

**MEETING OF THE
MILLARD COUNTY PLANNING COMMISSION**

**MEETING MINUTES
April 05, 2017**

The Millard County Planning Commission met on Wednesday April 5th, 2017 at the Millard County Offices, 71 South 200 West, Delta, Utah.

PRESENT: David Sturlin Planning Commission Chairman
Molly Stevens Planning Commissioner
Gary Walker Planning Commission Vice Chairman
Tom Nielson Planning Commissioner
Jodi Robison Planning Commissioner
Joyce Barney Planning Commissioner

EXCUSED: Greg Greathouse Planning Commissioner
Richard Waddingham Deputy County Attorney

ALSO PRESENT:

Dean Draper Millard County Commissioner
Angi Meinhardt Secretary
Scott Barney Millard County Economic Development
Steve Styler Murphy Brown LLC Attorney
Jim Webb Smithfield
Monique Draper Millard County Resident
Clara Stevens BLM
Cynthia Kaufman Black Rock Ranch
Jim Kaufman Black Rock Ranch

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN PROVIDED to each member of the Planning Commission, posted at the Millard County Offices in Delta, the Public Safety Building in Fillmore, and the Main Street Courthouse in Fillmore, posted on the Utah Public Notice Website and the Millard County 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:

1. **WELCOME, CALL TO ORDER** – Chairman David Sturlin
Planning Commission Chairman David Sturlin called the meeting to order at 6:33 pm. He welcomed all present.

2. **CONSIDERATION AND POSSIBLE RECOMMENDATION** of Application # Z-2017-007 for a C-2 Conditional Use Permit for property located approximately along the Millard County and Beaver County line, Millard County, Utah, Delta

grid, for the purpose of developing a Level 4 Confined Animal Feeding Operation (CAFO) – a hog production farm. Petitioner – Murphy-Brown, LLC c/o Steve Styler. Owner – Murphy-Brown, LLC. 2,280.32 Acres.

Commissioner David Sturlin gave a brief description of the application and read the proposal.

Steve Styler approached the Commission on behalf of Murphy Brown LLC. He provided a map of where the proposed property is located. He stated Murphy Brown and Smithfield is proceeding with their plans of developing this hog production and expanding in to Millard County. Steve Styler stated that the provided map shows the distance between the proposed property and closest structures. Steve Styler stated that the distance between the Kaufman home and the closest end of the proposed property is 7.1 miles. He has only found one other structure on Google Earth that is 2.35 miles away from the Murphy Brown property, and the most recent tax notice states it is owned by Jeffery Cubits. On the tax notice it does not state there is any structure. He then stated the structure is not permitted so he is not sure if it is a dwelling.

Steve Styler stated the details of the space have been reconfigured since the zone change. He stated the facility will include fourteen hog production barns on eight parcels of property. This is a more efficient design for Smithfield Hog Production.

Steve Styler stated that all the manure that is produced by the animals will go into waste containment basins that will be lined. He stated that they have submitted a water quality permit application. This could take 60-90 days to get that permit. They can start the process without this permit as long as there are no animals there.

Steve Styler stated as far as a property tax base he thinks this will be great economic development for the county. Between the 14 structures they anticipate somewhere between \$200,000 and \$250,000 in taxes per year.

Steve Styler stated that Murphy Brown owns about 2,400 acre feet of underground water within the county. The applicant will file a water right change to allow for the use of this water at that sight. The water right office does not see any problems with this change. Steve Styler stated with the facilities they will use about 280 acre feet of water per year.

Commissioner Molly Stevens asked about the animal unit chart that was included in the staff report. She asked if the numbers in the table are numbers for each structure or for the entire operation. Steve Styler stated for the property to not be considered as a concentrated animal feeding operation, they must have this applicable square footage amount per animal. Steve Styler stated they are applying for a CAFO (Confined Animal Feeding Operation).

Commissioner Jodi Robison stated that one section on the provided map is not highlighted as property owned by Murphy Brown LLC. There was discussion of that property being owned by the Bureau of Land Management (BLM).

Commissioner Tom Nielson asked if all surrounding property owners have been notified. Millard County Commissioner Dean Draper stated they have all been notified.

Commissioner Tom Nielson asked if the waste that the facilities would produce would go to a pond. Jim Webb approached the Commission and stated the waste will be treated in lagoons that are designed by Smithfield but permitted by the State. It goes into a primary lagoon where the treatment happens, then in an evaporative lagoon. Commissioner Molly Stevens asked if the ponds would give off a smell. Jim Webb stated that the ponds could potentially give off a smell but they have not had a problem with the smell at their other facilities. Jim Webb then stated after 20 years the ponds could be scraped out and the sludge gets treated and used for fertilizer. He stated potentially there would be 14 primary ponds and 14 evaporative ponds. The size of the primary ponds are 420 square feet and the evaporative ponds are 210 square feet. There would be one of each set of ponds for each building.

Jim Webb stated that they will manufacture all of their own feed. It includes wheat, corn and soy bean. They buy the wheat and corn from local farmers or from the mid-west farmers. They mash down the corn and then re-pellet the wheat, corn and soy bean so it has the same nutritional value.

Commissioner Joyce Barney asked where the wells are. Jim Webb verified where the wells are on the provided map. Commissioner Joyce Barney asked if the ponds will have any effect on the water wells. Jim Webb stated that they have protection zones around the water wells. He stated they have the same protection zones around their water wells at their other facilities. He stated there has never been any contaminated levels at the other sites.

Jim Webb stated that the ponds are lined with 60 mil liner. Steve Styler stated they will also have monitoring wells that are required by the State. They provide the results from the monitoring wells twice a year. There has been reports of leakage but all the reports have been submitted to the State and are on record. Commissioner Gary Walker asked when they have discovered leakage, how long does it take for the levels to clear back up. Jim Webb stated within a few years the levels start to come down but these problems never impact the drinking water.

Commissioner Molly Stevens asked if a CUP has been approved in Beaver County for this facility. Jim Webb confirmed that Smithfield has all of the permits except the Millard County permit and the State permit. He stated that Beaver

County permitted 38 sights and there was no protest or issues with Beaver County Permits.

Commissioner Joyce Barney asked if there would be any employee facility on the site. Jim Webb stated there would be an office on site. He stated that everyone has to shower going into the facility and going out of the facility, so there would be a 10x12 office. They would have a septic system for the facility.

Commissioner David Sturlin asked Steve Styler if he had reviewed the reasonable conditions on the staff report. Steve Styler stated he has looked at the conditions on the staff report, he does not think there will be any problems with the conditions.

There was discussion about the use and maintenance of the roads. Steve Styler stated that during construction there will be heavier traffic than normal but after that it should be more consistent. Steve Styler stated that they are not allowed to fix or improve the county roads but they will be working with the Millard County Road Department to address any problems or concerns. Steve Styler stated as far as a transportation plan, they do not even know what roads the trucks will be traveling on yet. Steve Styler stated that if Smithfield needs to get an agreement with the Millard County Road Department they will do so. There was more discussion on the Millard County and Beaver County roads. Steve Styler stated if Smithfield needed they could make an agreement with Millard County about the maintenance of the roads.

Clara Stevens with BLM approached the Commission. The BLM has already met with Smithfield and Sun Edison as this will be going on under the wind farm that has already been permitted. She stated that the county roads 1988 and 208 are on BLM property and in order to improve them it will require right of way as some are just dirt roads. She stated that the BLM worked with First Wind to improve the same roads prior. They completed applications to improve the roads and then First Wind decided they could move forward without those improvements. BLM would need to know the level of improvement so they can determine if it will need to be permitted with a right of way application. Clara Stevens stated that the BLM is requesting Smithfield provide them with a plan of development to determine if there will be a connected action. Commissioner David Sturlin stated that the applicant would have to comply with reasonable condition a) the proposed use will be conducted in compliance with the requirements of this Ordinance, all other applicable Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.

Clara Stevens stated the BLM is also concerned about where their pipelines and power lines will be going as they will most likely have to cross BLM land. There might have to be an environmental analysis on the hog farms as well as the roads.

Clara Stevens stated the BLM is not opposed to the proposal, but they have to follow their procedures as well.

Millard County Commissioner Dean Draper stated they have had a similar situation with the Crystal Peak road and Peak Minerals project. Peak Minerals wanted to improve the roads for traffic during development. He asked if the 1988 road situation is like the Crystal Peak road. Clara Stevens verified that Crystal Peak road was improved for previous development. During that time Millard County received an equipment right of way for that road. It was improved and graveled. The difference is that Crystal Peak road already has a right of way grant on it. If the county would have chip sealed that road they would have required an amendment to that right of way. It would have needed to be analyzed in the environmental document. They just put more rock on that road it did not require an amendment to the right of way as there was already rock on the road.

Clara Stevens stated that 1988 road is just a dirt road and they would need to change the surface of the road. Changing the surface of the road would take a right of way grant and application to change the road. BLM would have to agree to the changes. Millard County Commissioner Dean Draper stated that prior to this meeting Millard County was unaware of this information.

Commissioner Gary Walker asked if the application to make the change is a difficult thing to do. Clara Stevens stated the BLM would have to look into this and would need an environmental analysis. BLM would need to see the full plan of development to verify what would be needed.

Commissioner Tom Nielson asked if the road in Beaver County could be a comparable application. Clara Stevens stated it could be an application that they could look at. Commissioner Joyce Barney asked who would need to submit the application. Clara Stevens stated it could be the county or Smithfield to submit the application. She thinks the county would want to hold the right of way but ask Smithfield to pay for it, but that would be a decision made by the county.

Steve Styler stated without the CUP they do not have a plan of development. He stated that Murphy brown is asking to get the CUP and they will follow all Federal, State and Local laws to continue with their plan of development. Steve Styler stated after the CUP the next course of action would be to pursue with the water quality permit, the discharge permit, work out the boots on the ground, work out the development of growth, any rights of way activities with the BLM for power, water and roads. But without the CUP there is no need to move forward with the plan of action.

Clara Stevens stated the BLM does not care if they get their CUP first. They just want the BLM portion figured out before there is ground disturbance on BLM land.

Commissioner Gary Walker asked Jim Webb if they would object to a condition stating Smithfield will show all financial impact establishing improvement to the roads. Jim Webb stated there would be no objection to that requirement. He stated they have worked with the Cedar City BLM office and they see no problems in working together on the plan of action. Jim Webb stated they have crossed BLM lands many times and they are only talking about ½ mile portion of the road. He stated that if the Commission wants to add that condition he would have no problem with that.

Jim Kaufman approached the Commission. He asked how long will the Millard County tax payers be paying for the cleanup after the construction for this sight. This road has to be raised about three feet and graveled for about a mile.

Jim Kaufman stated they have always cooperated with Millard County about sharing their water. He stated he will not be giving water to the Millard County Road Department if it has anything to do with Smithfield Foods. Smithfield will have to supply their own water out of their own wells.

Jim Kaufman stated that money should be put upfront for this development. He stated this will also cost the tax payers a lot of money for snow removal. He stated the Commission needs to think about the tax payers as things are going to get destroyed. He stated the Commission also needs to think about the water that is going to be used during and after development.

Millard County Commissioner Dean Draper stated when the CUP list was first put together, reasonable condition item "a" was first positioned to help with these kind of conversations. He then stated that condition "e" did not even exist. He stated that he added "e" to see that these conversations take place. He then stated that a lot of these issues are being address for the first time. He stated that this conversation will help all parties to exchange information.

Commissioner Molly Stevens asked Jim Kauffman why he did not express these concerns and opposition to the facility during the zone change process. Jim Kauffman stated that if he would have opposed this operation and later on decides to put in a feed yard, it would affect him.

Jim Kauffman asked the Commission if his land would have to come out of the Greenbelt because of this project as it is industrial. Commissioner Tom Nielson stated that Mr. Kaufman should have the same green belt rights that he already has because the only land that was change was the Murphy Brown land on the application.

Jim Kaufman asked if his property value and taxes would change because his property is on the boarder of the Murphy Brown property. The Commission stated this project should not change the tax value of surrounding properties.

Commissioner Jodi Robison asked Jim Kaufman if this has no impact on his property taxes and roads would he still be objecting to this CUP. Jim Kaufman stated the smell, water and roads are still a concern to him and he still objects to this project. The Commission discussed the governing body for the water problem would be the state engineer.

Commissioner Joyce Barney stated this application shows a level 4 CAFO and Millard County doesn't have any information on a level 4 CAFO. Millard County Commissioner Dean Draper stated that the level 4 CAFO was removed from the ordinance. He stated that the state law defines this as a level 4 so we have to proceed with a level 4 CAFO application. Commissioner Molly Stevens stated she does not know how we can approve a level 4 when we do not even know the definition for a level 4 CAFO. Steve Styler stated a level 4 CAFO just has additional requirements that a level 3 CAFO has. He stated that if it meets the standards for a level 4 CAFO then it would also meet the requirements for a level 3 CAFO. Millard County Commissioner Dean Draper stated that if Millard County does not have its own ordinance for a level 4 it would defer to the state law. Commissioner Joyce Barney stated in all fairness she suggested the Commission table this agenda item until we know what the states definition is for a level 4 CAFO.

Commissioner Molly Stevens stated she also does not agree with reasonable conditions b) the property on which the Conditional Use proposed is of adequate size to permit the conduct of the use in a manner that will not be detrimental to adjoining and surrounding properties. Commissioner Jodi Robison asked how she would want detrimental defined so she would be more comfortable with that condition.

Steve Styler stated that this property is already within agricultural and industrial protection which would preclude land owners to file suit for something they deemed offensive such as smell or sound to the public welfare.

Commissioner Jodi Robison asked Steve Styler if it is in Smithfield's best interest to be good neighbors. Steve Styler stated they would absolutely be good neighbors to all surrounding land owners.

Millard County Commissioner Dean Draper stated this CUP application would fall back on the law that is more restrictive. In this situation it is the state's law that over rides the counties because it is more restrictive. He then stated that Millard County Attorney Richard Waddingham has looked at this application and sees no concerns with this proceeding as a Level 4 CUP application.

Millard County Commissioner Dean Draper stated he wants to get back to the scope of the Planning Commission. He stated it is not beyond the Commission duties to add or remove conditions.

Commissioner Gary Walker made a MOTION to send a favorable recommendation to the BOCC on application Z-2017-007 based on the recommended reasonable conditions on the application minus condition E, and in addition to the listed conditions add the responsibility of road establishment, road improvement, and additional road maintenance be the responsibility of the applicant. He also stated that the BLM issues are covered in the conditions as complying with the state and federal requirements and regulations. Commissioner Molly Stevens SECONDED the motion. Voting was affirmative with the exception of Commissioner Joyce Barney who voted against the motion.

Commissioner Joyce Barney stated she is not opposed to the facility. She voted against the permit because the application was filed as a C-2 Level 4 CAFO and the Planning Commission received only information for a level 3 CAFO in our packets, and then we were informed tonight that Millard County does not currently have a Level 4 CAFO, and we would need to go by the State Statute. Level 4 permits are huge and need to be done right. I feel the Planning Commission needs the opportunity to see the Statute.

Commissioner Jodi Robison stated that if the Commission could add a condition that Smithfield be a good neighbor she would do so, only because the Kaufman's have invested interest in the property.

Jim Kaufman asked how long the CUP is good for. There was discussion that if there is no progress it will expire after a year and the applicant would have to re apply. If there is progress then it will not expire.

Steve Styler confirmed that the fee for a level 4 CUP has been paid in the amount of \$1500.

3. PUBLIC INPUT

Commissioner Tom Nielson was excused from meeting at 8:02 pm.

4. APPROVAL OF MINUTES – March 1, 2017

The proposed minutes of the regular Commission meeting held on March 1, 2017 were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Joyce Barney made a MOTION to approve the minutes for March 1st, 2017 as corrected. Commissioner Jodi Robison SECONDED the motion. The voting was unanimous in the affirmative.

5. PLANNING and ZONING ADMINISTRATOR'S REPORT

Millard County Commissioner Dean Draper approached the Commission. There are 2 things coming up in the near future. He stated that the State Legislator in 2015 passed HB 323 which requires a resource management plan to be

submitted to the state. He stated that they altered it again in 2016. Millard County Commissioner Dean Draper then stated that he hopes there will be a draft resource management plan for the Commission to consider in June. He then stated it is not due to the state until September.

Millard County Commissioner Dean Draper stated the second issue he wants to discuss is the ordinance that was changed in 2013. He stated there was a deliberate change that got rid of the public hearings on CUP. He would like to put this on the agenda for next meeting for discussion. Commissioner Gary Walker stated as far as public hearings on CUP applications, he agrees that a C2 permit would need a public hearing, but probably not a C1 permit. Millard County Commissioner Dean Draper stated he agrees with Commissioner Gary Walker but he would still like to have a discussion with all Planning Commissioners. He stated that the public hearings actually benefit the applicants with new information and or concerns.

Millard County Commissioner Dean Draper stated that having the Planning Commission as a board is truly an asset to the county.

6. OTHER BUSINESS

7. POSSIBLE CLOSED MEETING Pursuant To Utah Code Annotated Section 52-4-204 & 205

8. ADJOURNMENT

Commissioner Joyce Barney made a MOTION to adjourn. Commissioner Molly Stevens SECONDED the motion. Voting was unanimous in the affirmative. The meeting was adjourned at 8:24 pm.

Dated this ___ day of _____ 2017
David Sturlin, Chairman
Millard County Planning Commission