motion to table this agenda item.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried.

## DISCUSSION AND POSSIBLE APPROVAL OF A CONTRACT WITH ES&S FOR ELECTION EQUIPMENT AND SOFTWARE

Clerk Rowley said that the State has contracted with ES&S for election equipment and software. Each county would have a contract for its own equipment and software. Millard County's contract is in the amount of \$92,969.00, which covers the annual ongoing software costs for one year. After the first year the annual ongoing cost of software will be in the amount of \$10,765.00.

Commissioner Withers asked if the State was helping fund any portion of the contract. Clerk Rowley said that the state has requested funding from legislation, but nothing has been passed as of yet. Clerk Rowley broke down the contract price which included machinery, hardware, installation, software, etc.

Commissioner Withers made a motion to approve a contract with ES&S for election equipment and software in the amount of \$92,969.00.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion

carried.

## DISCUSSION AND POSSIBLE ACTION REGARDING A MORATORIUM ON HEAVY INDUSTRIAL (HI) ZONING

Commissioner Draper said that Attorney Waddingham suggested a moratorium while the County considers the Heavy Industrial zone changes. Commissioner Draper said that today's discussion is just to start the process to allow solar in HI zones, and no action will be taken on this today. He said that the County is currently looking to create and specify three to four types of uses within HI zones; HI Agriculture, HI Renewable, and HI businesses such as IPP and Magnum's operations. He said that a CUP will still be needed, and that solar is currently only allowed in Range and Forest. He thinks this change will require several public hearings where residents will be allowed to give their input.

Commissioner Withers asked what the time frame is on the moratorium. Commissioner Draper said that it can be as little as one to two months, and/or up to six months.

Commissioner Withers asked how this affects current applicants. Commissioner Draper said that it would not affect people who have already applied if this is done how it should be done.

Commissioner Withers said that he doesn't want to do anything that's retroactive that will affect anyone's business plans going forward in the County.

Commissioner Withers asked if a time frame for the moratorium was discussed at the Planning and Zoning Commission. Mr. Richins said that a six month maximum moratorium was discussed. He doesn't think less than three months would be adequate in order to have all the meetings and proper notices posted.

Commissioner Withers said that he's concerned with placing a moratorium on something that may be counter intuitive to economic development in the County. He said that there are people who want to build their lives and invest their businesses here, and he is concerned that the County has to do a moratorium which would stop any of that development from moving forward. He asked why the County couldn't do this without a moratorium.

Mr. Richins said that the moratorium would only affect those changing HI zones. He said that anything that is already zoned would be able to move forward. He said it can be done without a moratorium; having a moratorium would limit HI projects to those that have already been zoned HI.

Commissioner Draper said that the moratorium enables the County to take the time to decide what the suitable areas are in Millard County for HI to set up and do business. The idea is to ease the process not constrict it. It would just allow the County to take the time to make sure the zoning is put in place properly. Commissioner Draper said that he anticipates several businesses coming forward wanting to request HI zoning. He wants to make sure County zoning is prepared for an influx of HI businesses who may look into the County in the future, so that these businesses know exactly what the requirements are when they apply.

Commissioner Jackson said that he disagrees with the moratorium terminology. However, he wants to see the HI zoning move forward. He asked if a moratorium is necessary. Commissioner Draper said that it is not necessary. Commissioner Withers said that he thinks six months is too long for a moratorium. He would like to see a time frame of no more than sixty days.

Commissioner Draper would like to hold three public hearings in the evenings so most

people can attend to give their comments. He asked Mr. Richins what a suitable time frame may be beyond the public notices.

Mr. Richins said that if it is made a priority, sixty days would be adequate. He said that the advantage of a moratorium will prevent a slew of applications that may try to get in before changes are made.

Commissioner Withers made a motion to approve a sixty day moratorium on HI zoning to make it possible for the Planning and Zoning Commission to put together a proposal for the County Commission and receive public input. This will not change or impede any current applications.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried.

## DISCUSSION REGARDING THE HINCKLEY LIONS CLUB DEMOLITION DERBY - SKIP TAYLOR

This agenda item was tabled because Mr. Taylor was not present.

Later, Ronda Williams was present to discuss this agenda item. Ms. Williams asked if the Commission had heard from Delta City. She said that no progress had been made with Delta City on her end. Commissioner Withers said that Delta City indicated that they are not in a position to help financially. However, they agreed to help with advertising and ticket sales.

Ms. Williams asked about the use of the facilities. She said they need to know what they have to work with in order to move forward. She said that the Tourism Department usually helps the Lions Club but is specific on what the funds can be used for. She doesn't think that the Tourism Department will help pay for the use of the facility, and they are trying to reduce costs anyway they can.

Commissioner Withers asked if it would help if the County were to reduce the facility use fee to half. Ms. Williams said that she doesn't know what the normal fee is, but that they currently pay approximately \$1,400.00. Commissioner Withers asked what the Lions Club is specifically requesting. Ms. Williams said that they are asking that the future facility use fee be waived.

Commissioner Jackson expressed interest in helping the Lions Club, but said that there needs to be further discussion. He said that he has received a lot of phone calls from constituents regarding this issue.

Ms. Williams suggested a possibility of charging a returnable deposit that could be refunded to them if certain requirements are met. She said that they need to know as soon as possible.

Commissioner Withers said that they can discuss and possibly approve this at the next commission meeting. Ms. Williams asked if she needs to complete another application to waive fees. Commissioner Withers said that they will look into it and let her know.

## DISCUSSION AND POSSIBLE APPROVAL OF APPLICATION #Z-2017-029 FOR A PROPOSED LEVEL 3 CONCENTRATED ANIMAL FEEDING OPERATION (CAFO) C-2 CONDITIONAL USE PERMIT (CUP). PETITIONERS - J&J SWINE, LLC & A-TEAM EQUIPMENT SERVICES, LLC. OWNER - SWALLOW AG, LLC

Attorney Finlinson suggested that the commissioners consider it an unfavorable motion from

the Planning and Zoning Commission because of the unusual nature of their meeting.

Commissioner Draper asked if there was a written plan submitted regarding the odor. He said that this was discussed and requested at the planning and zoning meeting.

Jason Christensen said that they are in the process of writing that plan and asked that this item be approved contingent on them getting that plan to the Commission.

Commissioner Withers asked what the purpose and reason is for requiring a written plan on odor and if it was required in the County's policy.

Mr. Richins said that the purpose of the CUP is to determine any negative impacts and if those impacts can be mitigated. He said that it is common practice to request a written plan of what applicants are going to do as a business.

Commissioner Draper asked if this request was in the initial application. Mr. Richins said that he believes a plan was requested as part of the initial application. Attorney Finlinson said that it is common practice of the County to request a written plan. Commissioner Withers said that it is impossible to mitigate something that is going to smell.

Mr. Christensen explained that they would mitigate the odor by keeping the barns clean, which is good practice for them and their animals. He said that their research has shown that there is a lot of expensive odor mitigation practices that only focus on lagoons. He said that the majority of the smell comes from the barns themselves and their plan will reflect this.

Attorney Styler said that it was requested at the Planning and Zoning CUP hearing that the best technology be used to mitigate the odor and they do not object to that condition. He said that Smithfield is constantly applying new technology to minimize odor. He said that they can't make odor disappear altogether, but they can manage it properly through mitigation. He said that they would give an outline on what they will do using the best technology available to help the odor issue.

Commissioner Draper asked if the odor plan request was included in the initial application. Attorney Styler said that it was not requested on the application, but one of the conditions stated was that they provide information on how they plan to mitigate odor. He said that they did fill in a description listing some items that can be done. However, the initial application did not require an odor management plan.

Commissioner Draper said that he understands that the planting of trees helps considerably, but he hasn't seen much of this when touring similar facilities in other counties.

Attorney Styler said that trees are not largely used in Milford and are simply used for wind blocks to help stop the odor from traveling on windy days. He said that this is one of the possibilities they have been discussing and are considering.

Mr. Richins said that Item 10 of the application is a plan to mitigate odor; therefore, the request for an odor plan is included on the initial application.

Commissioner Draper said that he sees no issues with moving forward, as long as the written odor plan is provided. He stated that he has seen the benefit of using trees and gave an example of the trees planted at the Hinckley Cemetery.

Demar Iverson asked how the pig farm was going to guarantee that there will be no sewage leaks into their aquifers. He said that he is concerned that the applicants won't follow through like they haven't with the odor mitigation plan yet. He said that as neighbors, they want some kind of guarantee that their water won't be contaminated. He said that he is also concerned about the dust and maintenance of County roads.

Commissioner Withers said that the County will maintain the road and anticipates they will

use MAG Chloride to help with dust. Mr. Iverson said that they want some assurance about the protection of their aquifer and that their property values won't deplete because of odor.

Commissioner Draper asked Attorney Styler to address the process of testing wells and water quality. Attorney Styler said that there is currently a public notice in the Chronicle Progress for the water discharge permit from the Department of Environmental Quality. He said that they use a 60ml lagoon liner which is much thicker and better. He said that they also use test wells which are periodically tested by the State and/or a third party contractor who submits those results to the State. He said that they have procedures in place to protect aquifers.

Attorney Styler said that they can't guarantee that the lagoons won't leak, but they use the best technology to the best of their ability, in order to meet the requirements of the State. He said that they have had liners leak before, but they will stay on top of it and solve the problems as soon as possible.

Mr. Iverson said that he is concerned with contamination and he would like a guarantee that there will be no contamination. He said that he does not see this as a benefit to the County residents.

Commissioner Jackson asked how often the well tests are done. Attorney Styler said that they are done twice a year. He said that if the liner is leaking or if there is a change in the water, they will immediately get it corrected. However, if a leak did occur, he said that it would likely take years to affect neighboring wells. He said that with testing it twice a year, the likelihood of a leak affecting neighboring wells is extremely unlikely.

Mr. Iverson asked if there is any water engineering studies to back up Attorney Styler's statement. Attorney Styler said that there is no studies for this particular site.

Commissioner Withers said that there isn't going to be a no leak guarantee. He said that Fillmore and Delta cities can't guarantee that their lagoons won't leak either; however, a reasonable decision needs to be made on what can be guaranteed. He then asked what right the government has to prevent a family from making a living and where the line is drawn to guarantee things.

Mr. Richins said that the Division of Water Quality is tasked to ensure water quality and that they set the guidelines and enforce them. He said that they are currently accepting public comment on this application.

Commissioner Withers said that the water permit will come from the State of Utah; not from Millard County.

Commissioner Withers made a motion to approve Application #Z-2017-029 for a Proposed Level 3 Concentrated Animal Feeding Operation (Cafo) C-2 Conditional Use Permit (CUP). Petitioners - J&J Swine, LLC & A-Team Equipment Services, LLC. Owner - Swallow AG, LLC with the condition that the odor plan be included.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried.

Lynn Zubeck- Division of Wildlife Resources, said that he has concerns regarding the water and asked if the public could comment on that issue.

Commissioner Withers said that since the public was not invited to comment during the discussion they would be allowed to comment during Public Input.

## PUBLIC INPUT

Lynn Zubeck said that the DWR is concerned with the water being used for the proposed pig farm. He said that he is concerned that the water will come directly from the Clear Lake Aquifer. He said that they are already struggling with the output at Clear Lake. He said that the DWR is also very concerned with the pollution affecting the fish and other wildlife. Mr. Zubeck said that the spring flow is very much affected by what happens in Flowell and if there is pollution in Flowell it will contaminate Clear Lake. He said that he recently counted how many hunters traveled to the Clear Lake area, as well as the game the hunters harvested. He said that the hunters often ask him about the lack of water. He said that the lack of water will affect tourism and the money that these hunters bring to the County. He said that Clear Lake is extremely important to many people and businesses in the community and that the aquifer is drying up. He said that it is his opinion that a facility like the pig farm will only expand in the future and put more demands on the aquifer.

#### DISCUSSION REGARDING PURCHASING MINERAL RIGHTS FROM RED DOME

Commissioner Withers read a letter received from the Red Dome owners indicating an asking price of \$3800.00 per acre. He said that there are 117 acres total. He said that he is submitting this letter to be reviewed by Attorney Finlinson so the Commission can put an offer together based on past purchases if they choose to pursue this.

Attorney Finlinson said that he will review the paperwork and that he is aware of a few of the regulatory issues. He said that the reclamation issues won't carry over to the County, but there are still other issues to look at.

#### PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON A PROPOSED ZONE CHANGE FROM RANGE & FOREST (RF), AGRICULTURE, AND AGRICULTURE 20 (AG 20) TO HEAVY INDUSTRIAL (HI). MAGNUM HOLDINGS, LLC—APPLICANT. APPLICATION # Z-2017-030

Commissioner Withers made a motion to enter into a public hearing for the purpose of receiving public comment on a proposed zone change from Range & Forest (RF), AG, and AG 20 to HI. Magnum Holdings, LLC - applicant. Application #Z-2017-030.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 11:05 a.m..

Present were: Steve Styler, Jim Webb, Matt Robinson, Adam Richins, Tiffany James, Samuel Quigley, Steve Snelgrove, Pat Manis, Matthew Kesler, Demar Iverson, Sherri Callister, Barb Clark, and Kelby Swallow.

Mr. Richins said that this application was given a favorable recommendation from the Planning and Zoning Commission. He said that the land is currently zoned as RF, AG, and AG 20. The request from Magnum is to change this zone to HI.

Commissioner Draper asked if this will cause a problem with the desired solar portions of the HI zoning change. Mr. Richins said that this change is the precursor to other zoning changes. He said that the current status of the County's zoning doesn't allow solar into HI. He said that this change to HI will preclude solar, unless other changes are made. Commissioner Draper asked Tiffany James if

this would cause problems for Magnum.

Ms. James presented a handout for review. She said that this would preclude solar unless the other ordinance amendment to allow solar on HI does not get approved. She said that the four applications that they submitted are interlocking. She referred to Slide 5 of the handout, and said that Magnum land is all zoned HI because their businesses are inherently industrial. She said that they think it is important for solar to be included in HI areas to optimize their master plan.

Attorney Finlinson said that the biggest concern from the Planning and Zoning Commission were windmills.

Commissioner Draper said that he attended the Planning and Zoning Commission meeting where this was discussed and said that windmills weren't the only concern stated. He said that it is a strict law that solar is only allowed on RF. He said that his concern is that solar will be allowed on any requested HI land if this is approved. He said that he doesn't want to enable this in other areas where it may not be suitable. He said that this is why it is important to have different specifications within HI zoning.

Ms. James said that if this application is approved, the Planning and Zoning Commission would still be able to limit others based on the current application requirements.

Commissioner Draper said that this hearing is solely a zoning change from RF & AG/AG 20 to HI. Commissioner Withers clarified that the language needs to change in the ordinance as well. Mr. Richins agreed that the language needs to be change in the ordinance.

There were no other comments made.

Commissioner Withers made a motion to go out of the public hearing.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried. The regular meeting convened at 11:14 a.m..

DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 18-02-20, AN ORDINANCE FOR A ZONE CHANGE APPLICATION #Z-2017-030 FROM RANGE & FOREST (RF)/AGRICULTURE (AG)/AGRICULTURE 20 (AG-20) TO HEAVY INDUSTRIAL (HI) FOR PROPERTY LOCATED SOUTH OF THE INTERMOUNTAIN POWER PROJECT (IPP) NEAR THE INTERSECTION OF BRUSH WELLMAN AND JONES ROADS, APPROXIMATELY 8 MILES NORTH OF DELTA. MAGNUM HOLDINGS, LLC—APPLICANT

Commissioner Draper made a motion to adopt Ordinance 18-02-20, an Ordinance for a zone change Application #Z-2017-030 from RF/AG/AG-20 to HI for property located south of the Intermountain Power Project (IPP) near the intersection of Brush Wellman and Jones Roads, approximately 8 miles north of Delta. Magnum Holdings, LLC—applicant.

Commissioner Withers SECONDED the motion. Clerk Rowley called for a roll call vote. Commissioner Draper voted YES. Commissioner Withers voted YES. Commissioner Jackson voted YES. The voting was unanimous and the motion carried.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON A PROPOSED ZONING ORDINANCE AMENDMENT - TEXT AMENDMENT, AMENDING THE TABLE OF USE DEFINITIONS IN TITLE 10, CHAPTER 25, APPENDIX A. MAGNUM



HOLDINGS, LLC - APPLICANT, APPLICATION # Z-2017-031

Commissioner Draper made a motion to enter into a public hearing for the purpose of receiving public comment on a proposed zoning ordinance amendment - text amendment, amending the Table of Use Definitions in Title 10, Chapter 25, Appendix A. Magnum Holdings, LLC - applicant, Application #Z-2017-031.

Commissioner Withers SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 11:16 a.m..

Present were: Steve Styler, Adam Richins, Tiffany James, Samuel Quigley, Steve Snelgrove, Barb Clark, Demar Iverson, Sherri Callister, Kelby Swallow, Jim Webb, Matt Robinson, Pat Manis, and Matthew Kesler.

Attorney Finlinson asked Mr. Richins if this application had received a favorable recommendation from the Planning and Zoning Commission. Mr. Richins said that this item is still pending with the Planning and Zoning Commission; however, the public hearing portion is still valid.

Ms. James said that she understood that this received a favorable recommendation from the Planning and Zoning Commission, pending legal review.

Commissioner Withers asked if this was the part where it was discussed to hire a third party consultant and if this was just a public hearing today. Mr. Richins said that without the recommendation from the Planning and Zoning Commission, a public hearing is the extent of what can happen today.

Ms. James said that her understanding of the third party review is different than what has been stated. She said that Magnum wants to do whatever necessary to make the County comfortable in making a decision. However, she doesn't believe an additional environmental review is necessary, because they have already done it previously and the gas storage is not changing. She said that the purpose of this amendment is to only change the site layout and update the conditions which only require a legal review. She referred to slide 4 of the handout to show all of the areas of land that had previously been subject to an environmental review.

Mr. Richins said that the minutes reflect that this was tabled pending further legal review; therefore Planning and Zoning did not have a recommendation. He said that the Planning and Zoning Commission requested further discussion and input from legal counsel.

Commissioner Draper said that he understood that this wasn't a legality issue, but impacts other issues relative to the ordinance amendment.

Attorney Finlinson said that from what he was told by Attorney Waddingham, this needed to be sent out and looked at by someone with planning experience to make sure that this is consistent with the County's vision and plan.

Ms. James said that Magnum agreed to find a consultant to make sure the County's requirements are met, but they believe all environmental and engineering requirements have already been met in depth. She said that they want the scope to only include the completeness of the application and what is applicable to the ordinance.

Mr. Richins said that he feels that would be consistent with the Planning and Zoning Commission's discussion. He said that they used an abundance of caution on this, due to the size of

the project. He said that they want to see if this causes problems in other areas of the ordinance or if there are any other ramifications they haven't addressed. He said that an ordinance change to consider other impacts, as well as the thoroughness of the application is in line with what was requested by the Planning and Zoning Commission.

Commissioner Withers said that all of this has already been studied and approved. He said that he has no problem going through language changes, but that the studies regarding seismic impacts and others have already been done. He said that it would be repetitive to go have Magnum repeat these studies.

Commissioner Draper said that he would like to see the text for the amendment that they are looking at. Ms. James said that it was in the application. She said that she did not have a copy with her today, but could provide that to the Commission.

There were no other comments made.

Commissioner Withers made a motion to go out of the public hearing.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried. The regular meeting reconvened at 11:27 a.m..

DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 18-02-20A, AN ORDINANCE AMENDING A ZONING ORDINANCE APPLICATION #Z-2017-031 - TEXT AMENDMENT, AMENDING THE TABLE OF USE DEFINITIONS IN TITLE 10, CHAPTER 25, APPENDIX A. MAGNUM HOLDINGS, LLC—APPLICANT

Commissioner Draper asked Attorney Finlinson if the Commission could act on this without a recommendation from the Planning and Zoning Commission. Mr. Richins said there was no recommendation based on the minutes. He said that the Planning and Zoning Commission requested further discussion after a legal review. Attorney Finlinson said that the Commission should consider it as an unfavorable recommendation unless it is clear that the intention of the Planning and Zoning Commission was to table it until they could discuss it again after legal review.

Commissioner Draper said that he thought that was the Planning and Zoning Commission's intention. Mr. Richins confirmed that and asked that this be tabled so that it can go back to the Planning and Zoning Commission for review. He said that he is aware that Magnum would like to expedite this, however, if it goes back to the Planning and Zoning Commission, it could be presented to the Commission again in a few weeks.

Commissioner Withers asked if the Commission could legally make a motion based on this information. Attorney Finlinson said that he thinks the Commission can defend going forward, but he would not recommend it.

Commissioner Jackson asked Ms. James if tabling this would affect their time frame. Ms. James said that Magnum has a time frame they need to stay on. She said that they are moving against a commercial time line and they would like to avoid any commercial challenges that would result from a regulatory delay. She said that they believe they have met the standards of due diligence and that they meet the criteria relative to this ordinance.

Commissioner Draper asked if the language submitted at the Planning and Zoning

Commission was the same language they were discussing now. Ms. James said that the language was from the application and that was the same language sent to Attorney Finlinson for review. Attorney Finlinson said that he has not had a chance to review the language yet.

Commissioner Draper said that he opposes the language because it allows for a universal change to HI to allow solar.

Commissioner Draper made a motion to table this item.

Commissioner Withers SECONDED the motion. The voting was unanimous and the motion carried.

Later, Mr. Richins said that he went through his notes for this application and found that it did receive approval from the Planning and Zoning Commission subject to legal council review. He said that it doesn't need to go back to planning and zoning and doesn't change the course of what was decided today, but he wanted to make sure this was communicated to the commissioners.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON APPLICATION #Z-2017-032 FOR AN AMENDMENT TO EXISTING C-2 CONDITIONAL USE PERMIT LARGE SCALE PROJECT #Z-2010-008. MAGNUM SOLUTIONS, LLC - APPLICANT

Commissioner Draper made a motion to enter into a public hearing for the purpose of receiving public comment on Application #Z-2017-032 for an amendment to an existing C-2 CUP Large Scale Project #Z-2010-008. Magnum Solutions, LLC - Applicant.

Commissioner Withers SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 11:35 a.m..

Present were: Adam Richins, Tiffany James, Samuel Quigley, Steve Snelgrove, Jim Webb, Matt Robinson, Sherri Callister, Pat Manis, Steve Styler, Matthew Kesler, Kelby Swallow, Demar Iverson, and Barb Clark.

Mr. Richins said that this hearing is specifically relative to the existing CUP application being amended.

Ms. James referred to slide 2 of the handout. She said that Magnum has a master plan they are trying to accomplish in the most efficient way within the highest industry standards. She said that in 2008 Magnum applied for a HI zoning in the 2000 acre area shown on the handout. She said that slide 7 shows the existing boundary for the CUP with the carve outs for natural gas liquids, now known as Sawtooth. She said that with this application, they are trying to reduce the boundary of this CUP so that it accommodates other areas for CUP's for other western energy businesses. She said that it will also amend the conditions to reflect that Magnum has met the conditions of the original approval and modify the language to make it consistent with the Sawtooth conditions. She said that they believe this is more of an administrative function.

Mr. Richins said that the proposed changes do not affect the scope of what they are already required to do. He said that the way it is handled will change; it also changes the included area which is consistent with the County's plan, but it doesn't relinquish any of the County's requirements.

Commissioner Draper asked if Planning and Zoning gave a favorable recommendation. Mr.

Richins said that it did not. He said that the Planning and Zoning Commission felt there wasn't enough time for them to understand the legalities of these conditions so they wanted legal review of the conditions before making a recommendation. He said that their legal counsel wasn't present at their meeting so this item was tabled.

Mr. Richins said that it is expected to receive a favorable recommendation at their next meeting. He said that this is the original CUP; Magnum recently received a CUP that has much cleaner and revised conditions. He said Magnum is asking to revise this CUP to match the cleaner CUP.

No other comments were made.

Commissioner Withers made a motion to go out of the public hearing.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried. The regular meeting convened at 11:40 a.m..

REVIEW AND POSSIBLE APPROVAL OF APPLICATION #Z-2017-032 FOR AN AMENDMENT TO EXISTING C-2 CONDITIONAL USE PERMIT LARGE SCALE PROJECT # Z-2010-008, MAGNUM SOLUTIONS, LLC - APPLICANT

Commissioner Withers made a motion to table this item.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried.

#### OTHER BUSINESS

Commissioner Jackson said that he gave copies of a swimming pool proposal to the other commissioners for review. The proposal will be brought to the next meeting for possible approval.

Commissioner Jackson asked which commissioner was over economic development. He said that because there is a meeting for ATV's with the Four Counties and Bart Whatcott is unable to attend. Commissioner Draper said he will find someone to attend.

Auditor Gehre said that she needs to schedule a date for a BOE to hear from Quality of Animal for Life. She needs to send them a letter stating a day and a time. The commissioners decided on Tuesday, March 13<sup>th</sup>, 2018, at 10:30 a.m.

Commissioner Withers requested to change the March 20, 2018 Commission Meeting to March 27, 2018 since he and Commissioner Jackson both will be unavailable.

Commissioner Withers made a motion to change the March 20, 2018 Commission Meeting to Tuesday, March 27, 2018.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried.

POSSIBLE CLOSED MEETING PURSUANT TO UTAH CODE ANNOTATED SECTION 52-4-4&5

Commissioner Draper made a motion to go into a closed executive session for the purpose of discussing pending and/or threatened litigation.

Commissioner Withers SECONDED the motion. All three commissioners voted unanimously and the motion carried. The closed meeting began at 11:48 a.m..

Present in the closed session were: Martin Phipps, Beccy Deacon, Jason Milne, Meagan Talafuse, Caroline Duesing, Doug Thayer, Blake Hamilton, Commissioner Draper, Commissioner Jackson, Commissioner Withers, and Attorney Finlinson.

After the closed executive session the regular meeting reconvened at 1:45 p.m..

OTHER BUSINESS CONTINUED.

Commissioner Draper said that the County received a request from the State Institutional and Trust Land Administration (SITLA) to lease two full sections of ground located along Highway 50 between Harding Way and the Flowell turnoff. He said that the request indicates that this lease will be for industrial use which this land is not zoned for. He said that he will find out more about this.

DISCUSSION BY EACH COMMISSIONER, COUNTY ATTORNEY, ELECTED OFFICIAL AND SECRETARY

Commissioner Draper said that he and Commissioner Jackson met with Governor Gary Herbert and some of his staff regarding economic development in Millard County; specifically on how they can help the County move forward in the industrial area.

Commissioner Jackson said that Mr. Richins, Scott Barney, Economic Development Coordinator and Commissioner Draper did an excellent job putting the County's ideas across in that meeting.

WHERE UPON THE MEETING ADJOURNED

Commissioner Jackson adjourned the meeting at 1:50 p.m..

Attest: \_\_\_\_\_

Approved: \_\_\_\_\_