

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 23rd DAY OF MARCH 2021
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Dean Draper.....Chairperson
Evelyn Warnick..... Commissioner

Pat Finlinson..... County Attorney
Marki Rowley..... County Clerk
Jamie Hair..... Deputy Clerk

EXCUSED: Bill Wright..... Commissioner

ALSO PRESENT: Sheri Dearden..... County Treasurer
Bonnie Smith..... County Auditor
Adam Richins..... County Planner
Pat Manis..... County Assessor
Lynette Madsen..... Meadow Town
Richard Jacobson, Robert Clark, Tony Pedersen, Richard Warren,
Scott Whitaker, and Lindsay Mitchell..... Sheriff's Office
Kalen Taylor and Trenton Wilson..... USU Extension
Kayli Yardley and Landon Rowley..... Millard County Fire
Tiffany James..... Magnum
Tom Henrie and Brent Tolbert..... Materion
Dan Rowley..... Old Capital Car Show
Beverly DeWyze and Miriam Waddingham..... Girls State
Aaron James and Danielle Whitaker..... Citizens

PURSUANT TO AN AGENDA 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:

PUBLIC WAS WELCOMED

The meeting began at 10:00 a.m. after a brief welcome by Commissioner Draper to the public and Commission members.

OPENING STATEMENTS

Commissioner Draper excused Commissioner Wright and asked if anyone had an opening statement to give. Commissioner Draper said the invocation. Everyone stood and said the Pledge

of Allegiance to the Flag.

APPROVAL OF THE MINUTES OF MARCH 2 , 2021

The proposed minutes of a regular County Commission meeting held March 2, 2021 were presented for consideration and approval. Commissioner Warnick made a motion to approve the minutes of March 2, 2021, as corrected.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

FOLLOW UP ACTION ITEMS FROM MARCH 2, 2021

Commissioner Draper said that he contacted the local Forest Service Agency and inquired about the water lease renewal in Chalk Creek Canyon. He said that they are still investigating.

RATIFY THE APPROVAL OF AN AMENDED ELECTION SYSTEMS & SOFTWARE, LLC ELECTION SERVICES AGREEMENT

Commissioner Warnick made a motion to approve an amended Election Systems & Software, LLC Election Services Agreement.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

RATIFY APPROVAL OF A BUSINESS LICENSE FOR ARTELLO'S FLAWLESS IMPERFECTIONS, OWNER - ERIKA DORSEY

Commissioner Warnick made a motion to approve a business license for Artello's Flawless Imperfections, Owner - Erika Dorsey.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPROVAL OF OUT-OF-STATE TRAVEL FOR DEPUTY LOE

Commissioner Draper said that Deputy Loe will be attending training in New Mexico and the County's policy states that Commission approval is necessary for any employee's out-of-state travel.

Commissioner Warnick made a motion to approve out-of-state travel for Deputy Loe.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR ATX AUCTIONS DELTA, OWNERS - BRYCE AND JENNIFER TOLBERT

A business license application was presented for ATX Auctions Delta, Owner - Bryce and Jennifer Tolbert, an online auction site business. After review of the application and finding all signatures in order, Commissioner Warnick made a motion to approve a business license for ATX Auctions Delta, Owner - Bryce and Jennifer Tolbert.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR SFC WELDING, INC, OWNER - SHANE CHURCH

A business license application was presented for SFC Welding Inc., Owner - Shane Church, a welding and fabrication business. After review of the application and finding all signatures in order, Commissioner Warnick made a motion to approve a business license for SFC Welding Inc., Owner - Shane Church.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPROVAL OF THE ANNUAL SECURITY AND BAILIFF CONTRACT

Sheriff Jacobson said that he has reviewed this annual contract and doesn't have any concerns.

Commissioner Warnick made a motion to approve the annual Security and Bailiff Contract.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

SHERIFF RECOGNITION

Sheriff Jacobson said that he would like to present a Letter of Commendation to Deputy Scott Whitaker whose actions saved Deputy Richard Warren from serious injury and possible death. He explained how Deputy Whitaker pulled Deputy Warren out of the way of a moving vehicle which was sliding off of I-15 due to icy conditions. Sheriff Jacobson said that Deputy Whitaker is an asset to the Sheriff's Office and the community.

Deputy Warren said that he and his family are very grateful for Deputy Whitaker and his actions that day.

Sheriff Jacobson read the Letter of Commendation and presented it to Deputy Whitaker.

DISCUSSION AND POSSIBLE APPROVAL OF TWO CELL PHONE ALLOWANCES AND ONE CREDIT CARD FOR DEPUTIES - SHERIFF'S OFFICE

Sheriff Jacobson said that cell phone allowances are being requested for two new employees, Jordan Josse and Aaron Fauset, in the amount of \$40.00 each. He said that he is also requesting a credit card with a limit of \$1,500.00 for Deputy Ben Stephenson due to the travel requirements of his

court assignment.

Commissioner Warnick made a motion to approve two cell phone allowances in the amount of \$40.00 for Deputies Jordan Josse and Aaron Fauset and a credit card with a limit of \$1,500.00 for Deputy Ben Stephenson.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPROVAL OF AN AMBULANCE ABATEMENT

Lindsay Mitchell, Sheriff's Office, presented an ambulance abatement for Mary Eileen Finlinson and briefly went over her finances.

Commissioner Warnick made a motion to abate Ms. Finlinson's ambulance bill by 100%.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPROVAL OF HMGP GRANT SUBMISSION - LANDON ROWLEY

Attorney Finlinson said that they no longer need a letter to submit the grant on the County's behalf.

Mr. Landon Rowley, Millard County Fire Warden, said that they found that they don't need the letter from the County and can submit the grant application directly through the Fire District.

DISCUSSION AND POSSIBLE APPROVAL OF SIGNING THE NOTICE OF INTENT TO RELEASE TITLE III FUNDS

Attorney Finlinson said that a letter has been drafted that expresses the County's support for releasing the Title III funds. He said that the letter describes the County's normal procedures and states that it intends to disburse the funds after the 45 day comment period.

A brief discussion was had on the dates of the comment period.

Commissioner Draper stepped from the chair and made a motion to approve signing the Notice of Intent to Release Title III Funds.

Commissioner Warnick SECONDED the motion. The voting was unanimous and the motion carried.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT RELATIVE TO THE PROPOSED RENAMING OF COUNTY ROAD NO. 3842, A CLASS B MILLARD COUNTY ROAD IN THE COVE FORT AREA OF MILLARD COUNTY, AND AMENDING THE OFFICIAL TRANSPORTATION MAP ACCORDINGLY

Attorney Finlinson said that this public hearing was posted and he also sent notices directly

to those individuals with land that this road crosses. He said that this road has both a Class D portion and a Class B portion. He said that this proposed ordinance doesn't change anything except the name of the road.

Commissioner Warnick made a motion to enter into a public hearing for the purpose of receiving public comment relative to the proposed renaming of County Road No. 3842, a Class B Millard County Road in the Cove Fort Area of Millard County, and amending the Official Transportation Map accordingly.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 10:32 a.m.

Present were: Blake Campbell, Sheri Dearden, Sheriff Jacobson, Kalan Taylor, and Rich Beckstrand.

Blake Campbell said that he was able to speak to one of the nearby landowners who like the idea of changing the name, but was unable to reach anyone else.

There were no other comments made.

Commissioner Warnick made a motion to close the public hearing.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at approximately 10:35 a.m.

The regular meeting reconvened.

DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 21-03-23, AND ORDINANCE OF MILLARD COUNTY AUTHORIZING THE RENAMING OF COUNTY ROAD NO. 3842, A CLASS B MILLARD COUNTY ROAD IN THE COVE FORT AREA OF MILLARD COUNTY, AND AMENDING THE OFFICIAL TRANSPORTATION MAP OF MILLARD COUNTY ACCORDINGLY

Attorney Finlinson said that this road doesn't have a Fillmore or Delta grid designation. He said that No. 3842 is from the County's grid which supersedes the Fillmore and Delta grids and it is proposed to change this road's name to "This is the Way".

Commissioner Draper read the ordinance into the minutes.

Commissioner Warnick made a motion to adopt Ordinance 21-03-23, an Ordinance of the Board of County Commissioners of Millard County, Utah, renaming County Road No. 3842, a Class B Millard County Road in the Cove Fort Area of Millard County, and amending the Official Transportation Map accordingly.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. Clerk Rowley called for a roll call vote. Commissioner Warnick voted YES. Commissioner Draper voted YES. Commissioner Wright was absent. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPROVAL OF AN EXTENSION REQUEST FOR MAGNUM GAS STORAGE CONDITIONAL USE PERMIT # Z-2010-008

Tiffany James, Magnum, said that their gas storage project's initial CUP was approved in 2010 and gave a brief history of their operations related to this permit. She said that they haven't yet been able to perform on this permit due to market fluctuations. She said that they are requesting that this permit be extended for two years. Ms. James said that there will be two additional ponds constructed for the gas storage and hydrogen projects and those will be built near the two existing ponds.

Commissioner Warnick made a motion to approve a two-year extension request for Magnum Gas Storage Conditional Use Permit # Z-2010-008.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

CONSIDERATION AND POSSIBLE APPROVAL OF A SUBDIVISION PLAT FOR PROPERTY LOCATED AT APPROXIMATELY 3750 S 3000 W DELTA (OASIS). BRIAN BEN WILLOUGHBY, APPLICANT

Planner Richins said that this is a small parcel in Oasis with an existing home and the owners are separating the parcel so they can build a new home. He said that the parcels meet the requirements for a subdivision plat.

Brian Willoughby said they are separating their parcels so they can build a home and they don't have plans to build any other homes.

Planner Richins said that the correct address for this property is 3000 W 4000 S Delta (Oasis)

Commissioner Warnick made a motion to approve a Subdivision Plat for Property Located at Approximately 3000 W 4000 S Delta (Oasis). Brian Ben Willoughby, Applicant.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON A C-2 CONDITIONAL USE PERMIT (CUP) APPLICATION # Z-2021-017 FOR A TAILINGS POND (STORAGE, HAZARDOUS MATERIALS) APPROXIMATELY 10 MILES NORTH OF DELTA. MATERION NATURAL RESOURCES, APPLICANT

Commissioner Warnick made a motion to enter into a public hearing for the purpose of receiving public comment on a C-2 Conditional Use Permit (CUP) Application # Z-2021-017 for a Tailings Pond (Storage, Hazardous Materials) Approximately 10 Miles North of Delta. Materion Natural Resources, Applicant.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 11:00 a.m.

Present were: Richard Beckstrand, Adam Richins, Sheri Dearden, Pat Manis, Tom Henrie,

Brent Tolbert, and Sheriff Jacobson.

Tom Henrie gave a brief description of Materion's operations which mines and mills beryllium. He said that they provide over 60% of the world's supply of beryllium. He said that the original 200 acre pond has reached its full capacity and they need to construct a new tailings pond. Mr. Henrie said that the new pond has been designed in close coordination with the State Division of Water Quality, Division of Water Resources, Dam Safety Division, and the Division of Air Quality. He said that this has had a lot of oversight.

Mr. Henrie said that they think conditions 3.1 and 3.2 on the CUP are not necessary. He said that condition 3.1 refers to public safety and emergency response and requires them to submit an emergency response plan. He said that they already provide this annually and they will submit an updated copy. Mr. Henrie said that condition 3.2 refers to the fire management plan and said that they have an on-site fire brigade and are also regulated under MSHA. He said that condition 3.2 isn't necessary since they currently have regulated measures in place for fire prevention.

Brent Tolbert referred to condition 3.8 which requests a bond and explained that they have other guarantees in place in lieu of a bond or other forms of financial security. He said that the Department of Environmental Quality (DEQ) regulates their ponds and they are subject to extensive groundwater monitoring and reporting. He said that the DEQ requires a closure plan in place which is approved by the State and described the pond construction and materials. He said that they are fined approximately \$10,000.00 per day if they violate any conditions from the DEQ and are very aware of what the State is asking them to do. He said that they are extremely diligent in making sure that they are adhering to all State and Division requirements. He said that this is a zero discharge facility and the risk is very minimal.

Mr. Tolbert said that they are requesting that this 3.8 condition be removed or that the Commission approve this with an abeyance on condition 3.8 so they can take this item up with their upper management because neither him nor Mr. Henrie have the authority to approve that high of a liability on behalf of the company.

There were no other comments made.

Commissioner Warnick made a motion to close the public hearing.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at approximately 11:12 a.m.

The regular meeting reconvened.

DISCUSSION AND POSSIBLE APPROVAL OF C-2 CONDITIONAL USE PERMIT APPLICATION #Z-2021-017 FOR A TAILINGS POND (STORAGE, HAZARDOUS MATERIALS) APPROXIMATELY 10 MILES NORTH DELTA. MATERION NATURAL RESOURCES, APPLICANT

Commissioner Warnick asked if Materion had other bonds. Mr. Tolbert said that they have one in Juab and one in Millard and they also have letters of credit in each county.

Commissioner Draper asked the acreage of the pond. Mr. Tolbert said that it is approximately

80-100 acres, but isn't yet finalized. Commissioner Draper asked what will happen to the old pond. Mr. Henrie said that the pond will stay in an operational state for possible future uses and will ultimately be closed in place, covered in top soil, and the soil will be re-seeded.

Commissioner Draper referred to the new asphalt on the road that leads to Materion and explained how the County received a grant to resurface the portion of the Brush Wellman Highway that is located in Millard County. Millard County spent about \$400,000.00 in matching funds for the \$8,000,000.00 grant.

Commissioner Draper said that the fire and emergency response controls shouldn't be that hard to accomplish. He asked Attorney Finlinson what liability the County would be exposed to if these conditions are removed.

Attorney Finlinson said that bonds are normally put in place to protect residences and have been waived before. He said that removing the condition doesn't expose the County to any liability.

Planner Richins went over the pre-planning closure process. He said that the CUP acknowledges that this area is suitable for Materion's operations and includes conditions to protect the general welfare of the County. He said that the desire of the County is that they handle their project responsibility and he believes that there is some level of surety with the regulations that Mr. Henrie described. Planner Richins said that he believes Materion has shown that they will address the closure properly when the time comes.

Planner Richins said that currently Materion participates with emergency responders and they have already implemented what the County hopes to capture with the 3.1 and 3.2 conditions.

Commissioner Warnick made a motion to approve C-2 Conditional Use Permit Application #Z-2021-017 for a Tailings Pond (Storage, Hazardous Materials) Approximately 10 Miles North Delta. Materion Natural Resources, Applicant removing conditions 3.1, 3.2, and 3.8.

The motion failed for lack of a second.

Commissioner Draper said that the County wants Materion to succeed; however, he thinks that conditions 3.1 and 3.2 can be complied with easily. He said that he doesn't see any reason to impose condition 3.8.

Commissioner Draper stepped from the chair and made a motion to approve C-2 Conditional Use Permit Application #Z-2021-017 for a Tailings Pond (Storage, Hazardous Materials) Approximately 10 Miles North Delta. Materion Natural Resources, Applicant removing condition 3.8.

Commissioner Warnick SECONDED the motion. The voting was unanimous and the motion carried.

PRESENTATION OF TOWN OF MEADOW ANNEXATION POLICY PLAN

Lynette Madsen, Meadow Town Mayor, presented a packet reflecting their annexation plan and said that Meadow has been working on this for a few years. She said that in order to have it passed, they need to notify the County. Ms. Madsen referred to a map with the town's current and proposed boundaries. She said that the landowners of the proposed annexed property are all aware and public hearings have been held.

Planner Richins said that they have to notify the County; however, a formal action from the County isn't necessary. He said that there have been discussions regarding MOUs between municipalities and the County for these annexation areas.

DISCUSSION AND POSSIBLE APPROVAL OF FUNDING FOR THE AMERICAN LEGION LADIES AUXILIARY GIRLS STATE - MIRIAM WADDINGHAM

Beverly DeWyze and Miriam Waddingham said that Girls State will be held in June and will be held virtually.

Ms. Waddingham said that the cost will be decreased to \$150.00 due to this change. She said that most of the events will be held online with some events being held locally. She said that five girls have applied to attend this year.

Ms. Waddingham said that they are requesting that the County sponsor 50% of the cost and the girls will come up with the remaining 50% on their own.

Commissioner Draper said that Girls State is usually a week long activity and questioned if that will be the case again this year. He also questioned how the girls would participate besides a phone or computer. Ms. Waddingham said that it will have the same duration as years past. She said that a few other states held their Girls State online and it seemed to be a real positive thing. She said that the girls will be teaching a lot and they will still hold the class and do the voting as normal. She said that there will be no flag ceremony held online, so they will more than likely hold that ceremony locally.

Ms. Waddingham said that the total amount that they are requesting from the County is \$375.00.

Commissioner Warnick made a motion to approve funding for the American Legion Ladies Auxiliary Girls State in the amount of \$375.00 from Fund 22 Special Projects.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

OPENING OF THE MAGNESIUM CHLORIDE BIDS

Auditor Smith opened the following bids:

- Envirotech Services \$ 75.00/ton
- Dirt Busters \$ 77.90/ton; Pricing based on truckload quantities.

Commissioner Warnick made a motion to accept the bids, as presented, and review the specifications of the bids, before making a decision.

Commissioner Draper stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried.

DISCUSSION REGARDING USE OF OLD COURTHOUSE PROPERTY FOR CAR SHOW - DAN ROWLEY

Attorney Finlinson said that this is mostly a Fillmore City issue, but a small portion pertains

to County property.

Mr. Rowley said that he isn't sure who can solve the issue, but wanted to make the Commission aware of the problem that they have been having when the Car Show and the Mile Long Yard Sale are both holding events on the same weekend.

Commissioner Draper said that some vendors for the yard sale are using the County courthouse lawn and aren't being held to the same regulations as the car show vendors.

Commissioner Draper said that the only thing the County can do is deny or allow use of County property.

MONTHLY FINANCIAL REVIEW

Treasurer Dearden presented the financial reports ending in February 2021. She said that a formal review with the Treasurer, Auditor, and Commissioner Draper was held on March 22, 2021.

PUBLIC INPUT

Trenton Wilson, USU Extension, introduced himself and briefly explained the Rural Online Initiative which teaches individuals how to work remotely. He said that it is now a four-week online certification course and they have had a lot of participants from Millard County. He asked for the County's continued support and said that they are looking into funds to create co-working spaces in the County.

OTHER BUSINESS

There was none.

DISCUSSION AND POSSIBLE APPOINTMENTS TO VARIOUS COUNTY BOARDS

There was none.

POSSIBLE APPROVAL OF APPLICATION(S) FOR SETTLEMENT OR DEFERRAL OF DELINQUENT PROPERTY TAX

There was none.

DISCUSSIONS FROM EACH COMMISSIONER, COUNTY ATTORNEY, ELECTED OFFICIAL AND SECRETARY

Clerk Rowley said that Oak City, Delta City, Hinckley, and possibly Kanosh will be contracting with the County to run their 2021 Municipal Elections.

Commissioner Draper said that the legislature passed a bill that extends ambulance service costs to municipalities. He said that he will contact the mayors of each municipalities once they know how this will work. He said that right now Millard County has the license for emergency

services for ambulances.

Attorney Finlinson said that he was approached by a municipality who asked when the County will be taking over animal control. He said that he looked into the new laws that they were referring to and found that it doesn't require that the County take over animal control.

AUDITOR REPORT

Auditor Smith presented a list of surplus property and said that she is requesting Commission approval to put these items on the surplus website. She said that these items are determined as surplus by different departments. There was a brief discussion on vehicles that were put on the surplus list and desired by other departments. Commissioner Warnick would like this list sent to all departments before putting them on the website.

Auditor Smith presented the following reports:

Accounts Payable:

03-05-21 - \$145,636.82

03-12-21 - \$212,460.56

03-19-21 - \$120,223.12

Payroll:

03-12-21 - \$174,659.39

Auditor Smith referred to the American Rescue Plan Act and said that this will be an automatic deposit and is scheduled to be deposited within 60 days. She said that the funds can't be used to replace taxes or put towards pensions. Auditor Smith said that the funds can be used for infrastructure and as revenue recovery.

POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND/OR ACTION

Commissioner Warnick made a motion to enter into a BOE.

Commissioner Draper stepped from the chair and **SECONDED** the motion. The voting was unanimous and the motion carried. The BOE began at 12:07 a.m.

Auditor Smith presented a list of properties that turned in an exemption application for non-profit use. She said that these applications are all completed and satisfactory with her office.

Commissioner Warnick made a motion to close the BOE.

Commissioner Draper stepped from the chair and **SECONDED** the motion. The voting was unanimous and the motion carried. The BOE closed at 12:11 a.m.

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

Clerk Rowley informed the Commission of a Digital Imaging Agreement between the Millard County Clerk's Office and Family Search that states that the Clerk's Office will allow Family Search to publish marriage information on its website. She said that only names, marriage dates and locations are shared.

Attorney Finlinson said that this does not need Commission approval.

POSSIBLE CLOSED MEETING PURSUANT TO UTAH CODE ANNOTATED SECTION 52-4-204 & 205

Commissioner Warnick made a motion to go into a closed executive session for the purpose of discussing pending and/or threatened litigation.

Commissioner Draper stepped from the chair and SECONDED the motion. All three commissioners voted unanimously and the motion carried. Present in the closed session were Commissioner Draper, Commissioner Warnick, Attorney Finlinson, and Sheriff Jacobson.

After the closed executive session the regular meeting reconvened at 12:25 p.m.

WHERE UPON THE MEETING ADJOURNED

Commissioner Draper adjourned the meeting at 12:26 p.m.

Attest: _____

Approved: _____