

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY SPECIAL MEETING THE 24th DAY OF AUGUST 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: Richard Jacobson and Lindsay Mitchell..... Sheriff’s Office
Pat Manis..... County Assessor
Dennis Alldredge..... Fillmore City
Jason Burningham, Mark Edminister, James Walker, Fred Philpot,
and Viktoriya Griffin..... ARES Mining
Stuart Clason and Patrick Mullen..... Millard County Economic Development
Bonnie Smith..... County Auditor
Sheri Dearden..... County Treasurer
Pat Bennet..... 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. Commissioner Draper said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

Commissioner Draper explained the nature of the special meeting and said only items on the agenda can be discussed.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 21-08-24, A RESOLUTION OF THE BOARD OF MILLARD COUNTY COMMISSION REGARDING ARES STRATEGIC MINING, INC. APPLICATION REGARDING TAX-EXEMPT INDUSTRIAL REVENUE BONDS THROUGH THE STATE OF UTAH PRIVATE ACTIVITY BOND BOARD

Commissioner Draper said that the deadline for ARES to submit their application to the State

is August 26, 2021 and turned the time over to Mr. Jason Burningham.

Jason Burningham, Lewis and Young, introduced James Walker - President of ARES, Viktoriya Griffin - CFO of ARES, and Fred Williams - Bond Counsel.

Mr. James Walker said that their company will be surface mining an industrial mineral used in the production of steel, ceramics, small phones, etc. He said that the United States imports 100% of this mineral currently so the demand for U.S. production is high. Mr. Walker went over the company's finances for this project including the bond process. He said that they have received a lot of support from the city of Delta and their company will bring trained jobs to the area.

Mr. Burningham said that the total capital expenditure for this project is \$15,000,000.00 - \$17,000,000.00. He said that approximately \$10,000,000.00 will come from a private lender that would purchase tax exempt revenue bonds and the rest of the funds would come from equity raised by the company. Mr. Burningham said that they have already received interest from firms who want to purchase the product.

Mr. Burningham explained the process to acquire private activity bonds and said the initial step is to get an inducement resolution from the local government agency and send it along with an application to the bond board. He said that the board will hopefully award the company the allocation credit and then they will begin finding a purchaser for the bond. He said that this will be brought back before the Millard County Commission for a public hearing and approval of a final bond resolution.

Fred Williams explained that the company is pursuing a bond issuer and explained that they are popular because these bonds are tax exempt. He said that there are limitations in how many of these can be issued. He said that although the government agency seems to play the role of issuing the bond, they are not responsible to pay that bond and it doesn't show up on the balance sheet.

Later, Auditor Smith said that the County's contracted independent auditor stated that this will show up on the government wide financial statement as a liability. Mr. Williams stated that this may show up on the footnotes of the financial statements but won't show as a liability.

Patrick Mullen, Millard County Economic Development, asked to hear more about the mining process. Mr. Walker said that this is a basic excavation process and no toxic waste is created. He described the equipment used and how the ore is mined. He said that there is a high demand for this material and they have been approached by manufacturers who are interested in receiving the product.

Viktoriya Griffin confirmed that they are pursuing a \$10,000,000.00 bond and gave a synopsis of the company's future plans which included acquiring more land and starting smaller businesses that will be financed by other means.

Commissioner Draper inquired about the two large manufacturers who are interested in purchasing their product. Mr. Walker said that it is a major steel manufacturer in the United States who has already put in an order that's larger than they will be able to produce.

Commissioner Draper said that the Commission became aware of a problem with changing from the TSXV to the Canadian Stock Exchange and asked if there is anything that the Commission needs to be aware of.

Mr. Walker said that this is part of the normal process. He said that the regulator asked for an updated report and they have been put on hold until the report is prepared. He said it is just a technical report that includes all public releases from the company. Mr. Walker said that this is a

standard practice and they are working on it.

Commissioner Draper referenced a letter dated January 2021 that states: “The company has not completed a feasibility study nor has the company completed a mineral reserve or resource estimate at the Lost Sheep Mine and as such the financial and technical viability of the project is at higher risk than if this work had been completed.” Commissioner Draper asked if those studies have been completed.

Mr. Walker said that the series of processes that the company has gone through are normal for gold mines. He said that resource estimates are done by drilling down and can give you an idea of how much mineral is on the property; however, the minerals for their project are not found in contiguous veins like gold mines and you can’t put a resource estimate on the project. He said that because the deposits are hundreds of individual pipes an estimate of resources can’t be specified. Mr. Walker said that this is typical when extracting industrial minerals and all of their disclosures explain that they can’t conform to that standard practice. Mr. Walker said that they have completed an economic feasibility study. Treasurer Dearden asked if they will share the feasibility studies. Mr. Walker said that he can send those studies.

Attorney Finlinson said that he was told by an underwriter that the only possible liability to the County would be if there was fraud on behalf of the applicant combined with negligence on behalf of the government entity. He said that the possibility is remote and he is comfortable moving forward.

Commissioner Warnick confirmed that this project would bring approximately 50 to 60 jobs with a duration of 10-15 years. Mr. Walker said that Commissioner Warnick is correct and many of these jobs are trained jobs that will pay well.

Commissioner Draper said that the County wouldn’t carry a financial burden but there would be a reputation risk if the project doesn’t carry through. He asked Mr. Williams and Mr. Burningham if they have witnessed defaults in the past. Mr. Williams said that in his 40 years of doing this, he has seen a couple defaults where the creditor foreclosed on the assets that had been pledged as security. He said that there wasn’t a liability to the issuer and there wasn’t any negative consequences to the government agency that acted as a facilitator to issue these bonds. Mr. Burningham said that he has been involved in bonds for several decades and has seen a few defaults. He said that two were restructured between the lender and borrower and the lender foreclosed on the equipment on another. He said that there wasn’t an impact on the municipality.

Commissioner Wright inquired about the interest rate on the bond. Mr. Burningham said it depends on the term but they are estimating an interest rate between 4% to 5.5%.

Commissioner Wright asked about the anticipated workload this adds to the County’s Treasurer and Auditor Offices. Mr. Burningham said that additional time to finalize the bond resolution and more due diligence will most likely be necessary.

Mr. Williams reiterated that the inducement resolution will permit them to submit the application. He said that this will come back and the Commission will have the option to adopt the final authorizing resolution.

Commissioner Draper asked what provisions are provided to the County due to the work needed by the Treasurer’s and Auditor’s Offices. Mr. Burningham said that any cost to the County related to this transaction will be covered by the company who is applying. He said that the inducement resolution states that the company will take care of those costs. He said that he can work

with the Treasurer's and Attorney's Offices to see what those costs may look like.

Commissioner Wright made a motion to approve Resolution 21-08-24, an inducement resolution of the Board of County Commissioners of Millard County, Utah, regarding ARES Strategic Mining, Inc. application regarding tax-exempt industrial revenue bonds through the State of Utah private activity bond board.

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

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 21-08-24A, A RESOLUTION OF THE BOARD OF MILLARD COUNTY COMMISSION ADDRESSING RESCUE TRUCK EMERGENCY SERVICES

Attorney Finlinson said that an interlocal agreement between Millard County and Fillmore City with respect to emergency medical services needs to be made at some point. He said that the rescue truck and extraction services will be within that future agreement so whatever is decided today will need to fit into that larger agreement.

Attorney Finlinson quoted HB 303 which obligates every municipality to provide emergency services either directly or through contractors. He said that the rules have not been enacted by the State so the County isn't in a position to address the interlocal emergency services agreements yet. He said that the point of today's conversation is to find a consensus among the commissioners. He said that the budget requirements of the consensus will need to be considered and that will involve future public hearings.

Commissioner Draper said that there isn't a statutory requirement for the County to provide extraction services. Attorney Finlinson said that he isn't aware of a statutory requirement but it can be argued that the service is indispensable.

Commissioner Draper said that it is his understanding that there are three possible options: 1- Purchase a separate County rescue truck. 2- Equip a County ambulance with extraction equipment. 3- Fillmore City could provide a fire engine equipped as a rescue truck. Commissioner Draper asked Sheriff Jacobson about these options and if there were any others.

Sheriff Jacobson said that his staff are already assigned primary duties to de-escalate these emergencies and additional training would be required to man rescue trucks. He said that the EMTs are providing medical care and sometimes have to crawl into the vehicle as the extraction is being done. He said that it will deplete other important duties if you start requiring personnel to multitask.

Commissioner Wright said that the County is five months away from deciding on the next budget and a decision on a rescue truck can't be made at this time. He said that he would like to address this in the budget cycle and put in next year's budget after deciding what direction the County would like to go.

Commissioner Warnick said that she agrees with Commissioner Wright and said this can be discussed during the budget season.

Sheriff Jacobson said that any delay concerns him because of the hard line given by Fillmore City. He said a few months is a long time to wait for those individuals going on these emergency calls.

Commissioner Draper said that they were given some data that shows the equipment is used about once a week. He said that four months is a long time to wait for the personnel who have requested an increased stipend. He said that it was mentioned that if the extraction crews were given a raise in pay, it may cause some unrest among the EMTs who are performing related duties.

Commissioner Draper said that he is open to considering an increase for both the extraction crew and EMTs, but he doesn't like the 2 hour minimum that was suggested. He said that there may be some funds available, but they are pressed because the request falls out of the budget cycle.

Commissioner Warnick asked the condition of the rescue truck because some funds were used to fix it not long ago. Sheriff Jacobson said that the fixed acted as a band-aid to get them by. He said that this is a needed service that he doesn't want to see go away. He said that he is open to opening his budget to seek funding for an increased stipend.

Lindsay Mitchell, Sherriff's Office, went over what the EMTs are paid. Commissioner Draper said that his first indication was to increase the stipend for extraction workers to \$50.00 per event which is a 50% increase.

Pat Bennet said that he doesn't think that there is a lot of negotiating on the \$25.00 per hour and two hour minimum. He said that this is still less than what the extraction crew personnel get paid in their after hour jobs.

Commissioner Warnick asked about billing for these services. Attorney Finlinson said that you can't bill per run, but you could bill for the actual extrications.

A brief discussion was had on how this increase would impact the current extraction budget. It was estimated that approximately \$6,000.00 to \$7,000.00 more would be needed to the end of the year. Commissioner Warnick said that TRT funds can be used for these purposes.

Pat Bennet said that the 2 hour minimum is not negotiable. He said that every one on the crew works a regular job every day and they need to provide incentives for people to come do this when a call comes in at 3:00 a.m.

Sheriff Jacobson said that the times recorded on the data only record radio time and doesn't include wiping tools down, greasing, etc. He said that an argument can be made that the individuals spend more time on each call.

After a brief discussion it was decided to increase the stipend to \$25.00 per hour with two hour minimum per call and the rest would be addressed in the budget cycle.

Pat Bennett said that this is a move forward and will be appreciated, but other things still need to be considered.

Commissioner Warnick made a motion to increase the extraction personnel's stipend to \$25.00 per hour with a two hour minimum.

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

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

Commissioner Warnick made a motion to enter into a BOE.

Commissioner Wright SECONDED the motion. The voting was unanimous and the motion carried. The BOE began at 11:59 a.m.

Auditor Smith presented a list of disability abatements and asked for blanket authority to approve these if they have been approved for Social Security Disability. She said that these individuals are not over 66 so they can't apply for circuit breakers.

Auditor Smith said that there are also errors that they come across and she is asking for the authority to go ahead and correct any obvious errors.

Auditor Smith presented the application for Brian Richins - Parcel #D-772-3. Assessor Manis said that Mr. Richins is appealing a piece of vacant ground because the assessed value is more than what he recently paid for it. He explained the investigation that his office conducted on this property after the application was received. He said that this property has an unimproved alley and that allows it a 20% unimproved access credit. He said that Mr. Richins requested the amount be lowered to \$8,500.00, but he suggests that the County approve the reduction in value for him to \$9,593.00.

Auditor Smith presented the application for Roddy Sharp - Parcel #5872-5. Assessor Manis said that the taxable amount went up because he lost his primary exemption; however, it was later learned that the water well has failed there. He said that there are guidelines from the State in place for failed utilities and the Land Guide allows these residences an \$8,000.00 credit. He said that this will bring the overall value down to \$175,334.00

Commissioner Warnick made a motion to reduce the value of the property to \$9,593.00 for Parcel D-772-3, reduce Parcel #5872-5 to \$175.334.00 and give formal approval for the Auditor to fix obvious errors and accept disability abatements if they are approved for Social Security disability.

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

Assessor Manis referred to the flooding in Delta last week and said that State Code allows legislative body to abate a certain amount of taxes based on humanitarian issues. He said that he can get more information to the Commission. Commissioner Draper said that he would like this put on the next agenda.

Commissioner Warnick made a motion to close the BOE.

Commissioner Wright SECONDED the motion. The voting was unanimous and the motion carried. The BOE closed at 12:28 p.m.

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 12:29 p.m.

Attest: _____

Approved: _____