

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 21<sup>ST</sup> DAY OF JULY 2020  
AT THE COURTHOUSE, FILLMORE, UTAH

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

ALSO PRESENT: Richard Beckstrand. . . . . IT Supervisor  
Adam Richins.. . . . County Planner  
Bonnie Smith. . . . . County Auditor  
Sheri Dearden.. . . . County Treasurer  
Connie Hansen.. . . . County Recorder  
Richard Jacobson and Lindsay Mitchell. . . . . Sheriff’s Office  
Matt Ward. . . . . Chronicle Progress  
John Nye, Scott Schofield, and Yvonne Schofield. . . . . 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 Warnick to the public and Commission members.

OPENING STATEMENTS

Commissioner Warnick asked if anyone had an opening statement to give. Commissioner Jackson said that there has been a lot of fire activity in the County and stressed the importance of fire prevention. Attorney Finlinson said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF JULY 7, 2020 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held July 7, 2020 were presented for consideration and approval. Following review and consideration of minor corrections,

Commissioner Jackson made a motion to approve the minutes of July 7, 2020, as corrected.

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

#### FOLLOW UP ACTION ITEMS FROM JULY 7, 2020

Attorney Finlinson referred to the subdivision owned by Roger New that was discussed at the last meeting. He said that the paperwork has since been cleaned up and the Recorder's Office is prepared to record the deed that conveys a sliver of land to Millard County.

Commissioner Draper said that the Bureau of Land Management (BLM) began the wild horse gather in the Swasey Management Area on July 15, 2020. He explained some of the methods used in order to gather as many horses as possible. He said that there are approximately 800 horses on a portion of land that can only sustain 60 - 100 horses. Commissioner Draper said some will be treated with contraceptives and some will be returned to the Swasey Management Area. He said that the ones not returned to the management area will be taken to BLM property near Axtell, Utah.

#### DISCUSSION AND POSSIBLE APPROVAL OF AN INDIGENT DEFENSE COMMISSION GRANT AWARD AGREEMENT FOR THE FY21

Attorney Finlinson said that the County received a grant from the State in the amount of \$100,000.00 and the amount is a small decrease compared to prior years. He said that Commission approval is needed in order to receive it. Attorney Finlinson said that the County's Indigent Defense responsibility will be approximately \$167,000.00 in addition to the State's \$100,000.00 grant. Attorney Finlinson gave a brief history of the Indigent Defense Fund and State laws.

Commissioner Jackson made a motion to approve the Indigent Defense Commission Grant Award Agreement for the FY21.

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

#### AWARDING OF THE BID FOR LANDFILL BINS

Commissioner Jackson said that the County received two bids and that one bidder didn't bid to the County's specifications. He said that Waste Equip used the wrong gauge of metal in their bid.

Attorney Finlinson said that the County's procurement codes allows the County to reject any bid that is not responsive to the bid requirements.

Commissioner Jackson made a motion to award the bid for Landfill Bins to Thorn Industries. Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried.

## DISCUSSION AND POSSIBLE APPROVAL OF DISTRIBUTION WITHIN THE COUNTY OF THE FIRST ALLOCATION OF CARES ACT FUNDING

Auditor Smith described what the Cares Act funding can be used for; specifically, overtime wages and benefits for sheriff deputies, economic development efforts, upgrading HVAC and restrooms, emergency assistance, and marketing cancelled events. She said that other distributions will take place in the future and stressed that these funds cannot replace county revenues.

Auditor Smith presented a handout that outlines the County's expenditures to date. SEE ATTACHED. She said that it may be useful to give updated information to all department heads regarding what PPE the County has available for use. Commissioner Warnick said that it has been discussed to send updates to department heads that includes this information. She said that she will continue to get that organized and implemented.

Sheriff Jacobson described some of the costs that his office has incurred due to COVID-19. A brief discussion was had on what Sheriff Office positions have been impacted by COVID-19 and can be covered and at what percentage.

Commissioner Draper said that he would like more information on the COVID-19 costs each department has incurred before making a decision.

Auditor Smith explained that the handout shows how much has been spent already on PPE and other items directly related to COVID-19. She said this information needs to be documented and on record.

Commissioner Warnick said that an application has been created for local businesses to apply for COVID-19 funds. After a brief discussion, it was decided to create an application for the County offices/departments as well.

## DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 20-07-21, AN ORDINANCE OF THE MILLARD COUNTY COMMISSION AMENDING ORDINANCE 19-08-20 VACATING LOT 9 OF OAK MEADOW SUBDIVISION, PHASE 1

Attorney Finlinson said that Lot 9 in this subdivision was discussed last August and a decision was made to vacate that lot. He said that unfortunately the paperwork did not correctly describe lot 9 and this Ordinance corrects that description and the ordinance that passed last August will be attached.

Commissioner Draper made a motion to adopt Ordinance 20-07-21, an ordinance of the Board of County Commissioners of Millard County, Utah, amending Ordinance 19-08-20 vacating Lot 9 of Oak Meadow Subdivision, Phase 1.

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

## DISCUSSION AND POSSIBLE APPROVAL OF SINGLE SOURCE PROVIDER FOR THE RECORDS BUILDING SHELVING

Commissioner Jackson said that the County has a sole source provider for the shelving in the

records building.

Recorder Hansen said that she was trying to find a certain type of shelving for about 6 months. She said that she finally found a company that does and they have provided a bid.

Attorney Finlinson said that the County's Procurement Code states that a competitive bid process happens unless there is a legitimate reason for a sole source provider. He said just a record to support the sole source needs to be in the Auditor's files.

Later, Attorney Finlinson said that this item does require commission approval and it was decided to put this on the next agenda.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON APPLICATION #Z-2020-017 TO AMEND CONDITIONAL USE PERMIT (CUP) #C-94-034, APPLICATION #Z-2020-016 TO AMEND CONDITIONAL USE PERMIT #C-95-024, APPLICATION #Z-2020-015 TO AMEND CONDITIONAL USE PERMIT #C-92-036, AND APPLICATION #Z-2020-014 TO AMEND CONDITIONAL USE PERMIT #Z-2001-014 TO ALLOW FOR AN INCREASE IN ANIMAL UNITS AT AN EXISTING DAIRY, A LEVEL 3 CONFINED ANIMAL FEEDING OPERATION LOCATED APPROXIMATELY 2 MILES NORTHWEST OF DELTA. JOHN B NYE, APPLICANT

Commissioner Jackson made a motion to enter into a public hearing for the purpose of receiving public comment on Application #Z-2020-017 to amend conditional use permit #C-94-034, Application #Z-2020-016 to amend CUP #C-95-024, Application #Z-2020-015 to amend CUP #C-92-036, and Application #Z-2020-014 to amend CUP #Z-2001-014 to allow for an increase in animal units at an existing dairy, a level 3 confined animal feeding operation located approximately 2 miles northwest of delta. John B Nye, Applicant

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 10:38 a.m..

Present were: John Nye, Yvonne Schofield, Scott Schofield, Planner Richins, Rich Beckstrand, Sheriff Jacobson, Lindsay Mitchell, Auditor Smith, Treasurer Dearden, and Matt Ward

Planner Richins briefly explained the background on these CUPs. He said that the number of animal units anticipated in the original CUPs have been surpassed and Mr. Nye is working to make these CUPs current and to keep everything above board by amending these permits.

Planner Richins said that what is being requested is historically in line with what has been done in this area in the past. He said that zoning has changed over time since Mr. Nye started his operations and setbacks were more liberal when the original CUPs were approved. Planner Richins said that the current ordinance would be slightly surpassed by several of these applications and explained that the ordinance does allow for adjustments to mitigate situations such as this.

Planner Richins went through each application individually and briefly explained the proposed changes.

Mr. Nye said that Millard County has been a great place to live and run a business. He said that he has submitted proof that they have enough water rights for their operation which was something the Planning and Zoning Commission had mentioned. Mr. Nye said that their

Comprehensive Nutrient Management Plan was also updated last year. He said that there were some concerned neighbors who asked about the waste water pond and its smell. He said that they have worked on the pond to mitigate the smell and he thinks that they are making progress.

No other comments were made.

Commissioner Jackson 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 10:55 a.m..

The regular meeting reconvened.

DISCUSSION AND POSSIBLE APPROVAL OF APPLICATION #Z-2020-017 AMENDING CONDITIONAL USE PERMIT #C-94-034, APPLICATION #Z-2020-016 AMENDING CONDITIONAL USE PERMIT #C-95-024, APPLICATION #Z-2020-015 AMENDING CONDITIONAL USE PERMIT #C-92-036, AND APPLICATION #Z-2020-014 AMENDING CONDITIONAL USE PERMIT #Z-2001-014 TO ALLOW FOR AN INCREASE IN ANIMAL UNITS AT AN EXITING DAIRY, A LEVEL 3 CONFINED ANIMAL FEEDING OPERATION LOCATED APPROXIMATELY 2 MILES NORTHWEST OF DELTA. JOHN B NYE, APPLICANT

Commissioner Draper said that these are all applications regarding an increase in animal units. He said that these CUPS have been utilized in the dairy business for years and there will be some adjustments under the discretion of the Commission to change the requirements in regards to setbacks.

Commissioner Draper asked Mr. Nye if all four properties have been used in the dairy business. Mr. Nye said that the continual loop area was built in 1993-1994; Mountain View Dairy was built in 1995; The north dairy was built in 1994; and the calf ranch was built in mid 2000's. He said that there has been no change in use.

Commissioner Draper referred to Mr. Nye's efforts with the pond smell and asked if those who complained had contacted him since the planning and zoning meeting. Mr. Nye said that he has not been in contact with any of them himself.

Commissioner Draper said that the purpose of the public hearing with the Planning and Zoning Commission was to hear public comment as well as enable the applicant to make his current operation better.

Commissioner Draper said that completely mitigating the smell of a dairy is impossible; however, Mr. Nye's operation uses state of the art technology and does a superb job handling waste.

Commissioner Draper read the following reasonable conditions that played into his decision to approve the applications. 1. The proposed CAFO as amended be conducted in compliance with the requirements of this ordinance, all other applicable land use ordinances and other applicable federal, state, and/or local requirements and regulations. 2. This CUP will implement safety programs as required by the OSHA and other State or Federal agencies having jurisdiction. 3. Adhere

to best practices for animal feeding operations in accordance with the approved certified nutrient management plan. 4. Implement dust and odor control procedures. 5. Implement procedures to control and limit rodent, fly and insect problems. 6. Maintain a clean and healthy environment at the project site.

Commissioner Draper made a motion to approve Application #Z-2020-017 amending CUP #C-94-034, Application #Z-2020-016 amending CUP #C-95-024, Application #Z-2020-015 amending CUP #C-92-036, and Application #Z-2020-014 amending CUP #Z-2001-014 to allow for an increase in animal units at an existing dairy, a level 3 Confined Animal Feeding Operation located approximately 2 miles northwest of Delta. John B Nye, Applicant

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

#### DISCUSSION AND POSSIBLE DECISION REGARDING IMPROVEMENTS TO PRIVATE ROAD IN COVE FORT AREA

Attorney Finlinson said that he had a conversation with the Schofield's attorney yesterday and this item isn't quite ready to be discussed in Commission.

#### MONTHLY FINANCIAL REVIEW

Treasurer Dearden presented the financial reports ending in June 2020. She said that funds for Drainage Districts 1 and 4, and Delta City are being held. She said that Klint Atkinson, Drainage District #1, called and said that he thought they had everything completed.

Treasurer Dearden said that the State Auditor will be doing the paperwork for Drainage District #4 and the Drainage District will be charged a fee for that.

#### PUBLIC INPUT

There was none.

#### OTHER BUSINESS

Commissioner Jackson said that there is a fire on Howell Peak that is approximately 1800 acres. He said that the BLM is in charge of this fire. Commissioner Jackson said that fire restriction orders have been implemented and it covers all of Millard County. Commissioner Jackson read the specific restrictions.

Commissioner Warnick said that the contract with Commercial Business Radio has been received and needs approval

Commissioner Jackson made a motion to approve the contract with Commercial Business Radio for T.V. maintenance.

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

Commissioner Warnick said that Russell Wolfe has decided not to hold events in Millard County this year.

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

Commissioner Draper said that 4 positions need to be advertized for the Millard Care and Rehabilitation Board. Clerk Rowley will advertise those.

#### 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

Commissioner Draper said that the BLM is conducting an environmental assessment on doing a wild horse gather on the Confusion Range. He said that there are approximately 500 horses in an area capable of supporting only 60-100 horses. He said that questions can be submitted to Trent Staley at (435)743-3164. Commissioner Draper said that comments can be submitted on the BLM website until July 25, 2020.

Commissioner Draper said that the Commissioners met with NRCS for a follow up on the Canal Fire.

Commissioner Warnick said that it was a good meeting and she is still awaiting some contracts from them. She said that numerous cows were lost along with farm structures and the fire total was nearly 80,000 acres. She said that a lot needs to be taken care of to prevent future flooding in the area.

Commissioner Jackson said that he learned a lot and they took good care of the fire staff.

Commissioner Draper said that there are springs that provide water to Fool Creek in Leamington. He said that work is in progress to keep those functional. He said that there are also many fences that need to be replaced and went over who is responsible to repair those.

Commissioner Jackson said that the cost of the largest fire is rolled off the top and the cost of the lowest is rolled off the bottom. He said that anything the County does to mitigate and prevent fires comes off the cost as well and there are ways to work with the State.

Commissioner Draper said that the County Road Department was praised numerous times on their work during the fire.

#### AUDITOR REPORT

Auditor Smith presented the following reports:

A/P Check Registers:

July 10, 2020 \$127,514.56  
July 17, 2020 \$136,973.75

Payroll Liability Check Registers:

July 17, 2020 \$392,251.18

Auditor Smith said that property valuation notices were sent out.

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.

2020 PRIMARY ELECTION CANVASS

The 2020 Primary Election Canvass was conducted at the Clerk's Office. RESULTS ATTACHED.

WHERE UPON THE MEETING ADJOURNED

Commissioner Warnick adjourned the meeting at 11:29 a.m..

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

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