

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 17th DAY OF APRIL 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 Clerk

ALSO PRESENT: Barb Clark Chronicle
Bonnie Gehre County Auditor
Adam Richins Planning and Zoning
Lindsey Mitchell County Sheriff's Office
Connie Hansen County Recorder
Pat Manis County Assessor
Sheri Dearden County Treasurer
Steve Snelgrove and Tiffany James Magnum
Scott Barney Millard Economic Development Association (MEDA)
Andy Nickle Delta Garbage
John Higgins Landfill Supervisor
Brandon Winget Road Supervisor
Deric Despain USU Extension

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 April 3, 2018 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held April 3, 2018 were presented for consideration and approval. Following review, Commissioner Withers made a motion to approve the minutes of April 3, 2018, as presented.

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

FOLLOW UP ACTION ITEMS FROM April 3, 2018

Commissioner Draper questioned if the discussion with the United States Forest Service (USFS) at the last commission meeting included any road closures. Commissioner Withers said that the discussion only included the maintenance of the roads. He said that the County will receive funds from the Class B road schedule instead of the USFS to maintain the roads.

DISCUSSION AND POSSIBLE APPROVAL OF APPOINTING KYLE SWALLOW TO THE MILLARD COUNTY WATER CONSERVANCY DISTRICT BOARD

Commissioner Draper said that the Water Conservancy District Board has a vacancy in the Flowell area. He said that Mr. Swallow has agreed to serve on that board and he believes Mr. Swallow will be a good person for the job.

Commissioner Draper made a motion to appoint Kyle Swallow to the Millard County Water Conservancy District Board.

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

DISCUSSION AND POSSIBLE APPROVAL OF MAKING AN OFFER FOR RED DOME MINERAL RIGHTS

Commissioner Withers said that this item has been discussed in previous commission meetings, and that Attorney Finlinson has been following up on some of the County's concerns.

Attorney Finlinson said that the current owner, Mr. Anderson, has had problems with reclamation requirements and he doesn't want this to be passed on to the County if it is purchased. Attorney Finlinson said that the biggest concern is constant oversight and the possibility of the Bureau of Land Management (BLM) claiming that it isn't a valid right and kicking the County off the land someday. He said he would like assurance on this issue, in writing from the Solicitors General's Office or the BLM, but has yet to receive it.

Commissioner Withers said that it was discussed at a recent BLM meeting that the individuals who have the current lease on the mine would still be responsible for a portion of that reclamation. Commissioner Withers questioned if the County could cover and negotiate the reclamation costs if it purchases the property at a large enough discount.

Attorney Finlinson said that would be a good option, but he doesn't think it is likely. He said that it is worth discussing with them.

Commissioner Withers made a motion to table this item.

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

BID OPENING FOR FREIGHT AND SPREAD OF ROAD OIL - ROAD DEPARTMENT

Auditor Gehre opened the following bids:

- Name: PKS Road Oil \$1,500.00; Daily Spreader Truck and Operator
\$165.00; Daily Equipment Layover Cost
\$125.00 (hourly); Mobilization Cost

- Name: Spreader Specialists \$2,100.00 (daily)
\$800.00 (daily)
\$46.30/ton; Haul to Delta
\$47.98/ton; Haul to Fillmore
No Hidden Costs

Commissioner Withers made a motion to accept the bids, as presented, and review the specifications of the bids, before making a decision.

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

BID OPENING FOR LMCR-2 ROAD OIL - ROAD DEPARTMENT

Commissioner Withers made a motion to table this agenda item.

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

Later, Auditor Gehre opened the following bids:

- Western Emulsions, Inc. \$302.00/ton; Effective through 10/31/2018
\$50.00/ton; Freight

Commissioner Withers made a motion to accept the bids, as presented, and review the specifications of the bids, before making a decision.

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

DISCUSSION AND POSSIBLE APPROVAL OF PROPERTY TAX AGREEMENTS, SETTLEMENTS OR DEFERRALS

There were none.

DISCUSSION AND POSSIBLE APPROVAL OF THE ANNUAL COOPERATIVE AGREEMENT BETWEEN MILLARD COUNTY AND UTAH STATE UNIVERSITY (USU) EXTENSION

Deric Despain, USU Extension, presented the annual agreement for review and said that there haven't been any changes to this agreement from the previous year. Attorney Finlinson said that he reviewed it and everything seems in order. Commissioner Jackson expressed his gratitude for the Extension Office and the work that they do.

Commissioner Withers made a motion to approve the annual Cooperative Agreement between Millard County and USU-Extension.

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

REVIEW AND POSSIBLE APPROVAL OF APPLICATION # Z-2018-002 FOR A NON-PLAT SUBDIVISION LOCATED AT APPROXIMATELY 5000 N 7500 W, ABRAHAM. ERMA R. WALKER—OWNER, WENDY LOWERY—APPLICANT

Adam Richins, County Planner, said that this application received a favorable recommendation from the Planning and Zoning Commission, and has met the necessary requirements. He said that this is a final approval that will be recorded with the new deeds.

Commissioner Draper made a motion to approve Application #Z-2018-002 for a Non-Plat Subdivision, located at approximately 5000 N 7500 W, Abraham, Utah. Erma R. Walker—owner, Wendy Lowery—applicant.

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

DISCUSSION AND POSSIBLE APPROVAL OF THE LANGUAGE FOR A REQUEST FOR PROPOSALS (RFP) FOR HIRING A CONSULTANT FOR LANDFILL FEE AND OPERATION EVALUATIONS

Commissioner Withers made a motion to approve the language for a RFP for hiring a consultant for landfill fee and operation evaluations.

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

PUBLIC INPUT

There was none.

OTHER BUSINESS

Commissioner Draper said that he spoke with the State Division of Forestry and Fire to

discuss the fire suppression costs. He said that he has found the original bylaws which state that the Fire District is responsible for fire suppression. He will deliver this language to the local Forestry and Fire Division.

DISCUSSION AND POSSIBLE APPROVAL OF AMBULANCE ABATEMENTS - LINDSAY MITCHELL

Ms. Mitchell presented an ambulance abatement application from Beatriz Morales-Sparks. Ms. Mitchell said that the total bill is \$1,146.27 and went over Ms. Morales-Sparks financial information.

Commissioner Withers made a motion to abate 60 % of Ms. Morales-Sparks' bill, based on federal poverty guidelines.

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

Ms. Mitchell presented an ambulance abatement application from Jodi Thompson. Ms. Mitchell said that the total bill is \$1,278.16 and went over Ms. Thompson's financial information.

Commissioner Withers made a motion to abate 100% of Ms. Thompson's bill, based on federal poverty guidelines.

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

Ms. Mitchell presented an ambulance abatement application from Baylee and Abbie Davis; Jennifer Davis. Ms. Mitchell said that the total bill is \$2,683.24 and went over Ms. Davis' financial information.

Commissioner Withers made a motion to deny an abatement for Baylee and Abbie Davis, based on federal poverty guidelines, and set up a payment plan.

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

POSSIBLE CLOSED MEETING PURSUANT TO UTAH CODE ANNOTATED SECTION 52-4-204 & 205

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

Commissioner Draper SECONDED the motion. All three commissioners voted unanimously and the motion carried. Present in the closed session were Commissioner Jackson, Commissioner Withers, Commissioner Draper, and Attorney Finlinson.

After the closed executive session the regular meeting reconvened at 10:55 a.m..

OTHER BUSINESS CONTINUED...

Commissioner Withers said that he was able to go to the newly refurbished community center in Deseret, Utah and explained the history of the building. Commissioner Withers commended the volunteers for the phenomenal job they did in remodeling the community center.

Commissioner Jackson said that the ATV Jamboree Committee has made a request for a kiosk to hold trail maps placed at the fairgrounds. He said that he will talk to the Tourism Department about this.

DISCUSSIONS FROM EACH COMMISSIONER, COUNTY ATTORNEY, ELECTED OFFICIAL AND SECRETARY

Commissioner Draper expressed his gratitude to the other commissioners for taking care of things in his medical absence.

Commissioner Jackson said that he attended a leadership summit in Richfield, Utah where the legislators addressed some of the public lands issues that they were working on.

Commissioner Draper said that he was able to meet with Mr. Mitt Romney and express the County's concerns about jobs and the economic impact that will result from changing from coal to gas revenues in the County.

Commissioner Jackson said that he had a bid walk for repairs at the racetrack. He said that they decided on ADA approved cement issues and a basketball court.

Commissioner Jackson said that he attended a round table regarding opioid issues put on by Attorney Reyes. He said that he received a lot of information that will be brought back to the County in the near future.

Commissioner Withers said that the County made an agreement with the church regarding putting up a fence south of the Public Health building which hasn't yet been done. Commissioner Jackson said that the fencing supplies are on the property. He will find out what is going on with this.

Commissioner Jackson said that Jerry Brinkerhoff has agreed to put a fence around the racetrack for the County.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON AN APPLICATION FOR A C-2 CONDITIONAL USE PERMIT #Z-2017-033 MAGNUM CAES, LLC – APPLICANT FOR THE CONSTRUCTION AND OPERATION OF THE PROPOSED MAGNUM COMPRESSED AIR ENERGY STORAGE (CAES) PROJECT ON PROPERTY LOCATED SOUTH OF THE INTERMOUNTAIN POWER PROJECT (IPP) NEAR THE INTERSECTION OF BRUSH WELLMAN AND JONES ROADS, APPROXIMATELY 10

MILES NORTH OF DELTA

Commissioner Withers made a motion to enter into a public hearing for the purpose of receiving public comment on an application for a C-2 conditional use permit #Z-2017-033 Magnum CAES, LLC – Applicant for the construction and operation of the proposed Magnum CAES project on property located south of IPP near the intersection of Brush Wellman and Jones Roads, approximately 10 miles north of Delta.

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

The public hearing began at 11:10 a.m..

Present were: Commissioner Jackson, Commissioner Withers, Commissioner Draper, Attorney Finlinson, Tiffany James, Steve Snelgrove, Adam Richins, Pat Manis, Barb Clark, Scott Barney, and Andy Nickle.

Ms. James gave a brief history of the CUP. She said that they have worked with County Planner Richins and have received a favorable recommendation from the Planning and Zoning Commission. Ms. James said that they have worked to make sure their project fits into the County's goals and believes that the project is in the County's best interest.

There were no other comments made.

Commissioner Withers made a motion to close the public hearing.

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

The public hearing closed at approximately 11:12 a.m..

The regular meeting reconvened.

DISCUSSION AND POSSIBLE APPROVAL OF AN APPLICATION FOR A C-2 CONDITIONAL USE PERMIT #Z-2017-033 MAGNUM CAES, LLC – APPLICANT FOR THE CONSTRUCTION AND OPERATION OF THE PROPOSED MAGNUM COMPRESSED AIR ENERGY STORAGE (CAES) PROJECT ON PROPERTY LOCATED SOUTH OF THE INTERMOUNTAIN POWER PROJECT (IPP) NEAR THE INTERSECTION OF BRUSH WELLMAN AND JONES ROADS, APPROXIMATELY 10 MILES NORTH OF DELTA

Commissioner Draper made a motion to approve an application for a C-2 Conditional Use Permit #Z-2017-033 Magnum CAES, LLC– applicant for the construction and operation of the proposed Magnum CAES project on property located south of IPP near the intersection of Brush Wellman and Jones Roads, approximately 10 Miles North of Delta.

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

OTHER BUSINESS CONTINUED....

Commissioner Jackson said that the County has received a bill from Sunrise Engineering for a survey done in the amount of \$1,400.00. The survey costs covers the paperwork submitted to the State regarding the Fillmore Landfill and re-doing the Delta Landfill.

Commissioner Draper said that the County needs a fund in place to rehabilitate should the landfill be closed. He said that the landfills have open areas where garbage is deposited and closed areas that have been covered over as part of the reclamation. He said that there was a mistake on how that worked and the reclamation fund is based on the amount of acreage that is open. Commissioner Withers said that due to the wrong information being submitted initially, the State mistakenly thought that the County needed to fund 13 acres for the Fillmore Landfill; however, it is only 3 acres that need to be funded.

Commissioner Jackson said that the question here is, should the County pay the bill.

Commissioner Withers said that when the County hires a consultant, the County expects the consultant to know the law. He said that Sunrise Engineering didn't know the law, so a lot of hours were spent figuring this issue out. He said that he wants to deny the bill.

Commissioner Draper said that he agrees with Commissioner Withers because the County was the one who solved the problem.

Commissioner Jackson said that his view is that the County used the consultant's paperwork to submit to the State and that the County wasn't charged for getting the mistake fixed.

Attorney Finlinson said that the County is most likely liable to pay them for something for using Sunrise Engineering's services, but it may be up for negotiation due to their performance. He said that it would be good to discuss this with Sunrise Engineering.

Commissioner Jackson said that it was a proposal and not a contract. Commissioner Jackson said that he will discuss this information and the County's concerns with Sunrise Engineering.

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

WHERE UPON THE MEETING ADJOURNED

Commissioner Jackson adjourned the meeting at 11:21 a.m..

Attest: _____

Approved: _____