

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 2<sup>nd</sup> DAY OF FEBRUARY 2021  
AT THE COURTHOUSE, FILLMORE, UTAH

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

ALSO PRESENT: Kevin Morris and Rick Bublitz..... West Maintenance  
Bonnie Smith..... County Auditor  
Sheri Dearden..... County Treasurer  
Pat Manis..... County Assessor  
Adam Richins..... County Planner  
Richard Jacobson, Ben McDonald, Tony Pedersen,  
and Rob Clark..... Sheriff’s Office  
Wayne Jackson..... Military Liaison  
Brent Cook and Steven Brown..... Black Rock Renewable Energy  
Noel Sanyal and Bob Checketts..... Kern River Gas  
Landon Rowley, Kayli Yardley, and Taylor Moosman..... Millard County Fire  
Karen Pedersen..... Citizen

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 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 THE MINUTES OF JANUARY 19, 2021

The proposed minutes of a regular County Commission meeting held January 19, 2021 were presented for consideration and approval. Commissioner Wright made a motion to approve the minutes of January 19, 2021, as presented.

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

#### FOLLOW UP ACTION ITEMS FROM , 2021

There were none.

#### RATIFY THE APPROVAL OF WAIVING THE PAYMENT BOND FOR THE CARE CENTER DINING ROOM CONTRACT

Attorney Finlinson said that the Commission approved this slight change at the last meeting and results in a large savings to the County which was needed due to the increase in material costs. He said that the County is still protected because the contractor will only get paid after they provide lein waivers from all the subcontractors. Attorney Finlinson said that the work on the Care Center is progressing quickly.

Commissioner Warnick made a motion to ratify waiving the payment bond for the Millard Care and Rehabilitation Center dining room project.

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

#### DISCUSSION AND POSSIBLE APPROVAL OF THE CARES CENTER DINING ROOM CONTRACT

This item was stricken from the agenda.

#### DISCUSSION AND POSSIBLE APPROVAL OF A CELL PHONE STIPEND FOR COMMISSIONER WRIGHT

Commissioner Draper said that cell phone stipends are provided for elected officials and some employees in the amount of \$120.00.

Commissioner Warnick made a motion to approve a cell phone stipend for Commissioner Wright in the amount of \$120.00.

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

#### DISCLOSURE STATEMENTS

Disclosure Statements were presented for the following employees:

- Klint Penney - Penney's Outdoor Power
- O John Orullian - Lady Bug Floral and Events

#### DISCUSSION AND POSSIBLE APPROVAL OF WAIVING THE FEE FOR USE OF THE OUTDOOR ARENA BY THE DELTA HIGH SCHOOL FFA ON APRIL 14, 2021

Brooks Jackson, Recreation Supervisor, said that the Delta FFA advisor contacted him and requested to use both the outdoor and indoor arena and corrals for a judging competition in April. Supervisor Jackson went over the number of kids estimated to participate and the amount of livestock expected. He said that the FFA will take care of the clean up.

Supervisor Kevin Morris said that he has gone over the pertinent items with FFA Advisor, Chad Warnick, and doesn't see a problem with this.

Commissioner Warnick said that the School District allows the County to use its facilities for sports programs and she thinks this is an appropriate use of the facilities.

Commissioner Wright made a motion to waive the outdoor arena fees for the Delta High School FFA's event on April 14, 2021.

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

#### SHERIFF RECOGNITION

Sheriff Jacobson said that he received a letter from a citizen, Greg Skeem, regarding Sergeant Tony Pedersen. The letter recognized the exemplary job Sergeant Pedersen does for Millard County.

Sheriff Jacobson read a Letter of Commendation and presented it to Sergeant Pedersen.

#### DISCUSSION AND POSSIBLE APPROVAL OF THE MILLARD COUNTY RACEWAY LEASE CONTRACT

Attorney Finlinson said that this is the same contract that the County has had in the past with Mr. Wolfe except Mr. Wolfe is now taking on all of the risk in terms of insurance. Supervisor Morris said that this is a one year contract.

Commissioner Wright made a motion to approve the Millard County Raceway Lease Contract.

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

#### DISCUSSION AND POSSIBLE APPROVAL OF THE MEMORANDUM OF UNDERSTANDING (MOU) WITH ROCKY MOUNTAIN POWER FOR THE HIGH DESERT TRAIL

Supervisor Morris said that there is a seven mile section of the High Desert Trail that follows

the Rocky Mountain Power line road. He said that this MOU is for use of that utility road.

Commissioner Warnick made a motion to approve the MOU with Rocky Mountain Power for the High Desert Trail.

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

#### OPENING OF THE REQUEST FOR PROPOSALS FOR THE WEST SWIMMING POOL RESURFACING

Supervisor Morris opened the following RFPs:

- Deep Blue \$58,904.00, \$76,138.00, or \$71,530.00 depending on the plaster; Tear out, travel, and other items not included.
- CEM \$147,775.00 not including race lane tile.
- Mid America Pool Renovations \$272,025.00 or \$119,595.00 using a blaster
- Intermountain Aquatech \$149,858.00
- Gooch \$131,550.00

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

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

#### PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON ZONING ORDINANCE TEXT AMENDMENT APPLICATION # Z-2020-050 AMENDING THE TABLE OF USES AND ACCOMPANYING USE DEFINITIONS, LOCATED IN TITLE 10, CHAPTER 25, APPENDIX A OF THE MILLARD COUNTY ZONING ORDINANCE AND TITLE 11, CHAPTER 1 OF THE MILLARD COUNTY SUBDIVISION ORDINANCE, TO PROHIBIT THE CREATION OF NEW PARCELS FOR RESIDENTIAL BUILDING LOTS IN THE AGRICULTURE (AG) ZONING DISTRICT

Commissioner Warnick made a motion to enter into a public hearing for the purpose of receiving public comment on zoning ordinance text amendment Application # Z-2020-050 amending the table of uses and accompanying use definitions, located in Title 10, Chapter 25, Appendix A of the Millard County Zoning Ordinance and Title 11, Chapter 1 of the Millard County Subdivision Ordinance, to prohibit the creation of new parcels for residential building lots in the Agriculture (AG) Zoning District.

Commissioner Wright SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 10:35 a.m.

Present were: Bonnie Smith, Wayne Jackson, Richard Beckstrand, Adam Richins, Brent Cook, and Steven Brown.

Planner Richins said that what is proposed is to disallow the continuance of zoned agriculture property changing to residential without it going through a process involving the Commission's approval. He said that the County decides locally what rules should look like for each zoning district and the rules are intended to reflect the desires and goals of the General Plan. Planner Richins said that most codes disallow the construction of homes in AG zones because they tend to bring other things with them that make it hard to continue to farm. He said that an exception has been made that allows AG zones to be cut up to form an empty lot which allows farmers to live on their farms. Planner Richins said that when this happens it is currently exempt from any subdivision requirements. He said currently, the County has to approved anyone who applies for a subdivision in an AG zone as long as the lots are at least 1 acre. He said that a formal process is needed because this changes the use of that property.

Planner Richins said that this ordinance proposes that every parcel within AG be allowed to have one house, but if it is further subdivided, those other subdivided lots won't be eligible for a house without requiring a re-zone and approval from the Commission.

Planner Richins gave a brief history as to why this issue has come forth and said that the Planning Commission has recommended that this be enacted to limit the further subdivision of AG property unless it comes before the Commission. He said that this will hopefully encourage developers to build closer to municipalities where services are already in place.

There were no other comments made.

Commissioner Warnick made a motion to close the public hearing.

Commissioner Wright SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at approximately 10:46 a.m.

The regular meeting reconvened.

DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 21-02-02, AN ORDINANCE OF THE BOARD OF MILLARD COUNTY COMMISSIONERS AMENDING THE TABLE OF USES AND ACCOMPANYING USE DEFINITIONS, LOCATED IN TITLE 10, CHAPTER 25, APPENDIX A OF THE MILLARD COUNTY ZONING ORDINANCE AND TITLE 11, CHAPTER 1 OF THE MILLARD COUNTY SUBDIVISION ORDINANCE, TO PROHIBIT THE CREATION OF NEW PARCELS FOR RESIDENTIAL BUILDING LOTS IN THE AGRICULTURE (AG) ZONING DISTRICT

Commissioner Wright said that he would like to amend the language in the proposed ordinance because he isn't comfortable with it as it stands. He said that he would like to sunset this for one year so that it can be reviewed and allow other options to come forth. Commissioner Wright said that the Commission needs to be very careful because although something needs to be done to save the AG zoned land, property rights need to be protected as well. He said that any action to protect AG may become detrimental to property owners down the road. Commissioner Wright said

that he would like to look at AG Protection laws. A brief discussion was had on the language changes that Commission Wright would like to see, which includes allowing one subdivided parcel to have a house built on it and to review the issue again in one year.

Commissioner Warnick agreed that a little more work needs to be done on the ordinance language.

Attorney Finlinson said that this could be put on the next meeting agenda to give the Commission more time to analyze the language.

Commissioner Draper said that the proposed ordinance doesn't prohibit anything; however, it creates a process that requires a public hearing so all those impacted by a possible subdivision in AG zones can have a voice. He said that this isn't intended to stop dwellings from being built, but encourages developers to conform to the County's General Plan.

Commissioner Draper briefly explained the County's ability to provide services to remote areas. He said that the proposed ordinance allows for an AG parcel to be divided and one more residence to be built, but not more than one. He said that he doesn't like the sunset feature, but is fine to table this to the next meeting.

It was brought to the attention of the Commission that there was a technical glitch during the Public Hearing and another public hearing on this topic may be necessary.

Commissioner Warnick made a motion to lay this on the table to a future meeting at least one month in the future.

Commissioner Draper stepped from the chair and SECONDED the motion. The motion passed by majority vote.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON C-2 CONDITIONAL USE PERMIT APPLICATION # Z-2020-052 FOR A SOLAR ENERGY SYSTEM (MAJOR) ON PROPERTY LOCATED APPROXIMATELY 8 MILES SOUTHWEST OF CLEAR LAKE AND WITHIN SECTION 2, T20S, R9W, SLM. BLACK ROCK RENEWABLE ENERGY, LLC, APPLICANT

Commissioner Wright made a motion to enter into a public hearing for the purpose of receiving public comment on C-2 conditional use permit Application # Z-2020-052 for a solar energy system (major) on property located approximately 8 miles southwest of Clear Lake and within Section 2, T20S, R9W, SLM. Black Rock Renewable Energy, LLC, Applicant.

Commissioner Warnick SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 11:09 a.m.

Present were: Richard Beckstrand, Kayli Yardley, Brent Cook, Steven Brown, Adam Richins, Wayne Jackson, Bonnie Smith, Pat Manis, Landon Rowley, Taylor Moosman, Noel Sanyal and Bob Checketts.

Brent Cook, Black Rock Renewable Energy, said that they are wanting to build a solar project and explained the location of the proposed project which is all on SITLA land. Mr. Cook said that most of the land is going to be utilized and the project is split into phases. Mr. Cook explained

the phases and said that they plan to have everything completed by the Fall of 2021.

There were no other comments made.

Commissioner Wright made a motion to close the public hearing.

Commissioner Warnick SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at approximately 11:19 a.m.

The regular meeting reconvened.

DISCUSSION AND POSSIBLE APPROVAL OF A C-2 CONDITIONAL USE PERMIT - APPLICATION # Z-2020-052 FOR A SOLAR ENERGY SYSTEM (MAJOR) ON PROPERTY LOCATED APPROXIMATELY 8 MILES SOUTHWEST OF CLEAR LAKE AND WITHIN SECTION 2, T20S, R9W, SLM. BLACK ROCK RENEWABLE ENERGY, LLC, APPLICANT

Commissioner Draper said that he has toured the site and there is a temporary installation of ballists which will be replaced once permanent installation is permitted. He explained the location of this project and said that this is a good use for this land.

Mr. Cook said that Rocky Mountain Power will have to designate access to the property.

Commissioner Wright asked how much sunlight is received. Mr. Cook said that it is considered a high yield area.

Commissioner Draper asked about the duration of the project. Mr. Cook said that he believes it will be 56 years total including a couple five year extensions. He said that the equipment has approximately a 25-30 year life span. He said that they dispose of the old equipment on the property and have a reclamation bond with the State.

Commissioner Wright made a motion to approve C-2 conditional use permit Application # Z-2020-052 for a solar energy system (major) on property located approximately 8 miles southwest of Clear Lake and within Section 2, T20S, R9W, SLM. Black Rock Renewable Energy, LLC, Applicant including all conditions from the Planning and Zoning Commission.

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

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON C-2 CONDITIONAL USE PERMIT APPLICATION # Z-2020-053 BY KERN RIVER GAS TRANSMISSION COMPANY FOR A GAS PIPELINE RIGHT OF WAY (FEDERALLY REGULATED) FROM KERN RIVER'S MAINLINE NEAR HOLDEN, UTAH, TO A DELIVERY POINT AT THE INTERMOUNTAIN POWER PLANT NORTH OF DELTA

1:27

Commissioner Warnick made a motion to enter into a public hearing for the purpose of receiving public comment on C-2 Conditional Use Permit Application # Z-2020-053 by Kern River Gas Transmission Company for a gas pipeline right of way (federally regulated) from Kern River's mainline near Holden, Utah, to a Delivery point at the Intermountain Power Plant North of Delta.

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

carried. The public hearing began at 11:29 a.m.

Present were: Richard Beckstrand, Kayli Yardley, Brent Cook, Steven Brown, Adam Richins, Wayne Jackson, Bonnie Smith, Pat Manis, Landon Rowley, Taylor Moosman, Noel Sanyal and Bob Checketts

Mr. Noel Sanyal, Kern River Gas, presented a map of the project which is made up of 24 inch pipeline and is approximately 36 miles long. He briefly went over the map and said that the land will still allow for agricultural practices once construction is complete.

There were no other comments made.

Commissioner Wright made a motion to close the public hearing.

Commissioner Warnick SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at approximately 11:34 a.m.

The regular meeting reconvened.

DISCUSSION AND POSSIBLE APPROVAL OF CONDITIONAL USE PERMIT – # Z-2020-053 BY KERN RIVER GAS TRANSMISSION COMPANY FOR A GAS PIPELINE RIGHT OF WAY (FEDERALLY REGULATED) FROM KERN RIVER’S MAINLINE NEAR HOLDEN, UTAH, TO A DELIVERY POINT AT THE INTERMOUNTAIN POWER PLANT NORTH OF DELTA

Commissioner Draper asked how Kern River Gas will handle crossing the Sevier River with this pipeline.

Mr. Bob Checketts, Kern River Gas, said that they will do an HDD and drop the line about 45 feet below the lowest portion of the river.

Commissioner Wright asked how they work with property owners. Mr. Checketts said that they have already engaged with the property owners and they’ve received easements from each of them. He said that they only ask that permanent structures not be put over the pipeline.

Commissioner Warnick asked about the time line and how many people will be employed for construction.

Mr. Checketts said that they don’t have an approximate amount of people it will require to build and went through the project’s time line.

Commissioner Draper said that Kern River Gas has been an extremely good neighbor in this process.

Commissioner Wright made a motion to approve C-2 Conditional Use Permit Application # Z-2020-053 by Kern River Gas Transmission Company for a gas pipeline right of way (federally regulated) from Kern River’s mainline near Holden, Utah, to a delivery point at the Intermountain Power Plant North of Delta.

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



Commissioner Wright made a motion to approve the C-2 Conditional Use Permit and include the conditions from the Planning Commission.

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

#### DISCUSSION REGARDING THE FMAG DECLARATION ON THE CANAL FIRE- LANDON ROWLEY

Landon Rowley, Millard County Fire Warden, said that the Canal Fire has been designated as a Fire Management Assistance Grant (FMAG) fire which opens up funds that can be used for suppression costs of the fire. A brief discussion was had on the 10 year average fire costs and the cost of the Canal Fire. Mr. Rowley said that other funds such as WRI money can also be tapped into and have been used to reseed areas. He said that there also approximately \$450,000.00 available through the Hazard Mitigation Grant Program.

Taylor Moosman explained the restrictions of the Hazard Mitigation Grant and identified the project boundaries. She said that it is noncompetitive but does have to be applied for by March 31, 2021. She said that it is on a reimbursement basis only and any projects have to be paid up front.

Commissioner Draper said that there wasn't a lot of interest due to the payment having to be made up front before being reimbursed.

Mr. Rowley said that he will be contacting landowners who may be eligible for reimbursement.

Kayli Yardley said that fuel mitigation and other projects can be done outside of the project boundaries if the funds are not all spent on defensible space within the Leamington area.

Mr. Rowley said that they want to identify projects in order to utilize the grant money. Ms. Moosman said that the turnaround time on reimbursement may be up to 3 years.

Ms. Yardley listed and explained several other grant options that are available.

Commissioner Draper said that he would like to see contact information sent to the paper so the public knows who to contact about these opportunities. He said that he would like to set up a meeting to discuss how to pursue some of these funding options.

#### DISCUSSION AND POSSIBLE APPROVAL OF SOLE SOURCE ACQUISITION OF USED SNOW REMOVAL EQUIPMENT FOR ROAD DEPARTMENT.

Commissioner Draper said that the County has an option to acquire three used pieces of snow removal equipment at a good price. He said that they are available from the State of Utah for approximately \$35,000.00 to \$37,000.00 each.

Attorney Finlinson said that this has brought to mind another change needed to the procurement code which will include language that would expressly allow unique or used equipment to be bought as sole source. He said that the commission needs to make findings that this is the only reasonable source.

Commissioner Draper listed the following findings that support the fact that this is the only reasonable source for this snow removal equipment.

- These pieces of equipment include wing scrapers and sanders which normally have to be purchased separately.
- The lowest comparable price for trucks about the same age with similar hours is \$37,500.00.

Auditor Smith said that she did an independent search and wasn't able to find anything comparable.

Commissioner Draper said that there aren't any other trucks available with the options included. He briefly went over the costs of this equipment if it was bought new.

Commissioner Wright made a motion to approve a sole source acquisition of used snow removal equipment for the Road Department.

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

## PUBLIC INPUT

Wayne Jackson, Military Liaison, said that they have actively been working to keep all the veterans in local retirement homes rather than them having to move outside of the County for care.

## OTHER BUSINESS

Commissioner Draper said that the Fishlake National Forest has proposed updates to rangeland management directives and has given information on how to review those directives and provide input. He said that Millard County has many cattle producers who graze on Forest Service Land and these directives may directly impact them. Commissioner Draper said that the comment period ends February 16, 2021 and those who wish to comment can contact Kendall Nielson at 435-491-0079.

Commissioner Draper referred to the Pine Valley Water Project and said that Beaver County is crafting an MOU that Millard County may join. He said that there is a comment period for cooperating entities that ends February 12, 2021 and he will be preparing comments and submitting them.

## DISCUSSION AND POSSIBLE APPOINTMENTS TO VARIOUS COUNTY BOARDS

Commissioner Draper said that he would like to reappoint Mark Huntsman, Roger Killpack, Greg Roper, and John Finlinson to the Economic Development Board. He said that an ad will need to be ran for two other open positions on this board.

Commissioner Warnick made a motion to reappoint Mark Huntsman, Roger Killpack, Greg Roper, and John Finlinson to the Economic Development Board.

Commissioner Wright 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

Commissioner Wright referred to Senate Bill 18 which proposed increasing the personal property exemption from \$15,000.00 to \$50,000.00. He said that the Commission had received a notice from the Utah Association of Counties asking them to oppose this bill. He said that he is objecting to that request because the money is best used in the hands of the businesses.

Commissioner Draper said that this item was initially on the agenda but removed because there was no necessary action to be taken by the Commission.

Commissioner Warnick asked about the status of Judge Haveron's replacement. Attorney Finlinson said that the State is continuing to work on it.

## AUDITOR REPORT

Auditor Smith gave the following reports:

### Accounts Payable:

1/22/21 - \$238,042.37

1/29/21 - \$66,167.79

1/29/21 - \$2,308.56 Zions Bank Draft

### Payroll Liabilities:

1/15/21 - \$183,868.34

1/29/21 - \$422,411.57

## 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

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

Commissioner Wright SECONDED the motion. All three commissioners voted unanimously and the motion carried. Present in the closed session were Auditor Smith, Commissioner Wright, Commissioner Draper, Commissioner Warnick, and Attorney Finlinson.

After the closed executive session the regular meeting reconvened at 1:28 p.m.

WHERE UPON THE MEETING ADJOURNED

Commissioner Warnick adjourned the meeting at 1:29 p.m.

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

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