

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 19th DAY OF NOVEMBER 2019  
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Dean Draper..... Chairperson  
Evelyn Warnick.....Commissioner  
  
Pat Finlinson..... County Attorney  
Marki Rowley..... County Clerk  
Jamie Hair..... Deputy Clerk

EXCUSED: Wayne Jackson..... Commissioner

ALSO PRESENT: Matt Ward..... Chronicle Progress  
Randy Smith, Brandon Stephenson, Mark Huntsman,  
and Jesse Ralphs..... Sunrise Engineering  
Steve Styler..... Styler-Daniels  
LeeAnn Diamond and Betsy Lang..... Peak Minerals  
Adam Richins..... County Planner  
Richard Jacobson..... County Sheriff  
Sheri Dearden..... County Treasurer  
Bonnie Gehre and Lynette Madsen..... Auditor’s Office  
Byron Kroeger and Tony Dearden..... Millard Care and Rehabilitation  
Woods Silleroy, Steve Maxfield, Matt Maxfield, Ruth Maxfield,  
David Remkes, and Holly Remkes..... Citizens

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 Draper to the public and Commission members.

OPENING STATEMENTS

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

## APPROVAL OF NOVEMBER 12, 2019 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held November 12, 2019 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Warnick made a motion to approve the minutes of November 12, 2019, as corrected.

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

## FOLLOW UP ACTION ITEMS FROM NOVEMBER 12, 2019

Clerk Rowley said that she followed up with the business license for Gregory Waters Live Decorative Rock and was informed that the business acquired the proper permits as needed.

## PRESENTATION FROM THE SUNRISE ENGINEERING TRANSPORTATION TEAM-BRANDON STEPHENSON

Brandon Stephenson, Jesse Ralphs, Mark Hunstman, and Randy Smith from Sunrise Engineering introduced themselves. Mr. Ralphs said that they are here to highlight their transportation team's expertise with the intent of getting a favorable recommendation from the County to submit to UDOT regarding consultation work on the Brush Wellman Highway project.

Mr. Huntsman gave a brief history and overview of Sunrise Engineering in Millard County. He said that when employees are able to engage in projects in their own communities, it is very rewarding.

Mr. Smith said that he leads a transportation project team and they target UDOT projects. Mr. Smith named a few projects that they have done in the area.

Mr. Stephenson said that they have been meeting with the project manager on the Brush Wellman Highway project and they have an interest in this because it is close to home. He said that one focus will be on safety accessibility. Mr. Stephenson explained a few other risk areas that they will look at to ensure a successful project.

Commissioner Draper said that the project itself was brought forth by another engineering firm. He said that the County didn't initiate this and didn't purposefully exclude other engineering firms from this process. He said that UDOT is the overriding manager and they have not yet contacted the County with the names of engineering firms to choose from. He said that the County is not currently in a position to advocate for one firm over the other; however, they will take these remarks into consideration when the time comes.

## SUSTAINABLE ENERGY SOLUTIONS PRESENTATION REGARDING CRYOGENIC CARBON CAPTURE-ANDREW BAXTER

Mr. Baxter, Sustainable Energy Solutions, gave a brief history of his company and its relationship with the Intermountain Power Plant (IPP) and the city of Los Angeles. He said that carbon capture is the only way to eliminate CO2 emissions from fossil fuels. Mr. Baxter explained

the post combustion carbon capture process and some of its benefits. He explained that carbon capture systems can work with solar and wind farms to store energy. Mr. Baxter showed an outline of their equipment at the Hunter Power Plant in Castle Dale, Utah. A brief discussion was had on where their system would be located at IPP.

Mr. Baxter said that they are proposing the first commercial scale pilot at IPP. He said that the Governors Office of Energy is supportive and they are currently in discussions with Los Angeles to obtain a letter of intent.

Commissioner Draper asked if any funding would be requested from the County. Mr. Baxter said that they are asking for approximately \$2,000,000.00 from the State and other funds will come from investors. He said that they will not be asking the County for funds; however, they will be asking for in kind work from IPP and Los Angeles.

#### DISCUSSION AND POSSIBLE APPROVAL OF AMENDING THE ROAD MAINTENANCE AGREEMENT WITH SMITHFIELD FOODS

Attorney Finlinson gave a brief history of this agreement and said that the length of road to maintain and the payment from Smithfield Foods, Inc. has been reduced. He said that the amendment requires the County to maintain approximately 3.2 miles of road in Millard County and removes all references to Beaver County and its Commission.

Commissioner Warnick made a motion to amend the road maintenance agreement with Smithfield Foods.

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

#### PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON A PROPOSED CONDITIONAL USE PERMIT- APPLICATION # Z-2019-020 TO CONDUCT SURFACE MINING ON PROPERTY LOCATED WITHIN THE RANGE AND FOREST (RF) ZONE, APPROXIMATELY 23 MILES SOUTHWEST OF DESERET—PEAK MINERALS, INC., APPLICANT

Commissioner Warnick made a motion to enter into a public hearing for the purpose of receiving public comment on a proposed conditional use permit- application # Z-2019-020 to conduct surface mining on property located within the range and forest (RF) zone, approximately 23 miles southwest of Deseret—peak Minerals, Inc. Applicant

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 10:43 a.m..

Present were: Brandon Stephenson, Randy Smith, Steve Styler, Adam Richins, Sheriff Jacobson, Matt Ward, LeeAnn Diamond, Betsy Lang, Sheri Dearden, Bonnie Gehre, Lynette Madsen, Steve Maxfield, Matt Maxfield, Ruth Maxfield, David Remkes, Holly Remkes, Byron Kroeger and Tony Dearden.

Planner Richins said that the Planning and Zoning Commission has given a favorable recommendation subject to several conditions. He said that they've had several discussions with Peak Minerals to clarify those conditions.

LeeAnn Diamond said that Peak Minerals is proposing to construct and operate a business with the Sevier Playa Potash. She explained what sulfate of potash is and what it is used for. Ms. Diamond explained the brine extraction process, recharge systems and the evaporation ponds. Ms. Diamond also went over their infrastructure, anticipated construction and operation time lines. She said that they will employ up to 300 employees during construction and approximately 150-200 employees for operations. Ms. Diamond said that the life of the mine is estimated at 35 years.

Steve Styler said that water rights have been discussed a lot. He said that they have been approved for 1,500 acre feet of groundwater for fresh water wells. He said that the fresh water are fixed time applications and reverts back to the State of Utah after the life of the project. He said that all water rights are fully approved. Mr. Styler said that the majority of water used is the brine water sitting within the Playa. He said that they will also use recharge water that comes from the Sevier River and the mountain block water. He said that they have been approved for up to 250,000 acre feet that may reach the Sevier River Playa so they can capture it and use it as part of the recharge program. Mr. Styler said that the project can exist without any additional water; however, it is made more efficient with more water.

Commissioner Draper asked if the ground water was all a part of the same basin. Mr. Styler explained the areas of water.

Commissioner Draper asked if the freshwater wells will tap into the aquifer in the Wah Wah Valley.

Mr. Styler said that they are within the same water right area; however, the studies that they did stated it would take approximately 100 years to start impacting anything within the Wah Wah Valley.

Attorney Finlinson asked if MAG Chloride was still included in the discussions because it is another revenue stream for the company. Planner Richins said that the Mag Chloride is part of the discussion.

Planner Richins said that the conditions to be explored are consistent with a large mining operation. Ms. Diamond asked that the language in the permit be clarified.

A brief discussion was had on suggested language changes to the CUP.

Sheriff Jacobson said that this area is outside of their focus areas because it is in a remote location. He asked about on site emergency medical services and security. He said that they would like a clear plan in place for security and emergency response. Sheriff Jacobson said that he would also need to know the condition of the roads.

Ms. Diamond went over the roads and said that they will develop an emergency plan and will contact Sheriff Jacobson for his feedback. She said that they are unable to put up gates and fences on BLM lands because they are public; however, they can put up signs on roads for the public to read.

Sheriff Jacobson said that a sign increase would be prudent.

There were no other comments made.

Commissioner Warnick made a motion to close the public hearing.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at approximately 11:30 a.m..

The regular meeting reconvened.

DISCUSSION AND POSSIBLE APPROVAL OF C-2 CONDITIONAL USE PERMIT # Z-2019-020 TO CONDUCT SURFACE MINING ON PROPERTY LOCATED WITHIN THE RANGE AND FOREST (RF) ZONE, APPROXIMATELY 23 MILES SOUTHWEST OF DESERET—PEAK MINERALS, INC., APPLICANT

Commissioner Warnick made a motion to approve the C-2 conditional use permit # Z-2019-020 to conduct surface mining on property located within the range and forest (RF) zone, approximately 23 miles Southwest of Deseret—Peak Minerals, Inc., applicant, with the changes discussed regarding additional signs and adding an emergency plan.

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

DISCUSSION AND POSSIBLE ACTION REGARDING "VOTER PARTICIPATION AREAS" PURSUANT TO SECTION 20A-7-401.3 OF UTAH CODE ANNOTATED

Steve Maxfield said that he is interested in these areas and has been in discussion with the County Attorney on how best to proceed.

Attorney Finlinson said that these four voter participation areas have to be approximately the same population and meet the requirement of being substantially equal. He presented the map that shows the four proposed areas.

Mr. Maxfield said that he believes this is the best way. He said that the proposed areas accomplish the goals that he has stated, as well as, the goals stated by the County Attorney.

Commissioner Draper said that there may be an issue with area number 2 and the line may need to be moved to make the populations substantially equal.

Attorney Finlinson said that he sees the policy reason for this and explained that it is to show that there is broad support for propositions and initiatives and referendums.

Mr. Maxfield said that the Legislature has been hostile in the process and said that this has been used in situations such as: "Count My Vote" where it was kept from the vote of the people. He said that the map is preliminary and the lines may be moved as needed.

Attorney Finlinson said that the next step is to submit the plans to the GIS Director, Adam Britt, who can upload the mapping data into the system and submit it to the State. He said that then we will know if the population numbers need to be adjusted. He said that this will go into effect on January 1, 2020.

Commissioner Draper stepped from the chair and made a motion to instruct the GIS Director to submit the map to the State to define the proposed voter participation areas.

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

## MONTHLY FINANCIAL REVIEW

Treasurer Dearden presented the financial reports ending in October 2019.

## PUBLIC INPUT

Mr. David Remkes said that he would like to clarify his comments in the November 12, 2019 Commission meeting regarding CAFOs and wants to clearly state that he was referencing swine CAFOs.

Mr. Maxfield said that he came to Millard County in 1995 and had looked hard for a place to raise his family that they could afford and a location that upheld their values. He said that he has a hobby farm and enjoys agriculture. Mr. Maxfield cited a situation in Kanosh where he supported a neighbor who owned pigs on their property. Mr. Maxfield said that he understands what a person does behind their fence is their business; however, what goes over that fence becomes the neighbors' business. He said that he supports and is invested in Millard County.

Mr. Maxfield read a Notice of Formal Proceedings to Change the Millard County Land Use Code to Prohibit Swine CAFO, CCAFO (Concentrated Confined Animal Feeding Operations). SEE ATTACHED.

Mr. Maxfield explained the process of the initiative and public hearings and said that there will be a formal application with a minimum of five sponsors. He said that the public thanks the elected officials for their policy work; however, the CAFO approvals have been inconsistent and the public now wants to take this issue into their own hands. He said that if this is passed, it will prohibit all swine CAFOs in Millard County.

A brief discussion was had on active registered voters and who may be a sponsor. Mr. Maxfield said that he feels removing active voters from the system after three years of inactivity is nefarious.

Attorney Finlinson asked the Commission if they would like this proposed Land Use Ordinance put on the next agenda.

After a brief discussion it was decided to put this on the December 3, 2019 agenda.

## OTHER BUSINESS

Byron Kroeger, Millard Care and Rehab, said that they are trying to secure funds for their facility. He said that if this is approved, Mr. Brammal will be able to come sign the promissory note this afternoon.

Tony Dearden said that he is the chair of the Board and said that the County gave the Board funds and nothing has changed since it was created. He doesn't agree that a promissory note is needed because he thinks that the County should provide the funds if it is necessary.

Mr. Kroeger said that they would struggle with payroll this week if this isn't approved.

Commissioner Draper asked if 6 months would be an appropriate time line for the loan.

Attorney Finlinson said that the relationship between the County, Millard Care and Rehab,

and Traditions Healthcare was set up uniquely and respectfully disagrees with Mr. Dearden because it says that Millard Care and Rehabilitation will operate the facility. He said that the County owns and still has a measure of responsibility; however, it was setup with a distinction between the County and the business. He said that promissory notes have been done since the first initial set up.

Auditor Gehre said that this may fall under the emergency section regarding the public hearing and that it makes the most sense to take this out of the General Fund.

Commissioner Warnick made a motion to approve an emergency bridge loan in the amount of \$200,000.00 to Millard Care and Rehabilitation.

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

Commissioner Warnick said that Treasurer Dearden bought a gift for UAC with her personal money. She said that the County should reimburse her for that. Commissioner Draper agreed. Clerk Rowley said that this usually comes from the Commission Budget.

Commissioner Draper said that Delta City is changing their zoning map and are inviting participation in the process. He said that there will be hearings on November 20, 2019 at 6:00 p.m. and December 4, at 6:00 p.m. in the Delta City council chambers.

#### DISCUSSION AND POSSIBLE APPOINTMENTS TO VARIOUS COUNTY BOARDS

Commissioner Draper said that Skip Taylor has agreed to serve on the Hinckley Deseret Cemetery District Board for a 4 year period.

Commissioner Draper stepped from the chair and made a motion to appoint Skip Taylor to the Hinckley Deseret Cemetery District Board for a period of 4 years.

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

#### POSSIBLE APPROVAL OF APPLICATION(S) FOR SETTLEMENT OR DEFERRAL OF DELINQUENT PROPERTY TAX

There was none.

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

Clerk Rowley informed the Commission that there will be three elections held in 2020. The Presidential Primary will be held Tuesday, March 3, 2020; the regular Primary Election will be held Tuesday, June 30, 2020 and the General Election will be held Tuesday, November 3, 2020. She said that the Lt. Governor's Office has allocated funds to help cover a portion of the cost to run the Presidential Primary Election, which will be paid through reimbursement. She said that she has budgeted it appropriately.

Commissioner Draper said that he attended UAC last week and a few of the items discussed were PILT, SRS, and the wild horse population.

**AUDITOR REPORT**

Deputy Auditor Madsen presented the following reports:

Payroll Liabilities:

October 25, 2019 - \$413,220.99

Check Edit:

November 15, 2019 - \$71,741.72

**POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND/OR ACTION**

There was none.

**POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS**

There was none.

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

There was none.

**WHERE UPON THE MEETING ADJOURNED**

Commissioner Draper adjourned the meeting at 12:40 p.m..

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

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