

**MEETING OF THE
MILLARD COUNTY PLANNING COMMISSION**

**MEETING MINUTES
July 02, 2014**

The Millard County Planning Commission met on Wednesday July 2, 2014 at the Millard County Offices, 71 South 200 West, Delta, Utah.

PRESENT: Joyce BarneyPlanning Commissioner
Gary WalkerPlanning Commissioner
David Sturlin Planning Commission Vice Chairman
Gordon Chatland Planning Commission Chairman
Greg GreathousePlanning Commissioner

EXCUSED: Brent BlakePlanning Commissioner
Molly StevensPlanning Commissioner
Sheryl Dekker Millard County Planner

ALSO PRESENT:

Richard Waddingham Millard County Attorney
Angi Meinhardt..... Secretary
Daron Smith.....Millard County Commissioner
Bruce Parker..... Planning Consultant
Brynlee Meinhardt School Activity
Dyliaan Moody School Activity
Marianne Meinhardt..... School Activity
Megan Day Pavant Solar LLC
Hannah Jones..... Chronicle Progress

1. Welcome, Call to Order

Chairman Gordon Chatland called the meeting to order at 7:02 p.m. He welcomed all present.

**2. APPROVAL OF MINUTES – May 7, 2014
June 4, 2014**

The proposed minutes of the regular Planning Commission meeting held May 7, 2014 were presented for consideration and approval. Following review and consideration of minor corrections Planning Commissioner David Sturlin made a MOTION to approve

the minutes for May 7, 2014 as corrected. Planning Commissioner Joyce Barney SECONDED the motion. The voting was unanimous in the affirmative.

The proposed minutes of the regular Planning Commission meeting held June 4, 2014 were presented for consideration and approval. Following review and consideration of minor corrections Vice Chairman David Sturlin made a MOTION to approve the minutes for June 4, 2014 as corrected. Planning Commissioner Joyce Barney SECONDED the motion. The voting was unanimous in the affirmative.

3. REVIEW and POSSIBLE RECOMMENDATION on C-2 CONDITIONAL USE PERMIT APPLICATION # Z-2014-019 for a 50 MW Solar Photovoltaic Energy Generation Facility for property located at approximately southwest of intersection of W 8900 N (Sheep Trail Road) and N 400 W (N Coats Road) McCornick, Utah – Fillmore Grid. Pavant Solar, LLC – Applicant. McCornwood Enterprises, LLC (Greg Kesler) - Owner. 430.628 acres.

Planning Consultant Bruce Parker stated that since the last Planning and Zoning meeting the Z-2014-019 application has been changed from a AG20 (Agriculture 20 acres) to RF20 (Range and Forest 20 acres) zone.

Ms. Day said she has read the conditions and she feels that they are very reasonable. Ms. Day feels like it will be very easy to meet these conditions.

Planning Commissioner Joyce Barney asked Ms. Day what they are planning to do with the dust control. Planning Consultant Bruce Parker read the condition C-1. A soil Stabilization and Fugitive Dust Control Plan, employing best management practices appropriate for the site. Ms. Day stated she didn't have a plan to give to the board today, but said they are planning to use a lot of water during construction. They will submit a water supply estimate shortly. The applicant will be making a dust control plan based off of previous construction and past experiences. As for the permanent dust control they will be making sure they have some sort of ground cover such as, re-vegetation, gravel or something to that effect.

Millard County Attorney Richard Waddingham asked Ms. Day where they will be getting water. Ms. Day said they have been working with Mr. Kessler to obtain water from the wells that are on sight. They are working on getting a permit to use Mr. Kesler's water. Mr. Kessler has plenty of water to serve the facility's needs. If it doesn't work out to get the permit to use Mr. Kesler's water, they will purchase the water elsewhere. There are no ongoing water needs other than to maybe wash the panels once or twice a year.

Planning Commissioner Joyce Barney asked Ms. Day if she has talked to Mr. & Mrs. Christensen about their concerns with the facility. Ms. Day stated that she has talked to the Christensen. She feels that the Christensen's concerns were primarily addressed, and the Christensen's just want to be involved in the process. Ms. Day also stated she

has given them her contact information. Ms. Day also gave the Christensen's pictures of previous sights that they have built so they will know what to expect. Ms. Day gave the Christensen's a write-up of the property value impacts of solar. Ms. Day stated that the Christensen's new home will be about ½ + mile away from the fence line of the facility.

Applicant stated that the conditional use permit is good for 40 years. Planning Commissioner Gary Walker asked if they were planning to extend past the 40 years. Ms. Day stated that they have not proposed that yet, but if the Planning Commission would like them to include that in the proposal she would get it ready.

Millard County Attorney Richard Waddingham asked what percent of the land is private. Ms. Day stated that all the land that the facility is on is private, and owned by Greg & Kaylynn Kessler.

Planning Commissioner Joyce Barney Asked the applicant if they cease to do business what would the exit plan be? Ms. Day stated she has talked to County Planner Sheryl Dekker about the exit plan before the meeting. Ms. Day stated that they have a clause in their lease agreement with the Kessler's. Pavant Solar LLC will be sighting the terms of the lease stating, if the solar farm ceases operation then Pavant Solar LLC is obliged to remove all of the equipment from the site. If they fail to do so, the land owner may remove all equipment themselves and bill Pavant Solar LLC for the removal minus the salvage reclaim cost.

Millard County Attorney Richard Waddingham stated that it is important that the applicant have an exit plan. He also stated that it is part of the conditional use. The Commissioners read and discussed the condition D-4.

D-4. A Site Reclamation, Decommissioning, and Abandonment Plan, including and identifying all surety and other guarantees, as agreed upon by the applicant and the owner of the Private Property and Millard County, and provided to the County Attorney and County Planner and to remain on file in the Office of the County Attorney and Office of the County Planner.

Planning Commissioner Greg Greathouse asked about line E-5 on the Recommendations. His Concern was if the updates where beyond the construction period.

Planning Commissioner Greg Greathouse asked if the updates need to be thereafter the construction. He suggested that we add project operation and progress reports. Millard County Attorney Richard Waddingham stated that we just add progress reports after construction. Ms. Day had a concern with the monthly reports. She asked if after the construction, the reports could be changed from being a monthly report to a longer period of time. Planning Commissioner Greg Greathouse stated that after the construction period the reports should be as determined by Millard County Commissioners. Millard County Commissioner Daron Smith stated that it has worked well with other applicants to report monthly during the construction. He stated it was very appreciated to know what was going on with the applicants to keep the

Commissioner informed with the projects. The Planning and Commission Board decided to strike the end of the condition on E-5. So the correct condition shall read, E-5. At least monthly during the construction period and at other items as determined necessary by the BOCC thereafter, an authorized representative of Pavant Solar shall provide the BOCC, at a regular meeting, an “in-person” Solar Energy System (Major) project report.

Planning Commissioner Joyce Barney asked once we do the conditional use permit, shouldn't the applicant be coming in to get their building permit, and have the required inspections. The Planning Commission stated that all applicants that get a conditional use permit should be getting a building permit as well and have inspection completed. (That is in the Conditional Use Permit.)

Planning Consultant Bruce Parker asked Ms. Day if she is aware of the Building permit process. Ms. Day stated that she has been in touch with the Building inspector and she is very aware that the utility shed on site is a building and she has addressed all the conditions to obtain a building permit.

Planning Commissioner Gary Walker made a MOTION to make a favorable recommendation to the board of County Commissioners for application # Z-2014-019 regarding a C-2 Conditional Use Permit for a 50 MW Solar Energy System located at approximately southwest of intersection of W 8900 N (Sheep Trail Road) and N 400 W (N Coats Road) McCornick, UT –Fillmore Grid. Also to acquire the conditions as required in the staff report. Vice Chairman David Sturlin SECONDED the motion. The voting was unanimous in the affirmative.

4. DISCUSSION - Title 11 Chapter 6 Non-Plat Subdivision Applications

Planning Consultant Bruce Parker will lead this discussion. Chairman Gordon Chatland asked if we could put the script different of those variants between what we have verses state code. Because we have adopted the ordinance from the state code and we can't ignore the state law. Millard County Attorney Richard Waddingham stated that the county can be more restricted but we can't go away from state laws.

Planning Consultant Bruce Parker stated there are no real material changes from state law on Page 1 or page 2 of the Non-Plat Subdivision Application. Planning Consultant Bruce Parker stated that on page 3 section 11-6-4, these provisions give the planning commission the ability to ask for requirements or considerations from the developer to protect the public interest as well as the future lot owners. Millard County Attorney Richard Waddingham stated he doesn't want people to get confused and think that they have to adopt every one of these improvements. Millard County Attorney Richard Waddingham also stated he would like to change the ending of 11-6-4 on paragraph 2, “The Commission may require onsite and offsite improvements, facilities, services, and amenities, provided one hundred percent (100%) by the Applicant(s) for Non-Plat Subdivision Application approval, such improvements, facilities, services, and amenities

being determined consistent with the requirements of Section 11-1-18 herein. The commission may consider the following items including but not limited to.”

Planning Commissioner Gary Walker stated it would be easier to have a certain set of standards and enforce them rather than making them different for every application. Some of the Planning Commission members agreed that they like how it is not a mandatory requirement because every application is different and will require different requirements. Planning Commissioner Greg Greathouse stated that we should have some minimal standards that we do have to impose.

There was some discussion on shared wells among the Planning Commission.

Planning Consultant Bruce Parker stated that we have a very diverse county, and it was deliberately broad to be able to respond to every potential non plat subdivision location in the county. Planning Consultant Bruce Parker stated that this provision was written to give a number of place holders that the planning commission could ask certain things as needed and on a required bases. Planning Consultant Bruce Parker also stated that these requirements are not coming from the state, but these are just drafts that he has put together for the Planning commission to review and impose. Planning Commissioner Joyce Barney stated that on 11-6-4 paragraph 2) and line a), b), c) are the three requirements that the board would use the most and are the most crucial.

Planning Consultant Bruce Parker read 11-6-6 line 2) on page 4. “Certificate of Written Approval. Following the Commission’s approval of a Non-Plant Subdivision Application, with or without requirements, the Commission Chair, or Chair’s designee, shall sign a Certificate or Written Approval and shall attach such Certificate to the approved Non-Plant Subdivision Map.” He then stated that you have to have that Certificate attached to the Non-Plat subdivision map in order to record a legal subdivision approval.

Chairman Gordon Chatland asked how we can enforce that. Planning Consultant Bruce Parker stated once it is recorded, that certificate will have a tracking number along with the map that it went with. If they don’t do it we will assume that it never went to the planning commission. Therefore there will be no building permit issued to the applicant.

Planning Consultant Bruce Parker brought up the next item for discussion on 11-6-7 on Paragraph 4. He stated that this provision gives an applicant 90 days from date of approval by the Commission to record the Non-Plat subdivision map. If the 90 days expires the action of the Planning Commission is now in void. The state law does not specify a time period, it just states to a reasonable period of time. So this is open for discussion to the board to leave the 90 day time period in place or change the time frame. There was some discussion about the effective period. The Board discussed the 90 days was a good time period and the applicants may have an approved extension if needed.

There was some more discussion on shared wells amongst the Planning Commission. Planning Consultant stated he will be looking into this discussion and bring it back to the next meeting and open it up for discussion.

5. REVIEW of EXISTING ORDINANCES - Title 10, Chapter 23 Enforcement

Section 10-23-3—Types of Violations:

- 1) It shall be unlawful for any person to violate any provision of this Ordinance, cause the violation of any provision of this Ordinance, or fail or refuse to do some act required under this Ordinance, including
 - a) To engage in any development, use, construction, remodeling, or other activity of any nature upon the land and improvements without required Land Use Application approvals.

Chairman Gordon Chatland asked if this draft has been discussed with Millard County Planner Sheryl Dekker. Planning Consultant stated that he has not gone over this with Millard County Planner Sheryl Dekker, but he has gone over this with the Millard County Attorney Richard Waddingham. Chairman Gordon Chatland then stated that the Planning Director needs to be involved in this discussion and he recommends we table this discussion to the next meeting. Planning Consultant Bruce Parker asked if we could look over the material today and also discuss it in our next meeting with the Planning Director.

Millard County Commissioner Daron Smith stated that where the word ANY is, see if it can be reconstructed. Millard County Commissioner stated that he likes the way that the ordinances have been re-written.

Planning Commissioner Greg Greathouse stated that we should make it clear in the enforcements that Millard County can get an injunction on the same circumstances as the state. Planning Consultant Bruce Parker and Millard County Attorney Richard Waddingham agreed with Planning Commissioner Greg Greathouse.

Millard County Commissioner Daron Smith stated that we separate this enforcement and move this forward sooner than later. Planning Consultant Bruce Parker stated that we can make some changes to Title 10, Chapter 23 Enforcements and have a public meeting so we can send this to the Millard County Commissioners as soon as possible to get them amended.

6. PLANNING AND ZONING ADMINISTRATOR'S REPORT

- A. Decision by Board of Millard County Commissioners on Pavant Solar application for Zone Change Z-2014-0015

Planning Consultant Bruce Parker stated that the zone change for the solar project has already occurred. He also stated that the Planning Commission has been working its way through the subdivision documents, and is wondering when the Board will be sending some of the recommendations forward to the Millard County Commission Board. Chairman Gordon Chatland replied by saying they were trying to go through all the documents and amend them all together. He then stated that maybe we should send some of them to the Millard County Commissioners to be amended.

7. OTHER BUSINESS

Planning Consultant Bruce Parker stated that he will be forwarding information on the Trans West Express Environmental Study to the Planning Commission Board Members.

8. POSSIBLE CLOSED MEETING pursuant to Utah Code Annotated Section 52-4-204 &205

9. ADJOURNMENT

Planning Commissioner Joyce Barney made a MOTION to adjourn. Planning Commissioner Gary Walker SECOND the Motion. The voting was unanimous in the affirmative. The meeting was adjourned at 8:36 pm

Dated this 2nd day of July 2014
Gordon Chatland, Chairman
Millard County Planning Commission