

**MEETING OF THE
MILLARD COUNTY PLANNING COMMISSION**

**MEETING MINUTES
November 8, 2011**

The Millard County Planning Commission met on Tuesday, November 8, 2011 at the Millard County Offices, 71 South 200 West, Delta, Utah.

PRESENT: Robin Smith Chairman
Greg Greathouse Board Member
Joyce Barney..... Board Member
Molly Stevens Board Member
Gary Walker Board Member
Gordon Chatland Board Member

EXCUSED: David Sturlin Board Member

ALSO PRESENT:

Sheryl Dekker County Planner
Richard Waddingham County Attorney
Katie Harmon Court Reporter
Kerry Owens..... Parsons Behle/Attorney
Bryan Harris First Wind Project Developer
Clay Iverson Mt. Moriah Stone Quarry
Jon Christensen IPSC – Supt of Technical Services
Tiffany James Magnum Solutions
Scott RobisonIPSC – Supt of Operations
Shelby Cropper Cardwell Dist – Dispatcher
Blair Cropper Cardwell – South Utah Mgr
Brett Barrow Cardwell Dist - Sales
Leo D. StottL.B. Ranch - President
Michael Jeffrey Glen’s Furniture Bargains
Bill Dent..... First wind – Assistant Operations Mgr
Samuel Quigley Magnum Solutions
Bruce Parker PDS – Consultant
Clara Stevens..... BLM
Amber Beckstrom..... Secretary

1. Welcome, Call to Order

Chairman Smith called the meeting to order at 7:03 p.m. and welcomed all in attendance.

2. APPROVAL OF MINUTES – October 5, 2011

The proposed minutes of the regular Planning Commission meeting held October 5, 2011 were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Joyce Barney made a MOTION to approve the minutes, as corrected. Gordon Chatland SECONDED the motion. The voting was unanimous in the affirmative.

2. REVIEW and POSSIBLE RECOMMENDATION on Application # Z-2011-018 for a Conditional Use Permit for a Wind Energy System (Major) proposed by Milford Wind Corridor Phase III, LLC – Applicant

Bryan Harris, Project Developer for First Wind presented information regarding the Milford Wind Corridor Phase III project. He gave handouts outlining his power point presentation. The presentation is similar to the one presented at the October Planning Commission meeting with a few changes. He reviewed the Phase I & Phase II projects. Mr. Harris noted that those projects employed approximately 100 construction positions for two years. He stated that there are currently 35 full time jobs. In 2010 they paid 3.4 million in property taxes. Mr. Harris stated that there are 18 graduates from Milford High School who are working in the wind industry. Gary Walker asked how many of the construction jobs are Millard County residents? Mr. Harris stated that he was unsure exactly, but thinks there are only two full time employees.

Mr. Harris gave an overview of the Phase III project. He said Phase III will be located entirely on state and private land. Phase III will be located in Beaver and Millard counties. There will be up to 140 wind turbine generators in Phase III with forty located in Millard County. There will be access roads to the turbines but there will be no impact to Millard County roads. He reviewed the displayed maps showing the project's location including the area located in Millard County's designated Major Utility Corridor.

Chairman Robin Smith asked if this project will use the same wind turbines as Phase I and Phase II. Bryan Harris said it is very similar.

Mr. Harris said that, because this project is located entirely on state and private lands, they have not been required to follow the National Environment Policy Act (NEPA). He stated, however, that Milford Wind Corridor Phase III (MWCIII) is following processes similar to NEPA and as part of their biological and cultural surveys. They have a draft Environmental Review Assessment (ERA) that is available for the public review. They have initial permits for each turbine. Phase III will have 15 full time jobs and 150 construction jobs for one year.

Commissioner Joyce Barney asked if the aeronautical issues were addressed in the ERA. Mr. Harris said they have the initial permits but not the final. He said

the Federal Aviation Administration (FAA) actually denied some locations. They were moved 4 1/2 miles further from the Milford Airport.

Mr. Harris reviewed the economic benefits of this project to Millard and Beaver Counties. He said they are hoping to begin construction in December 2011.

The remainder of the presentation dealt with recommended conditions. He suggested they hear from the public.

3. PUBLIC HEARING for the Purpose of Receiving Public Comment on Application # Z-2011-018 for a Conditional Use Permit for a wind energy system (major) proposed by Milford Wind Corridor Phase III, LLC – Applicant. The application is for property located approximately 12 miles north of Milford on the west side of State Road # 257.

Gary Walker made a MOTION to enter into a public hearing for the purpose of received public comment on the above project. Joyce Barney SECONDED the motion. Voting was unanimous in the affirmative.

Bryan Harris read a letter from the Lee family. They are property owners who were not able to attend this meeting. They are excited to lease their land to the Milford wind Corridor Phase III project. The Lee family was just made aware that their property is in the Millard County Major Utility Corridor. They were quite surprised and do not remember receiving notification about this. They were concerned that the county had overstepped their authority on their private property rights.

Chairman Robin Smith asked if there was notification to land owners prior to designation of the Millard County Major Utility Corridor. Bruce Parker said there was a notice in the newspaper of general circulation (the Millard County Chronicle Progress) several times. He does not recall if a letter was sent to each private property owner. It was determined that the Lee property is located inside the Millard County Major Utility Corridor.

Leo Stott stated that he is a property owner and he did not receive a letter. Clara Stevens, with the BLM, clarified that this is Millard County's corridor, not the West Wide Energy Corridor. The BLM's West Wide corridor is only designated on public lands. Utility companies have to find their own way through private land because the BLM has no jurisdiction over private property.

Robin Smith asked if the IPP line runs on private land and Leo stated that it does. They paid him a one-time payment. Chairman Smith asked if there were any other comments from the public. There were none.

Joyce Barney made a MOTION to close the public hearing. Gordon Chatland SECONDED the motion. Voting was unanimous in the affirmative and the public hearing closed.

4. REVIEW and POSSIBLE RECOMMENDATION on Application # Z-2011-018 for a Conditional Use Permit for a Wind Energy System (Major) proposed by Milford Wind Corridor Phase III, LLC – Applicant

Robin Smith stated that we do not want to compromise the integrity of the Millard County Major Utility Corridor. He noted that if wind turbines are located in the corridor, then running overhead or underground lines through that area would no longer be possible. Bryan Harris said that he does not think the integrity of the Millard County Major Utility Corridor would be compromised if the turbines were located there.

Mr. Harris said there are two potential conditions that MWCIII has concerns with.

- The first one is that they change their footprint to exclude turbines on private property within the Millard County Major Utility Corridor.
- The other condition is to include all private property owners in the project area.

Mr. Harris pointed out that in the Millard County General Plan (page 11) states a desire to avoid impacts on privately owned land within Millard County. He said the County did do a good job with this, but the total length of corridor is 120 miles. He referred to the map showing where the utility corridor is in relation to their project. It is about 2 linear miles of turbine rows. He said the project will place 4 to 6 turbines per mile.

Commissioner Gordon Chatland asked if a transmission line could go through the array of turbines if they are placed inside the Millard County Major Utility Corridor. The utility corridor is for above and below ground transmission lines. Bryan Harris stated that there is plenty of room for underground lines but it is an issue with above ground lines. They probably wouldn't have room to go between two turbines.

Robin Smith asked if there were frequency problems for transmission lines. Mr. Harris said there are not. He said the power lines would be far enough from the turbines that if a turbine fell over it would not fall on the power lines.

Robin Smith asked if they could put their turbines on the other side of the corridor. Mr. Harris said it is BLM land which requires a NEPA process, and the wind dies down the further west you go.

Robin Smith said when the Millard County Major Utility Corridor was established, Milford Wind was already in the process of developing their plans, and there was no objection to the location of the corridor at that time.

Mr. Harris said business conditions changed since then. Chairman Smith said it has never been the intention of the Planning Commission to prevent private property owners from utilizing their property in the most profitable way possible. Chairman Smith reminded Mr. Harris that there was no problem with the corridor until they couldn't get the BLM to move fast enough to meet the deadline for grant money for the MWCIII project. Mr. Harris said the most feasible location for this project was on private property.

Chairman Smith said they thought Phase III was originally going to be located on the east side of highway 257 between Black Rock and Phase II. He said the corridor was created give the County some control on where major utility lines would be located in Millard County as well as give Millard County the best benefit possible from lines that run through Millard County.

Greg Greathouse asked Bryan Harris why MWCIII is objecting to including participation from all private landowners.

Bryan Harris said they don't think they are impacting the corridor. He said there is plenty of room for all of the utility lines.

Robin Smith noted that the *General Plan* allows them to go west of the corridor. He asked, "Would you go to court and sue before you allow someone to put an overhead transmission line through your project"? Mr. Harris said that a utility company probably wouldn't want to put a transmission line through their wind farm anyway. Chairman Smith said that Millard County is only asking MWCIII to move a short distance. Mr. Harris said they don't have anywhere to move to. He pointed out that the Millard County Land Use Code does not disallow wind turbines in the RF zone. He said they have leases with three of the four private property owners and they are negotiating with the fourth.

Commissioner Gary Walker asked if the leases were obtained prior to or after the major utility corridor had been established. Bryan Harris responded that the leases were negotiated after.

Robin Smith asked how close their turbines would be to the existing IPP lines. Mr. Harris said they would be about 1,000 feet away.

Molly Stevens said that we are trying to plan for future existing power lines but First Wind is here right now. She said the county's *General Plan* says that the corridor can be located adjacent to the existing corridor. She asked what the issue would be if we let MWCIII locate in the corridor, and then let the next company that makes application work around that.

Robin Smith apologized and said that he didn't have a clear picture of this situation. He noted that the Millard County major utility corridor is on private land. He said he now believes the MWCIII should be allowed to put their project inside the corridor. He said he is disappointed that Millard County included private property inside the major utility corridor. He said that our corridor should have been located on BLM ground. This is private property and shouldn't take away any opportunity that land owners have to make some money on their land. He said he now believes that Millard County should move the corridor off private property. He stated that now that he has a better understanding of this, and his opinion is that we shouldn't interfere in any way with private property owners if it's not a health and welfare issue. Chairman Smith said, with the two phases that we have now, First Wind has done just what they said they were going to do.

Commissioner Greg Greathouse asked why MWCIII skipped over some private property owners and not others. Mr. Harris said this land is large and spread out, and that the other private land is not needed for the project.

Gary Walker noted that adjacent private property owners may have the wind farm take value away from their property without receiving any benefit from it. Mr. Harris said there are benefits for some and detriments for others. He said that if Millard County insists on having a lease agreement or a letter stating that they don't want to participate from all property owners, that land owner's will hold out for more money which would essentially give them veto power. He pointed out that all adjacent land owners were notified about this meeting tonight. Planner Sheryl Dekker stated that they were notified by mail, and that only Leo Stott is present.

Bryan Harris stated that the historical use of that property is agriculture and has been for the last 150 years. Gary Walker mentioned that he heard Mr. Harris say that if they don't allow turbines on that property, it is useless. Now he is saying that there is value, and agriculture can continue on, and it is not useless. Mr. Harris said the value of their land is not useless but the value they have to the property for leasing is useless to First Wind.

Robin Smith said he would like to see us do something this evening. Gary Walker asked if we could hear from our professional consultant, Bruce Parker.

Bruce Parker said it wasn't his intent to have this be an obstacle to MWCIII. His task was to strike a balance with the county and First Wind. He said we have already approved phase I and II. He said it meets the overall well being of the county. He asked them to look over the material Mr. Harris provided to us. (yellow larger map) This shows the property in Millard County. Parker stated that the reason these properties are excluded is because they are not needed for the viability of the project. He said he believes that many private property owners as possible should be included in the project. He said if they don't participate now

there is potential that they will not participate in any project in the future. He said he believes that all private property owners should be asked to participate.

Gary Walker suggested that we should change the language of the conditional use permit to read that if they are using any of the adjoining property as a part of their setback requirement that those properties should be required to be included. Bruce Parker stated that he believes these are reasonable conditions.

Robin Smith said we already said the owners who do not have a windmill on their property get some money but not as much as others. Bruce said he believes it is fair to give all private property owners in the location or directly adjacent to the project the opportunity to participate. This will give the most value to the property owners and the most economic benefit for First Wind. He said we have full confidence that First Wind will comply with all regulations and conditions of the county. They have been good applicants to work with in the past.

Parker stated that he believes that any major utility corridor will be compromised by the wind turbines. He also pointed out that he has not seen a map of exact locations of the turbines, but is speculating that Milford Wind will compromise the integrity of the corridor. He said they worked with the BLM to try and locate this transmission line on as much federally owned property as they possibly could in the first two projects. He said moving the corridor to the west would be nearly impossible to not impact other private property owners. He said he believes they have done a great job in trying to locate corridor in the best place.

Mr. Parker said Millard County has been in discussions with TransWest Express utility to approve their lines. He said they have explored the options of trying to move. They don't think they can avoid private property owners anywhere. It would be another year or two of working with the BLM to change the alignment of the corridor. He said by working with property owners and taking out turbines in the corridor, that they are not affecting the use.

Gary Walker asked if Mr. Parker believes that turbines inside the corridor will negatively impact the future of transmission lines in this area. He said those are the two important issues that he sees. Robin Smith said he agrees with that and feels like we have a responsibility to the private property owners within our corridor to get some kind of compensation. Sheryl Dekker reminded those present that BLM's corridor goes through that general area but it stops at private property and then picks up again in the same vertical alignment.

Commissioner Gordon Chatland asked Mr. Harris if Milford wind agrees with the conditions that have been proposed by Mr. Parker. Harris said there are a couple of slight changes they would like to clarify.

Gary Walker said he is in favor of the wind project. It is a benefit to every one here and the country as a whole. When the corridor was established it was not

his intent to cause any grief for private land owners. He noted that this corridor was established in 2008. He said that Millard County has set an example for other counties in the state with our proactive approach to establishing a corridor for major utility lines. He is concerned with the private land while protecting the integrity of Millard County's established corridor. He said we have made an effort to make this work with First Wind and transmission utilities.

Bruce Parker noted that there was already a corridor established by the IPP transmission line in the early 1980's. Greg Greathouse pointed out that any type of land classification can impact potential income for private property owners.

Chairman Robin Smith entertained a motion so the Planning Commission could vote on this to let First Wind know how to proceed. Bruce Parker said there is one piece of information we don't have, and Millard County needs to have a site plan for the placement of the turbines. He noted that this would have helped in the review and we could have had a much better assessment.

Gordon Chatland made the MOTION to forward a favorable recommendation to the Board of County Commissioners for this project. Chairman Smith clarified that he wants this motion to address the Planning Commission's position on items 1A and B regarding land within the major utility corridor and the stipulation to include all private property owners in the project. Gordon Chatland included in his MOTION that MWCIII should be allowed to place the turbines in the corridor and not have to include all property owners. The motion died for lack of a second.

Commissioner Gary Walker made a MOTION To forward the Milford Wind Corridor LLC Phase III ("MWCIII") Conditional Use Permit Application (Application #Z-2011-018) to the Board of County Commissioners with a recommendation for APPROVAL and accompanied with the conditions of approval as contained in the Planning Consultant's Report with the following changes:

Condition #1(a) The Project Boundary is revised as follows - Any private property owners who are affected by the Projects structure's, standard setbacks or any buffer areas should be included in MWCIII unless the owners provide a written statement that they do not wish to be participants in the project.

Commissioner Walker said he makes the motion with the FINDING that the five (5) requirements for approval of conditional use applications have been met with the conditions of approval identified as reasonable conditions.

The motion was SECONDED by Commissioner Greg Greathouse.

Voting was Three (3) In Favor of the Motion (Commissioners Walker, Greathouse, Barney) and Two (2) Against (Commissioners Chatland and Stevens). The Motion Passed.

Chairman Smith said the recommendation and application will be forwarded to the Board of County Commissioners. He thanked everyone for their participation.

5. REVIEW and POSSIBLE APPROVAL of Application # Z-2011-015 for a Conditional Use Permit for storage of palletized quartzite stone from a mining operation located in White Pine County, Nevada. Mt. Moriah Stone Quarries – Applicant. The application is for ranch property (previously known as the Robinson Ranch) located at 1405 North Gandy Highway.

Clay Iverson stated he and his wife are the owners of Mount Moriah Stone Quarries located on the east slopes in Nevada. They are five miles away from his ranch and his ranch is a few miles inside the Utah border.

Chairman Smith asked what they have for restroom and shower facilities for their employees. Mr. Iverson said they employ temporary and permanent visa workers. They live in mobile homes with power and water. He has a lagoon system instead of a septic system. It is approved by the state health department. They have been in operation five or six years. They are subject to regular inspections.

Gary Walker asked if their business is expanding or why they are making application after six years of operation. Mr. Iverson said that federal regulation from the Bureau of Alcohol, Tobacco, and Firearms (ATF) requiring a Millard County Business license is what triggered the need for this conditional use permit.

Commissioner Walker asked if the explosives on sight are regulated by the ATF. Mr. Iverson responded that they are in compliance with all federal regulations regarding the explosives they store on the ranch site for their mining operations in Nevada. Mr. Iverson said this meeting was advertised on the radio and he is concerned that people may come out to this mining site and could possibly get hurt. Planner Sheryl Dekker said that the county is not responsible for the radio advertisement.

Gordon Chatland made a MOTION to approve the issuance of a conditional use permit for Mt. Moriah Stone for storage of palletized quartzite stone from a mining operation located in White Pine County, Nevada. The motion was SECONDED by Gary Walker. Voting was unanimous in favor of the motion. A draft conditional use permit will be prepared by Planner Sheryl Dekker and sent to the Planning Commission for approval.

6. REVIEW and POSSIBLE RECOMMENDATION of Amendment Application # Z-2010-008 to include facilities that will support the storage of natural gas liquid products such as butane and propane, at the Magnum Gas Storage facilities which will include two storage caverns with a volume capacity of one million and two million barrels respectively. Magnum Solutions, LLC – Applicant.

Representatives of Magnum Solutions, LLC, Tiffany James and Samuel Quigley spoke to the Planning Commission regarding their conditional use permit amendment application. The amendment is for the creation of two additional storage caverns, truck and rail loading/transfer facility, and brine and water lines between caverns, ponds, and loading/transfer facility. The amendment comprises about 30 acres of the project site. The change has been approved by SITLA, and complies with state laws.

Ms. James said the caverns will be located on the south side of the road, and demonstrated the layout of the project. Greg Greathouse asked if SITLA approval was contingent upon Millard County's approval of the amendments. Ms. James said they are not. She noted that this is seasonal storage. There would be a two million barrel cavern that will store propane, and a one million barrel cavern that will store butane. There will be six million barrels that will move in and out of the cavern. During the winter months, butane will be taken back for cars and propane, for heating homes. She said they have maintained all standards for reclamation, permitting and water quality.

Sam Quigley said these storage facilities will be regulated by OSHA and the state of Utah (DOGMA). Also the national fire protection agency has set rules they are in compliance with. He said these types of facilities are in cities and communities. He noted that the location on the projected site is on the corner needs to stay one mile away from the community center at IPSC. The storage will be 700 feet away from the highway – the legal requirement is 25 feet away.

Gary Walker asked if the gas in its natural state had the same properties as natural gas. Samuel Quigley said yes with only slight differences. The caverns are slightly closer together. He said the small caverns are 400 feet away from each other and 600 feet from the large caverns. They are hoping that by January 2013 to have the first cavern completed. The second cavern should be completed by April of 2013.

Joyce Barney asked about the possibilities of job creation by this amendment. Tiffany James said there will be approximately 30 employees.

Gary Walker made a MOTION to forward a favorable recommendation to the Board of Millard County Commissioners as described in the amendment

application. Gordon Chatland **SECONDED** the motion. Voting was unanimous in favor of the motion.

7. BRUCE PARKER – Millard County Zoning Ordinance

There was not discussion.

8. OTHER BUSINESS

There was none.

**9. POSSIBLE CLOSED MEETING PURSUANT to UTAH CODE
ANNOTATED SECTION 52-4-4&5**

10. ADJOURNMENT

Greg Greathouse made the MOTION to adjourn. Gordon Chatland **SECONDED** the motion. The voting was unanimous in the affirmative. The meeting adjourned and 9:25 p.m.

Robin Smith, Chairman
Millard County Planning Commission