

**MINUTES OF COMMISSION COMBINED WORKING SESSION AND REGULAR
SESSION MEETING HELD MARCH 11, 2013, BEGINNING AT 1:00 P.M. IN
COMMISSION CHAMBERS, IN DUCHESNE, UTAH**

Present

Commission Chairman Ronald Winterton, Commissioner Kent R. Peatross, Commissioner Kirk J. Wood, and Commission Assistant BobbiJo Casper taking minutes of the meeting.

Via Telephone

Deputy County Attorney Marea A. Doherty.

Opening Comments

Commissioner Peatross offered the prayer. There were no other comments.

Tax Adjustments – Clerk/Auditor

Deputy Clerk Auditor Connie Sweat joined the meeting at 1:10 P.M...

Commissioner Wood motioned to approve the tax adjustments as recommended by the Clerk/Auditor's Office. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.

Consideration of Payment Vouchers

The commission reviewed vouchers #124251 through 124261 dated March 4, 2013, in the amount of sixty four thousand nine hundred six dollars and ninety seven cents (\$64,906.97) and vouchers #124262 through 124371 dated March 8, 2013 in the amount of three hundred twenty nine thousand six hundred forty nine dollars and seventy one cents (\$329,649.71) as presented by Deputy Clerk Sweat. *Commissioner Peatross motioned to approve the vouchers as presented by the Clerk Auditor's Office. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For CC Kuhr Inc.

Deputy Clerk Sweat stated that this is an oilfield service in Bluebell. *Commissioner Wood motioned to approve the business license application as presented by the Clerk Auditor's Office. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Chainsaw Bear

Deputy Clerk Sweat stated that this is sales of art, mainly laser engraved. *Commissioner Wood motioned to approve the business license application as presented by the Clerk Auditor's Office. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Chels Cleaning Service Corp.

Deputy Clerk Sweat stated that this business cleans businesses and homes. *Commissioner Wood motioned to approve the business license application as presented by the Clerk Auditor's Office. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Lucky Services LLC

Deputy Clerk Sweat stated that this is an oilfield service from Vernal working in our county. *Commissioner Wood motioned to approve the business license application as presented by the Clerk Auditor's Office. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Serenity Valley Massage Therapy

Deputy Clerk Sweat stated that this is a mobile massage therapist. *Commissioner Wood motioned to approve the business license application as presented by the Clerk Auditor's Office. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Smith International, Inc.

Deputy Clerk Sweat stated that this is an oilfield service from Texas working in our county. *Commissioner Wood motioned to approve the business license application as presented by the Clerk Auditor's Office. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Tax Adjustments – Assessor's Office

Assessor Greg Garff joined the meeting at 1:21 P.M...

Assessor Garff stated that Jeff Hodges recorded his warranty deed on April 20, 2012 so he didn't receive his tax notice and didn't reflect a residential exemption for primary residence last year. Commissioner Wood suggested waiving the penalty fees and interest since we didn't do our diligence. *Commissioner Peatross motioned to authorize Assessor Garff to make appropriate adjustments to this tax notice to reflect a primary residence instead of secondary for a portion of last year and take off the penalty fees and interest. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.*

Chief Deputy Clerk JoAnn Evans joined the meeting at 1:28 P.M...

Deputy Clerk Evans stated that Ray Napton wanted to apply for a tax abatement but due to medical reasons he was unable to and didn't get the application in until January. She did review his records of his health issues. Commissioner Peatross stated that he is okay with waiving the county's portion of the taxes, but doesn't see why we have to cover the other entities portion. If the State of Utah doesn't cover it, we will have to pick it up. Deputy Clerk Evans stated that she will get more information and come back next week.

Public Hearing 1:30 P.M. – Consideration Of Ordinance # 13-312, An Ordinance Amending The Duchesne County Zoning Map, Rezoning Described Property From Agricultural-Residential (A-5) To Industrial (I)

County/Community Planning Administrator Mike Hyde, Chris Chapman representing RNI, Russell Somega, Jane Wilson, Gerald Wilson, Gary Richins & Emmerson Urry with Enviro News USA entered the meeting at 1:30 p.m.

Administrator Hyde stated that the Planning Commission received a rezone request from RNI for about two hundred thirteen acres of land around their Bluebell Road facility northwest of Roosevelt where they have a number of wastewater evaporation ponds and other facilities. They plan on converting one or more of those ponds to landfill cells for E&P waste for things such as used drilling muds and used reserve pit liners. We only allow such landfill operation in industrial zones thus they are requesting a rezone from the current Agricultural-Residential (A-5) to Industrial. The Planning Commission held a public hearing last Wednesday night and unanimously voted to recommend your approval of this rezone ordinance. There was no opposition voiced at the Planning Commission meeting and they recommended some findings and conclusions for you to consider along with the ordinance. Chairman Winterton stated that he personally likes the idea and commends RNI for wanting to do this. This is one of those things that we want to mitigate to try to get ahead of the game.

Chairman Winterton asked if there was anyone who would like to speak in opposition of the rezone request.

Mr. Emmerson Urry with Enviro News USA stated that we have several issues. The first is if there was any concern about the misprint in the paper regarding the public meeting last week and if any legal issues can arise from that and how the public was informed about this meeting today.

Administrator Hyde stated that the Uintah Basin Standard ran an advanced story in Tuesday's paper last week about the Planning Commission meeting. Unfortunately they put in the paper that the meeting was going to be held on Thursday March 6th instead of Wednesday March 6th. There is no legal ramification because the county published notices in the two prior editions of the newspaper with the correct date and time in addition to mailing notices to all property owners within 300 feet of the 213 acre site as per our county code. Our notices also appear on the Utah Public Notice Website, and were posted in our county building, and at Roosevelt City Hall.

Mr. Urry stated that we are assuming that the reason for the rezone is so that the company can pursue a solid and hazardous waste permit versus a UDOGM permit and we understand that the process is already underway. We heard that UDOGM would not issue

a permit for this type of operation and we are curious if this is the purpose of the rezone request.

Mr. Chris Chapman stated that the issue we have right now is UDOGM regulates underneath the RCRA exemption through the Federal Government. We are approved to accept E&P Solid and nonhazardous waste. DOGM's stance is that land farms are for a biodegradable substance which is typically a hydrocarbon product. The issue they have right now is that a lot of the water based drilling muds don't technically have oil in them and it doesn't degrade so they don't want to put it in their land farms, their comments are that they want it to go to a landfill; they don't regulate landfills. We asked them which approach they want us to take to make sure we do it appropriately and they want us to take this up with the Division of Solid and Hazardous Waste. We went to them and they said it's not something they typically regulate but they can do it. We are now going through the process with them. We are going through the pre-application process and are still in that stage. The current regulations are more stringent than what UDOGM would require, but we are willing to accept the more restrictive regulations to move forward and help the industry to have a place for this solid waste that is not biodegradable.

Mr. Urry asked if the commission or anyone else is aware of any other operation other than LT further West in Duchene County where old waste water pits were retired into solid and hazardous waste pits in this fashion and if so, what has been the outcome of those operations.

Administrator Hyde stated that he is not aware of any because those are regulated by the State of Utah. He has been with Duchesne County since 2004 and this is the first time he has had this kind of a request come in. Our part of it is to make sure that the land use zoning is appropriate for the landfill operation. If there have been any others that have converted from evaporation ponds, he is not aware of it.

Mr. Urry stated that what our research tells us, is that when waste water is housed in plastic lined pits, it's hard to keep solids and hazardous wastes completely out of the pits and its very common for stray solids to cut or damage the liner and cause leaks. Our research also tells us that leak detection systems are much more reliable with just wastewater; not solid waste. If you start piling up solid and hazardous waste in the pit to no end you have welding scraps, sheared off pipe fragments, drilling chemicals, and super solvents and other extremely dangerous substances, what do you think the outcome is going to be when the operation in question already sits on a location that has reportedly high surface water and a strong aquifer below it where Roosevelt, Hancock Cove, and Cedar View are directly downstream. The data that he is evaluating demonstrates that there is no question that the liner is going to be compromised with holes, rips, and tears.

Mr. Chapman stated that one thing to remember is that we are asking to approve a RCRA-Exempt nonhazardous E&P Waste Landfill Cell. As far as fence posts, rocks and other things, this is not for a typical solid and hazardous waste landfill cell. It's solely coming from the oilfield which falls under the RCRA-Exemption from the Federal Government. The issue that the industry is presently facing is that if the product is dry it can go directly to the county landfill. If it's wet, it has to go through a process to be dried before it can go into our landfill cell. We are taking the liquid product in water trucks that has to go through a four inch valve and these are liquid products that we will be mixing and drying the material out to make sure it meets or exceeds a filter test. The process has been proven and we do have a leak detection system and we will be installing monitor wells that can detect if the surface water is contaminated. The ground water is 180 feet down and we have done extensive background work on this facility to make sure that we are heading in the right direction and we are assuming the liability for our company to move forward in a positive direction.

Mr. Urry asked what is going to be done when the leak detection system goes off and there is a mountain of hazardous waste in there? Is RNI going to put bull dozers in there and tear the hell out of the liner further while they try to move it to some kind of a land farm situation or what is the plan? It has been indicated to us that this is a terrible location for a land farm due to the high surface water and the close large populations.

Commissioner Peatross stated that the question in front of the commission is whether or not we rezone this property and questioned what effect does our rezoning have on whether

this does or doesn't happen.

Administrator Hyde stated that without the rezone, they cannot have landfill cells there; however, they can continue with their evaporation ponds. The monitoring of this belongs to the State of Utah.

Commissioner Peatross stated that he takes exception to the fact that Mr. Urry is standing here today making statements as to "lord knows what goes into these pits." He thinks that it's a challenge to the entire industry as to these accusations that are being made. It's DOGM's and DEQ's responsibility to monitor what goes into these cells; not Duchesne County's. He is concerned that we are spending a lot of time discussing what should be handled at a state level as to whether this process is permitted to begin with. We have to depend on the State of Utah, who sets the rules, because we don't have our own environmental protection agency in Duchesne County.

Chairman Winterton stated that this hearing is solely based upon land use rezoning and these issues you raise are outside of the scope of this particular hearing.

Mr. Urry stated that the way this was advertised didn't state why the rezone was being proposed. We had to do some digging. A lot of people believe that UDOGM wouldn't give this type of permit.

Commissioner Wood stated that we have a solid waste landfill and it's not under DOGM, it falls under DEQ. You need to find out which organization is in charge of regulations and monitoring. RNI is not trying to bypass anyone; they are going through the regulatory organization that exists.

Mr. Urry stated that this is not a situation that is common as far as the permitting process and it hasn't been a widespread practice in the Uintah Basin. To us it raises questions and it's a valid question to ask what is the plan for the waste long term, is it going to sit there and wait to be an EPA superfund site?

Mr. Chapman stated that this material will be there indefinitely; this is not a new technology or a new process. It will operate like a landfill. We are going above and beyond to assuming the liability long term. We are not a "fly by night" company. We will make sure that our company has sufficient funds to take care of what happens indefinitely. We are making sure that we operate the way we need too, and make sure it doesn't affect the citizens or the county long term.

Mr. Urry stated that there are other considerations like economic impacts on other people in the area and asked if there is going to be more public comment on this at a county level to discuss these impacts.

Administrator Hyde stated that we are talking about two different kinds of wastes here; these are not land farmable types of waste. This is a totally different kind of waste that DOGM doesn't allow to be land farmed that's why they are working with the DEQ Solid Waste Division.

Mr. Chapman stated that according to Brad Hill, the Permitting Manager at UDOGM, nobody in the State of Utah can legally put it in a land farm; they want it to be disposed of in a Landfill. We are not trying to go around one agency to another. This has been in process for the last six months.

Mr. Urry stated so what you are saying it that DOGM has pushed you to another agency being DEQ?

Mr. Chapman replied by stating "Yes". Until the early 1990's, there was nothing required for a lined evaporation facility and since then, nothing has been converted into a landfill cell. When the Division of Solid and Hazardous Waste takes this into review, there is a comment process.

Mr. Urry stated that he appreciates the time he has been given.

Reconvened Combined Commission Meeting at 2:02 P.M.

ORDINANCE #13-312

AN ORDINANCE AMENDING THE DUCHESNE COUNTY ZONING MAP, REZONING DESCRIBED PROPERTY FROM AGRICULTURAL-RESIDENTIAL (A-5) TO INDUSTRIAL (I)

WHEREAS, RN Industries, Inc. and the Red Mountain Corporation have filed an application to rezone certain described property from Agricultural-Residential (A-5) to Industrial (I); and,

WHEREAS, after giving notice and conducting a public hearing on March 6, 2013, the Duchesne County Planning Commission has recommended approval of the rezone as requested for the subject lands; and,

WHEREAS, after giving notice and conducting a public hearing on March 11, 2013, the Duchesne County Commissioners have accepted the Planning Commission recommendation and adopted findings to approve the rezone request.

BE IT HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS that:

SECTION 1. The lands depicted in Exhibit A, attached hereto and incorporated herein by reference, are hereby rezoned on the official zoning map from Agricultural-Residential (A-5) to Industrial (I):

SECTION 2. Severability.

If any court of competent jurisdiction declares any Section of this Ordinance invalid, such decision shall be deemed to apply to that Section only, and shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared invalid.

SECTION 3. Effective Date.

This Ordinance shall become effective fifteen (15) days after publication.

DATED this 11th day of March, 2013.

ATTEST:

DUCHESNE COUNTY
BOARD OF COMMISSIONERS

Diane Freston
County Clerk/Auditor

Ronald Winterton, Chairman

Kent R. Peatross, Commissioner

Kirk J. Wood, Commissioner

Commissioner Wood motioned to adopt the findings of fact and conclusions of law recommended by the Planning Commission and approve Ordinance No. 13-312. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of A Separation Agreement

Attorney Doherty stated that the commission authorized her to negotiate with Carrie Mascaro during their public meeting on February 11, 2013 and she has received a signed version of this agreement from Ms. Mascaro and an ADEA Waiver and Release. Today is the seventh day for Ms. Mascaro to revoke her signature and recommends that the commission approve and adopt this with a caveat that it still can be revoked by the end of business today. If it is not revoked, we will then proceed to issue the separation agreement severance package. We did receive a W-4 form from Ms. Mascaro and we are required by law to withhold FICA and Medicare. *Commissioner Peatross motioned to approve the separation agreement between Duchesne County and Carrie Mascaro and authorize the expenditure of the funds. . Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Request To Engage Architect Peter Moyes With Architectural Nexus And Architect Stephen Peterson To Prepare Feasibility Study For The Duchesne County Justice Court Complex Expansion Project

Attorney Doherty stated that we don't have a dollar figure on the feasibility study. She met with Allan Lundsford and Russ Pearson with the Administrative Office of the Courts (AOC) last week along with Commissioner Peatross, and Chairman Winterton. Their goal was to get a financial commitment from them other than their intention to lease more space from Duchesne County, when and if Duchesne County increases the office space and court room space at the Justice Center. The AOC will not be able to revise the agreement until the changes are made. They said if we build it, it is their goal to occupy it. We were guided by the AOC for this next step with the architect to go ahead and have the feasibility study performed. *Commissioner Peatross motioned to authorize Attorney Doherty to move forward with negotiations for a feasibility study at the Justice Court Complex. Commissioner Wood seconded it. All commissioners voted aye and the motion passed.*

Consideration Of Minutes For Combined Commission Meeting Held February 11, 2013

Commissioner Wood motioned to approve the minutes as corrected. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Minutes For Combined Commission Meeting Held February 25, 2013

Commissioner Wood motioned to approve the minutes as presented. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.

Closed Meeting -

Commissioner Peatross motioned to go into and out of closed session for the purpose of discussing personnel issues at 2:39 P.M. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed. Assistant Casper was excused from the meeting.

Reentered Combined Commission Meeting at 3:21 P.M... Assistant Casper re-joined the meeting...

Closed Meeting -

Commissioner Peatross motioned to go into and out of closed session for the purpose of discussing litigation issues at 3:21 P.M. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

Reentered Combined Commission Meeting at 3:27 P.M.

Commission Calendaring

Adjourn

Chairman Winterton adjourned the meeting at 3:41 P.M...

Read and approved this 25th day of March 2013.

*Ronald Winterton
Commission Chairman*

*Diane Freston
Clerk/Auditor*

Minutes of meeting prepared by BobbiJo Casper
