

**MEETING OF THE
MILLARD COUNTY PLANNING COMMISSION**

**MEETING MINUTES
January 6, 2016**

The Millard County Planning Commission met on Wednesday January 6, 2016 at the Millard County Offices, 71 South 200 West, Delta, Utah.

PRESENT: David Sturlin Planning Commission Chairman
Joyce Barney Planning Commissioner
Molly Stevens Planning Commissioner
Tom Nielson..... Planning Commissioner
Greg Greathouse Planning Commissioner
Gary Walker..... Planning Commission Vice Chairman

EXCUSED: Jodi Robison Planning Commissioner

ALSO PRESENT:

Sheryl Dekker Millard County Planner
Angi Meinhardt..... Secretary
Richard Waddingham Deputy County Attorney
Dean Draper Millard County Commissioner
Alan Roper..... Millard County Commissioner
Scott Barney Millard County Economic Development
Bruce Parker..... Planning Development Services LLC
Ted Recupero Kanosh Resident
Steve Maxfield Kanosh Resident
Jon Pratt Cove Fort Resident
Todd Macfarlane..... Kanosh Resident

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

Planning Commission Chairman David Sturlin called the meeting to order at 6:43 p.m. He welcomed all present.

2. PUBLIC HEARING on new “Draft” Subdivision Ordinance” dated 9/29/2015

Bruce Parker gave a brief introduction about some of the changes to the "Draft" Subdivision Ordinance. Bruce Parker stated that this draft is just to refresh the ordinance and to bring the document up to date. He gave a description of the four types of subdivisions: Non-Plat Subdivisions, Minor Subdivisions, Agricultural Land Subdivisions, and Plat Subdivisions.

Bruce Parker recommended to open the public hearing tonight and receive any verbal comments and close it for any further verbal comment but leave it open for 10 days for any written comments. That will give time to make any changes before the review and possible recommendation to the Board of County Commissioner. Bruce Parker suggested to have a work meeting in February then set the Public Hearing with the BOCC in March.

Planning Commissioner Gary Walker made a MOTION to open the Public Hearing as stated on the agenda for any verbal comments on the "Draft" Subdivision Ordinance dated 9/29/2015. Planning Commissioner Molly Stevens SECONDED the motion. The public hearing opened at 6:52 pm.

Planning Commission Chairman David Sturlin stated this is an accumulative effort to come up with the best ordinance that we can. He welcomed all to approach the commission with any suggestions regarding the "Draft" Ordinance.

Todd Macfarlane approached the commission. He stated that this draft is "a pretty good ordinance and it is headed in the right direction". He would like to recognize the Commission along with Bruce Parker, Richard Waddingham and Sheryl Dekker for all their hard work.

Todd Macfarlane asked Mr. Parker to verify what changes he is thinking about making in the draft ordinance. Bruce Parker stated that some of the wording needs to be clearer, also some inconsistency in the time frames of recording documents, and simplifying the document. Deputy County Attorney Richard Waddingham stated that one of the things he feels needs to be changed is the certificate of acknowledgement. Attorney Richard Waddingham then stated that we need to change some things about the land use authority and have things more spelled out.

Todd Macfarlane asked who was on the subcommittee for the draft ordinance. The Commission confirmed that Commissioner Stevens, Commissioner Barney and Commissioner Walker were on the subcommittee with help from Sheryl Dekker, Bruce Parker, and Attorney Richard Waddingham.

Todd Macfarlane asked Commissioner Greg Greathouse what his thoughts are about the requirement of acquiring a minimum of 1 acre foot on the culinary water standard. Commissioner Greg Greathouse stated that overall he is okay with the 1 acre foot requirement.

Todd Macfarlane stated that he is glad that the Commission has not taken any position in this document about shared wells. He does not think that the County needs to micro manage shared wells.

Todd Macfarlane stated that the 1 acre foot per lot requirement has not been reflected in any of the 2015 minutes. Planner Sheryl Dekker stated that in 2008 Millard County adopted an ordinance requiring 1 acre foot of water for a person to get a building permit for a dwelling. Todd Macfarlane stated that he thinks the 1 acre foot per lot for a dwelling is more than reasonable but not for every lot. He gave an example of someone owning some property on the desert and they would like to subdivide it in to 20 separate parcels with no water. This draft is stating it is not allowed without the water. He then stated that there are a lot of potential uses that do not require water. Todd Macfarlane stated that the 1 acre foot per lot is reasonable for a residential subdivision but feels it is unnecessary for a recreational subdivision. He does not want to eliminate the possibility of having subdivisions with less than 1 acre foot per lot or without water at all.

Todd Macfarlane then talked about the Minor Subdivision. He asked the Commission if the 100 contiguous acres needs to be in one parcel. The Commission confirmed that the 100 acres of contiguous land is a state law requirement and it cannot be changed. Bruce Parker stated that it can be multiple parcels that make up the 100 contiguous acres.

Todd Macfarlane then asked if a farmer or rancher wanted to divide his land so that each of his children get a piece of land when they are gone and at the time it is not a residential subdivision. He asked what the procedure would be if the children wanted to build on their lot someday. Commissioner Stevens stated that is part of the Agricultural Subdivision Ordinance. She stated if someone comes back and they want to build a home on one of those lots they will have to meet the requirements for a building permit.

Planner Sheryl Dekker stated that the Minor Subdivision does not require any action from the Planning Commission. The owner just has to record it with the Recorder's Office. The water requirement is only if they are applying for a building permit. Bruce Parker stated that the statute allows what Todd Macfarlane is suggesting to create the lot, then later on come back for a building permit but at that time you would have to demonstrate adequate water.

Todd Macfarlane suggested adding solar installations or wind installations to the exemptions in section 11-1-5 under subsection 5) A bona fide division or partition of land for the purpose of siting, on one or more of the resulting separate parcels: Todd Macfarlane stated that the list is more limited than needs to be in terms of the category that the ordinance is talking about. Todd Macfarlane compared 11-1-5 to 11-1-14 and stated that these are inconsistent with one another. Bruce Parker asked Todd Macfarlane if he would be willing to hand in his comments in written form so the Commission can respond to the comments.

Steve Maxfield approached the Commission. He brought up a recurring threat that is very critical when dealing with the subdivision ordinance. He went over part of the Declaration of Independence and the Utah Constitution. He stated that the Planning Commission is a board that has a lot of power.

Steve Maxfield stated the Commission needs to allow flexibility on the water requirements. He stated it is not a one size fits all requirement. Steve Maxfield then went over some of the legislative roles of the Commission.

Steve Maxfield stated that he will be completing some written comments but he does have a few questions and concerns about the draft ordinance tonight.

Steve Maxfield asked for reasoning that the definitions are not in the ordinance Why someone would have to look at another document to find the definition. Bruce Parker stated this was to simplify the document. Bruce Parker stated that the Planning Commission could have a discussion about the level of definitions that need to be in the document. Steve Maxfield stated that he just looked up section 59-2-502(4) (UCA, or successor statutes) for the definition of Agricultural Land and it does not exist. He stated that could be a problem. Attorney Richard Waddingham began a search in the Utah Code Book for section 59-2-502(4).

Steve Maxfield then discussed section 11-1-14-Restrictions for Solar and other Energy Devices. He thinks there is a problem with being proactive in this section. Steve Maxfield asked if there is a reason why we added this section to the ordinance. Bruce Parker stated that this is right from the state law provision.

Steve Maxfield stated that the county has to comply with the State Code. He stated we can be more restrictive than the state code but not less restrictive. He said there may be unintended consequences if we don't use the definitions.

Steve Maxfield stated that 11-1-20-Minimum Domestic Water Standard needs to be clarified whether it applies to agricultural and what the exemptions are for this ordinance.

In response to Mr. Maxfield, Attorney Richard Waddingham stated that code 59-2-502(4) does exist and the definition is in the State Law. Steve Maxfield stated that his point was to put the definitions in the document, not a reference of the document that has the definition.

Ted Recuperero approached the Commission. He stated that he lives outside of Kanosh. He stated that he built his home about ten years ago. He has 1 acre foot of water rights but he only gets about 40 gallons of water a day out of his well. He stated that he has plenty of water to do everything that he needs to do such as laundry, shower and many more daily things. He finds that the one acre foot is completely unreasonable.

Todd Macfarlane approached the commission with a couple more comments. He stated that Ted Recupero makes a good point. There are more and more people that live in the unincorporated county that do not require the 1 acre foot of water requirement.

Todd Macfarlane then discussed 11-4-11 and 11-4-12. He stated that the ordinance has an agricultural exemption for the building permit requirement. Todd Macfarlane stated that there are some agricultural structures that do not require a building permit. Todd Macfarlane stated that those structures should be addressed in this section. Commissioner Greathouse stated that he and Attorney Richard Waddingham made that observation yesterday and acknowledged that it needs to be altered.

Todd Macfarlane stated that his next concern is about the past existing subdivision ordinance 11-5-13. He said that this applies to the conventional subdivision type scenario such as Deseret Heritage and Platted Subdivision. He asked for some verification on the current requirement for the surety bond. Bruce Parker stated that this draft subdivision ordinance is consistent with what the Commission went through with Deseret Heritage. Bruce Parker then stated the surety bond of an amount of not less than 125% of the lesser of:

- i) The County Engineer's estimated cost of completion; or
- ii) The Applicant(s) reasonable proven cost of completion.

Then a warranty period is to be established for a minimum of 12 months after acceptance of all improvements proposed to be dedicated to Millard County, in the form of a cash deposit, surety bond, letter of credit, or other similar security for review and recommended by the County Attorney, and approval by the BOCC, in an amount of up to 10% of the lesser of.

With no further public comments, Commissioner Joyce Barney made a MOTION to close the public hearing on the "Draft" Subdivision Ordinance". Commissioner Tom Nielson SECONDED the motion. The voting was unanimous in the affirmative. The public hearing was closed at 7:40 pm.

3. REVIEW and POSSIBLE RECOMMENDATION on new "Draft" Subdivision Ordinance" dated 9/29/2015, including Certificates of Approval and other Documents.

Commissioner Walker made a MOTION to extend the period for public comment in written form until January 19th at 5pm, and table item 3 on the agenda until the next regular meeting. Commissioner Barney SECONDED the motion. The voting was unanimous in the affirmative.

4. DISCUSSION REGARDING MOUNTAIN CABINS and REQUIREMENT FOR WELL – County Commissioner Dean Draper

Millard County Commissioner Dean Draper approached the Commission. He stated that he has had discussions with isolated area property owners about the county's recreational subdivision ordinance. He has looked into owners having a building or structure, specifically a cabin, on these types of property without a well. In doing so it brought up a couple issues.

Millard County Commissioner Dean Draper read the International Building Code R306-4 Water supply and fixtures: All plumbing fixtures shall be connected to an *approved* water supply. Kitchen sinks, lavatories, bathtubs, showers, bidets, laundry tubs and washing machine outlets shall be provided with hot and cold water.

Millard County Commissioner Draper stated that if someone is up in the rural area camping they would not be worried about having those amenities. He stated that people can always haul in water. He then stated that the definition for *approved* under R201: is acceptable to the building official.

Millard County Commissioner Draper stated that the BOCC is asking for the Commission's comments and recommendations. He stated that the BOCC is looking to change this requirement. Before the BOCC can make a motion it has to have a recommendation from the Planning Commission. The use of the property would include a couple more considerations such as sewage and fire.

Commissioner Walker stated that as he reads this form he does not read that anything requires a well. It just says you have an adequate water system. Commissioner Walker stated that they could always use option B in section 5-2-5. Commissioner Walker stated that the building code states if there is a dwelling on the property they have to have the water supply fixtures. Commissioner Walker stated that the property owner can use any of the 3 adequate water systems as listed. Millard County Commissioner Draper stated those are requirements for a pressurized system and that is not what they are looking at at this time. Commissioner Walker stated that they could build a storage shed and it would not require the same requirements as a dwelling. Millard County Commissioner stated that Commissioner Walker brings up a good point. He stated there are more things that the BOCC will need to consider. He would like to bring this discussion back to the Commission at the next meeting.

Commissioner Stevens stated there are also electrical requirements for a building permit for a dwelling. Millard County Commissioner Draper stated that the BOCC is looking at not requiring any utilities whatsoever. Commissioner Stevens stated that they will need to change that requirement for a dwelling building permit.

Commissioner Greathouse would like to bring up some personal experiences. He stated that some people build a home up the canyon in Fillmore and they are off the grid. After a while they become unhappy with running off generators and so

forth so they demand assistance from Fillmore City. Fillmore City decides to give them assistance. He is concerned that the County would be liable if the structure burnt down. Ted Recupero stated that he is a building inspector and he lives off the grid outside of Kanosh. He stated that he had to agree that the county was not going to assist him. He stated he had to agree that the County wouldn't have to make a sidewalk in front of his property or fix the roads in front of his home and so forth.

Millard County Commissioner Draper stated that the Commission sent a favorable recommendation to the BOCC to approve a recreational subdivision where these things would not be allowed on the edge of Fillmore. Planner Sheryl Dekker stated that the Commission could not deny the application as it was in the existing ordinance. She stated that all the land owners can do is camp or bring in a travel trailer.

Millard County Commissioner Draper stated that the BOCC will look further into this discussion and report back to the Planning Commission for further comments.

5. APPROVAL OF MINUTES

The proposed minutes of the regular Planning Commission meeting held November 4, 2015 were presented for consideration and approval. Following review and consideration of minor corrections Planning Commissioner Joyce Barney made a MOTION to approve the minutes for November 4, 2015 as corrected. Planning Commissioner Greg Greathouse SECONDED the motion. The voting was unanimous in the affirmative.

6. ELECTION OF CHAIR AND VICE CHAIR for the year 2016.

Commissioner Greathouse made a MOTION to have the chair and vice-chair succeed themselves for an additional term. Commissioner Barney SECONDED the motion. The voting was unanimous in the affirmative.

7. PLANNING and ZONING ADMINISTRATOR'S REPORT

- Suggest possible date for BOCC Public Hearing for February 2, 2016, to hear public comments on the "draft" subdivision ordinance.

Planner Sheryl Dekker stated we need to move the public hearing to March assuming that we make a recommendation in February.

Bruce Parker stated that the Commission needs to submit any written comments to the Planner Sheryl Dekker regarding the existing draft subdivision ordinance.

8. PUBLIC INPUT

None

9. OTHER BUSINESS

None

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

11. ADJOURNMENT

Planning Commissioner Joyce Barney made a MOTION to adjourn. Planning Commissioner Greg Greathouse SECONDED the motion. The voting was unanimous in the affirmative. The meeting was adjourned at 8:09 p.m.

Dated this ___ day of _____ 2016
David Sturlin, Chairman
Millard County Planning Commission