

MINUTES OF BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING 2019
AT 6:30 P.M., THURSDAY THE 7TH DAY OF NOVEMBER 2019
AT THE MILLARD COUNTY FAIRGROUNDS, DELTA, UTAH

PRESENT: Dean Draper.....Chairperson
Wayne JacksonCommissioner
Evelyn Warnick. Commissioner
Pat FinlinsonCounty Attorney

EXCUSED: Marki Rowley.County Clerk
Jamie Hair. Deputy County Clerk

ALSO PRESENT: Todd Anderson, Adam Richins, Mel Dutson, Jennifer Dutson, Leon Lewis, Dave Larsen, Marge Larsen, Earl Gowin, Elaine Gowin, Mykaleen Hathaway, Kristen Hathaway, Terri Smith, Kurt Sorensen, Bob Meinhardt, Stephen Draper, Doyle Dutson, Gwen Losee, Mark Losee, Delma Jean Gaele, Judith Hamaker, Dale Hamaker, Roger Wilson, Jonathan Barney, Steve Braun, Mike Barney, Joyce Barney, Matt Eliason, Joseph Taylor, Lance Atkinson, Dale A., Klint Atkinson, Karson Atkinson, Debra Wagner, John Wagner, Gale Bennett, Andy Albers, Kelly Albers, Jeanene Owens, Margie Thomas, Luke Peterson, KC Bogue, Chad Warnick, John Niles, Ben Winslow, Ken Manning, L. Taylor, Kevin Walker, Steven Walker, Kathy Walker, Lucas Stevens, Adam Remkes, Jim Warnick, Gary Greathouse, Deb Greathouse, Steve Maxfield, Dave Remkes, Steele Weston, Benjamin Rood, Donald Brown, and Hollie Remkes.

PURSUANT TO THE NOTICE 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:

Commissioner Draper called the meeting to order at 6:30 p.m. and welcomed the public. Everyone stood and said the Pledge of Allegiance to the Flag.

Commissioner Draper said that the purpose of this public hearing is to receive public opinion on a proposed zone change on a property from Range and Forest (RF) to AG Industrial (AI). He said that the property is located approximately nine miles west of Hinckley. He said that action on this proposed ordinance will take place during the next Commission meeting scheduled for November 12, 2019 at 10:00 a.m. in Fillmore.

Commissioner Draper explained the process that a zone change application goes through and

said that this has received a favorable recommendation from the Planning and Zoning Commission.

Commissioner Draper invited the zone change applicant, Mr. Steele Weston, to speak and explain the intended use of the property.

Mr. Steele Weston introduced himself and said that the Planning and Zoning Commission recommended that he do a study to determine possible flood problems, and other issues that may arise because of water. He said that he tried to hire the foremost expert on this issue and introduced Mr. Benjamin Rood with CRS Engineering.

Mr. Ben Rood said that he is a licensed engineer in the state of Utah, as well as, a certified flood plain manager with the National Association of State Flood Plain Managers. Mr. Rood said that he is also on the board for the Utah State Flood Plain Managers Association.

Mr. Rood said that Millard County is a voluntary member of the National Flood Insurance Program, and as a member of the National Flood Insurance Program, it is the County's duty to regulate flood plains within its jurisdiction, and make sure that any development within flood plains is done according to the National Flood Insurance Program.

Mr. Rood referred to the Federal Court of regulations 44 60.3A which is applicable to areas where FEMA has not delineated special flood hazard areas. He said that those special flood hazard areas have not been delineated within the area that the property is and as such, it is upon the applicant to determine what the flood risk is in the area for 100 years.

Mr. Rood said that he was hired to investigate what the risk is and to objectively tell Mr. Weston what his risk is in this area for the 100 years. Mr. Rood said that he does this in two steps. He said that you first look at the hydrology, which tells you how much water comes into the system and runs through the property. He said that hydrology is all about rainfall and said that you have to determine what the hundred year rainfall event is and how that water collects and is discharged through the property. Mr. Rood said that the 100 year flow rate is 1250 cubic feet per second in this area.

Mr. Rood said that the second step is to figure out how that water is going to flow across the property. He said that the most state of the art two dimensional hydraulic model was used. He said that based on standard practices and in compliance with the National Flood Insurance Program, he has run these models to predict what the risk is.

Mr. Rood said that there is always a risk of flooding and his map isn't indicating that there's not risk. He said that his map is indicating the delineation of water for the 100 year event through this property. He said that after they ran the analysis and plotted the depths, they then positioned the barns where the least risk resides in locations of higher ground outside of that flood plain delineation to comply with the National Flood Insurance Program. He said that they want to develop outside of the flood plain. He said that his memorandum states how they selected things.

Mr. Rood said that he would like to have a short discussion regarding different floods, and some of the improvements that have been made along the Sevier River before ultimately giving his recommendation that if this property does move forward with development that Mr. Weston should adhere to the flood plain regulations and should investigate the Millard County

code to make sure that they comply with the codes in terms of flood plain development.

Mr. Weston referred to a map and said that the proposed locations for the barns have also had the soil studied. He said that these locations were picked carefully and there has been engineering, soil studies, and other aspects to determine where to build these barns.

Mr. Weston presented a slide show that included soil studies, and the distances the barns are from any township, park, or school. Mr. Weston said that there has been a lot of discussion regarding how much water Pumba Farms will use. He said that in 2017, Millard County pumped approximately 54,000 acre feet of water. Mr. Weston said that his farm will use exactly 77 acre feet. He said that is approximately .0014% of all of the underground water pumped in Millard County.

Mr. Weston said that they will have dual usage of the water. First for food production and secondly for use as fertilizer. He said that two wells will be drilled for production and they will also drill two check wells per barn to randomly sample for contaminants or other hazards. Mr. Weston explained the structure and ventilation of the barns. He said that he has chosen to build tunnel ventilation barns and explained that it blocks insects from coming in and out of the barns, as well as, traps dust in the filters. He said that the filters also control odor because they are collecting dust.

Mr. Weston explained their manure storage structures and said that they will have three layers of protections. He said that their structures will meet and exceed all EPA and State regulations.

Mr. Weston said that they will sell the manure as fertilizer for fields. He said that it won't be sprayed but rather tilled into the soil to reduce odors. He said that their fertilizer will be much cheaper and will save local farmers a lot of money. He said that the sale of the fertilizer will also provide jobs. Mr. Weston said that he has estimated spending at least \$10,000,000.00 in the first year of construction in Millard County and will work with local companies and individuals to keep those funds in Millard County.

Mr. Weston said that they are here to discuss the zone change and explained that the change is legally permissible and he exceeds every regulation set by Millard County. He said that this is also financially feasible and that this is the best use of the property. He said that it will generate over \$11,000.00 per barn in tax revenue to Millard County.

Mr. Weston said that he will employ seven people on the property with a salary of \$60,000.00. He said that they will have full-benefits and be able to support a family on their wage.

Mr. Weston said that there will be 4,400 pigs in each barn and there is only one phase right now. Mr. Weston said that pig farms and CAFOs are coming to Millard County and he believes it will benefit the community if the County plans out where to put these CAFOs. He said that this land is the furthest land that you can buy away from communities. He said that if he builds the barns, then no other pigs farms can build within 20 miles.

Mr. Steven Maxfield, said that he'd like some clarification on the 20 mile barrier between barns. He asked if this a County or State Ordinance or if there is any law that prohibits anybody else from building within that radius.

Mr. Weston said that there will be a law and it has to do with bio security. He cited swine

flu cases in Africa and China and said that the United States industry standards are that no one can build around a nursery or a little piglet operation within 15 to 20 miles.

Jim Dutson said that he knows the area and is against the zoning change because the ground changes. He said that his house is on that ground and has had some foundation problems. Mr. Dutson said that flooding was so bad in that area in 1983 that the highway had to be raised. He said that this is a bad location because nearby wells have only drawn salt water. Mr. Dutson said that he is also concerned with how the salt will harm the cement and steel.

Mykaleen Hathaway said that she is a resident of Hinckley and is worried about this reducing her property value. She said that she is also concerned about the amount of water they will be using and who will be regulating that use. Ms. Hathaway said that she started a petition that currently has approximately 175 signatures stating their opposition to a hog farm in the area.

Terri Smith said that she doesn't want Millard County to be known as the swine capital of the Country. She said that she is concerned about the storage of waste and said that this method hasn't been time tested. Ms. Smith said that she heard that China is involved and that Mr. Weston would be partnering with Smithfield Foods, Inc. She asked Mr. Weston if that was true.

Steele Weston said that this is his farm and he doesn't have contracts with anyone; however, he will need to sell his pigs and there are only a few people who buy them like Smithfield Foods, Inc. He also said that the farm owns 172 acre feet of water; however, that's not how much will be used on this project.

Terri Smith said that when the dairies came into the County they said that they would be an economic benefit to the area; however, they get their labor from Mexico their hay from Idaho. She said that property values in the community are also a concern. Ms. Smith said that she doesn't think seven jobs is worth putting a farm like this in.

Jared Buhler, Millard County Farm Bureau, said that Nye Dairy buys its feed and hay from Millard County farmers if they can. He said that he and his father-in-law sell hay to the dairies. He said that the dairies have been a huge benefit to the County. Mr. Buhler said that they employ laborers from elsewhere because locals won't milk the cows. He said that these people that work at the dairies and their families come into IFA to purchase clothes and other items so these people are helping our community and are great people.

Mr. Buhler said that Millard County has the largest setbacks in the nation and Mr. Weston has met this setback and now people want to tell him that he can't to it. He said that we are an agriculture community and we need to feed America.

Steve Brown said that he goes to Clear Lake as often as he can and it is vanishing very quickly. He said that there is not an endless supply of water available. He said a lot of us live here because we love it due to the clean air, environment, hunting, and because it is beautiful. He said that he doesn't want that sacrificed for a few jobs.

Dave Larsen said that Millard County is an agriculture community. He said that he appreciates the hay farms and the dairies. He said that he also appreciates those who work there because it is hard work. He said the image of a hay, cattle, and dairy county is the image that we want to give Millard County. Mr. Larsen said that CAFOs are undesirable. He said that the Environmental Program Manager for Circle Four Farms said that there had been a couple of occasions where the hogs could be smelled in town approximately nine miles away. Mr. Larsen cited several other times Circle Four came under scrutiny because of financial deals, human trafficking, and the health of nearby residents.

Mr. Leon Lewis said that he concurs with the previous speakers. He said that the water, smell, and traffic are concerns. He said that this isn't a great economic boost to our County. Mr. Lewis said Mr. Weston cites one phase, but no one knows how many phases he can put there. He said that the residents don't need this pig farm 9.4 miles from Hinckley. He thinks it should be much further. Mr. Lewis said that he has approximately 90-100 signatures which include residents of Hinckley. He said that about 99.9% of Hinckley residents are against this pig farm being built.

Ken Manning asked the mortality rate for piglets.

Mr. Weston said that there is a high mortality rate of about 5% of piglets that die and its based on health and welfare of the pig. He said that his operation will provide more square footage per pig than any other barn in Utah or the Western United States. He said that pig mortality is directly related to the health and well being of the pig and he has planned several ways to improve this.

Mr. Weston said that if they want to they could turn things into dog food and other fertilizers. He said that bone and skin and hooves are harvested. Mr. Weston said that almost every ounce of a deceased pig can be used in another byproduct.

Mr. Manning said that he is concerned about what happens to the dead pigs. He said that the rendering plant in Levan is no longer accepting pigs from Smithfield or Circle Four. He said that a pit has been dug on the border of Iron and Beaver County to bury Smithfield's dead pigs and he is wondering how Mr. Weston will disposed of his deceased pigs.

Mr. Bob Meinhardt said that he is a long time resident of the County and explained how the water from the wells used to flow freely, but has gradually reduced and they now have to pump and drill down 60 feet to find water. He said that this all happened in his lifetime and asked what may happen in his kid's lifetime with water levels.

Hollie Remkes said that she is a resident of Flowell and there is a CAFO going in there. She said that the impact to the community is unknown. She said that they hope to move to another location in Millard County if living in Flowell becomes bad due to the CAFO, but is concerned that the County may allow more CAFOs to come in so there won't be a good area to move to. She said that a lot of the laws being passed only protect one side.

Ms. Remkes read a few statements from the right to farm act. #1- Prohibits the County from acting in the ordinance based upon odor. #2- Prohibits the County from doing abatements through the conditional use permit (CUPs) for odor. #3- Prohibits citizens from filing suit over odor or standard agricultural practices.

Ms. Remkes said that if these industrialized swine operations are permitted, and anyone has issues, it appears that there is very little anyone can do except move. Ms. Remkes said that her heritage is in Millard County and it would be a tragedy to do anything that could potentially turn our communities into a ghost town. She said that she can see a very real potential threat to our communities if we continue too far down this path.

Donald Brown said that he is pro agriculture but is concerned with the wind coming from the west. He said that this isn't very far from Hinckley and there will most likely be an odor in town from this. He said that these businesses come and go and the residents are left with the aftermath. He said that he is also worried about the water and isn't convinced that this will be an economic benefit to the County.

Mr. Weston said that he doesn't know how much feed Smithfield buys and from where because he is not associated with them. He said that the water he will use on his farm is currently being used elsewhere so he isn't taxing the water system any more than it already is.

Mr. Brown said that the lady on the Planning and Zoning Committee who voted for the zone change was the one who sold Mr. Weston the land and he said that it wasn't right for her to vote.

Ruth Maxfield said that she is against the zone change because it is bad policy. She said that the County has never had this level of industrial agriculture and there are unknown consequences. She said that a solar farm is a better choice if the historical uses are going to change.

Mr. Gene Boardman from Hinckley said that he is for agriculture and thinks that the County should do everything they can to keep and develop agriculture. He said that this location is about as far away as you can get from everybody and still be on private land. He doesn't think odor will be a problem but can understand everybody's concerns with that. He said that things still need to be looked at in the permitting process.

David Remkes said that he has been against zoning laws in the past; however, zoning is the only thing that is going to prevent Millard County from being taken over by hog farms. He said that he just bought housing lots in Hinckley because there is a housing shortage. He said that there isn't a job shortage right now. He said that he is concerned that if CUPs are not allowed to regulate smells someone can build a hog farm and not have to follow any regulations. Mr. Remkes said that he would also like to protect small hog farmers.

Gary Greener said that there aren't meters on the water pumps and he would like to know

how they know the amount of water usage.

Mr. Weston said that the water usage figures are from the most recent study by the Utah Department of Water. He said that he will work out the depth of the well and the aquifer with the Division of Water Resources.

Mr. Greener said that the State is not here watching the water levels drop and said that there isn't anything stopping Mr. Weston from doing whatever he wants after the permits are granted.

Mr. Weston said that he intends to do everything that he has talked about. He said that he is a man of his word. He said that the number of pigs fluctuates but there will never be more than 4,400 hogs per location; per CAFO. Mr. Weston said that there will be no more than 4,400 pigs per barn.

Mr. Greener asked where Mr. Weston is using the water rights now.

Mr. Weston said that he is not going to disclose how many water rights he owns personally because that is his family business. He said that the Utah Division of Water Rights will show who owns every share of water.

Mr. Steve Maxfield said that the concerns that have been brought up are valid. He said that the land sale is still under contract and Mr. Weston is not the current owner of the property. He said that the only prescriptive vested rights on that land are the historical uses. Mr. Maxfield said that the current process uses legislative action so it only takes six people to make zoning changes. He said that if the Commission approves a specific site re zone application, the people can take it to a referendum and do a vote. He said that this makes every registered voter in Millard County a Commissioner.

Mr. Maxfield said several noted concerns from this meeting are enough to deny this zone change. He said that bio security was mentioned previously where Mr. Weston said that the barns have to be built 20 miles apart from each other. Mr. Maxfield said that there are no State or Federal laws supporting this.

Mr. Maxfield said that another issue is when a new land use application jeopardizes the public's health and safety, the Commission is authorized to put in a moratorium and revisit the issue. He said that one of the reasons we need to revisit this is that there isn't any maximum density requirements

Mr. Maxfield said that each registered voter has the same vote as the Commission to set the public policy going forward. He said that there is nothing in code or statute that gives a vested right to a zone change.

Mr. Weston said that there haven't been any misrepresentations by him to the Commission or to the public.

Mr. Maxfield said that Mr. Weston has closer ties with the hog industry than what has been represented.

Mr. Weston said that he has mentioned at previous meetings and will openly disclose that he works for a company that makes flooring for all of the hog farms including Smithfield Foods. He said that this is how he knows the industry so well. Mr. Weston said that he is building as far

away from the community as possible and the industry standards state that hog farms can't be built any closer to each other than 20 miles due to bio security reasons.

Mr. Maxfield said that there is no vested right for industrial agricultural on range and forest land.

Mr. Weston said that the EPA has done several studies on the impacts of CAFOs. He said that none of the studies are done with a CAFO being ten miles away. He said that the impacts are minimal at three miles from a CAFO. He said that there isn't a study that says odors can be detected from six to seven miles away at most. He encouraged everyone to look at the studies and pork industry standards. He said that the scale of his farm is not comparable to Smithfield Foods located by Milford.

David Remkes said that he submitted a newspaper article from Beaver County that was actually written by Circle Four Farms. He said that the article stated that the hog farms were originally being built nine miles away from Milford, but because it was so smelly, they started building twenty-two miles away.

Judith Hamaker said that she feels the member on the Planning and Zoning Committee should have abstained because it was a conflict of interest. She asked who will build and maintain the roads.

Mr. Weston said that he will pay for the building and maintenance of the roads. He said that he will be paying close to \$77,000.00 per year to Millard County for property taxes.

Ms. Hamaker said that \$77,000.00 shouldn't be taken into consideration because of what other industries have paid into the County. She asked how much truck traffic will be generated.

Mr. Weston said that approximately 1 ½ feed trucks a day and it is unknown how many trucks will be needed to move pigs every other month. Mr. Weston said that the amount of manure moved each day is dependent on future sales. Mr. Weston said that there already a lot of trucks that use Highway 257.

Ms. Hamaker asked about the water rights. Mr. Weston said that all the water is done with the State of Utah who allocates the water. He said that he will use 77 acre feet of underground drilled water.

Ms. Hamaker said that she is concerned about the wells that he pumps making the other nearby wells go dry. Mr. Weston said that he has the same right to water as the other property and water share owners.

Mr. Maxfield said that the zone change is the issue at hand, even though water is very important.

Ms. Hamaker said that this hog farm and its possible benefits isn't worth giving up our beautiful county. She said that they just don't want the hog farm to come in.

Mel Dutson said that he has researched and has found that the quality of life near a pig farm goes down, as well as, property values.

Roger Wilson said that he is against the zone change. He said that the people don't want

it and this will go to a referendum. He said that the Commission should give an answer for the people in the community and not just one private enterprise.

Adam Remkes said that he opposes the zone change.

Earl Gowin said that he lived in North Carolina with a large pig operation about five miles from him. He said that he never smelled it; however, there were a couple of hurricanes that dropped a lot of water. He said that the holding ponds overflowed and contaminated other water bodies and disrupted the lives of a lot of people. He asked who will be responsible for the oversight.

Mr. Weston said that Millard County has the strictest CAFOs regulations in the United States. He said that the industry is strictly regulated as well. He said that the EPA will do oversight.

Mr. Gowin asked what regulations if any need to be put into local laws in order to keep things like this regulated.

Matthew Maxfield said that he is against the zone change. He said that no matter how well it is built, there will be odors that neighbors won't like.

Steve Brown said that if Millard County has to have a pig farm, Mr. Weston is a good man to run one. He said that this is a democracy and we don't have to have pig farms. He said that the EPA does not protect the air and water very well and if you live in areas with commercial agriculture, green methane gas can be seen. He said that he doesn't want green air.

Gale Bennett said that he is concerned about the traffic. He said that the Brush Highway has a manure truck go on it 2-3 times a day and the pot holes are terrible. He said that he is also concerned about the water. Mr. Bennett said that the wells use to flow freely and it has reduced significantly.

Mr. Jonathan Barney asked if Beaver and Iron counties still allow CAFOs to be built.

Garrick Hall with Farm Bureau said that CAFOs can still be built in both counties; however, there are stricter set backs than what was originally in place. He said that Beaver County changed their Ordinance because there was a proposal to build a CAFO in the Beaver Valley.

Mr. Steve Maxfield said that if a CAFO meets the minimum Federal, State, and County regulations there is a presumption that it is operating within standard agricultural practices. He said that the County is actually prohibited from requiring a higher standard due to the Senate Bill 93 that was passed in 2019. He said that if Mr. Weston successfully makes it through the permitting process, then produces a smell that becomes a nuisance; there isn't anything the County can do to regulate that. He asked if there was anything that the community can put in place to hold Mr. Weston to those higher standards.

Mr. Weston said that he is not a huge operation in comparison to Milford. He said that the County ordinance lessens the impact because of the ten mile set back. He encouraged everyone to look at the scientific evidence regarding CAFOs and the impacts of one being ten miles away.

Mr. Maxfield said that he is concerned about bio security. He asked if the federal government may come in and prohibit nearby farmers from having pigs due to the hog farm being close by.

Mr. Weston said that his CAFO will not impact anyone who wants to raise their own pigs; however, another CAFO may not be built within 20 miles due to industry standards.

Mr. Weston said that he would like to speak in defense of the person on the Planning and Zoning Committee. He said that he went to her to purchase land because she is an agent. It is not her fault that he went to her. He said that there is no spot in the property sale contract that says the purchase is contingent upon a zone change. He said that she has no vested interest whether this zone change goes through or not, which means that she does not have a conflict of interest. He said that he will still purchase the property if the zone change doesn't pass.

Roger Wilson said that the people have the ultimate right to say what comes into the County because this is their community. He said that it would be nice to have Mr. Weston's integrity shown physically, mentally, or financially.

Mr. Weston said that he has tens of thousands of dollars invested into this project. He said that the land is under UTTR and he would also like to build a solar project out there.

Mr. Rogers said that it still isn't right that a person who voted for the proposed change benefits financially from this project.

Jim Dutson said that he would not build a CAFO there.

Jared Buhler said that Mr. Weston is building where he can and where it makes sense due to the ten mile setbacks. He said that the County Ordinance limits where CAFOs can be built.

Matt Eliason said that Mr. Weston stated has found 52 places where he can build CAFOs so there is the possibility to build many more. He said that this will be an ongoing battle.

Commissioner Draper said that this will be addressed at the November 12, 2019 Commission Meeting and thanked everyone for coming.

The meeting adjourned at 9:30 p.m..