

Minutes of the regular meeting of the Daggett County Commission/Redevelopment Agency Board held on **Friday, January 19, 2018** in the Courtroom at the Daggett County Courthouse. Commissioners Jack Lytle and Randy Asay were present. Commissioner Clyde Slaugh was excused. County Attorneys Neil Lund and Chad Woolley, Auditor/Recorder Keri Pallesen, and Clerk/Treasurer Brian Raymond were also present. Mayor Buddy Rogers, Harriett Dickerson, Sandy Kunkel, and Dave McDonald, of Dutch John Town Council were also in attendance. Ryan Kelly of Dutch John Town Council joined the meeting for the afternoon session. Mayor Karen Perry of the Town of Manila was also in attendance. The meeting was called to order at 10:38 a.m. by Commissioner Lytle.

Also present: Chuck & Tina Bennington, Matt Tippets, Jerry Steglich, and Butch & Pam Johns

Councilman Dave McDonald moved to move beyond standing business on agenda and go directly into discussion which was seconded by Councilwoman Sandy Kunkel. Motion carries by unanimous decision.

### **Policy and Legislation Items from the Posted Agenda:**

**Discussion And Consideration Of Dutch John Letters And negotiations For A Potential Dutch John Agreement:** Commissioner Lytle addressed the group. Attorney Chad Woolley addressed the group as well and asked if there have been any changes to the points of agreement since the agreement to bifurcate. Councilman Dave McDonald responded and said that he didn't believe that was agreed to by the Town of Dutch John and there was further discussion. Mr. Woolley made the recommendation to write down everything that can be agreed upon and move forward, and stressed that a negotiated agreement is going to be so much better than going to litigation. Mr. McDonald motioned for a five minute recess for the Dutch John Town Council to caucus and Sandy Kunkel seconded. Mr. Woolley felt that it was okay and all were in favor and the motion carried and Attorney Niel Lund concurred. \*\* Audio was lost. \*\* The meeting came back into session at 11:05 a.m. by motion made by Mr. McDonald and seconded by Mr. Lytle. Mayor Buddy Rogers said there is somewhat of a split in the council, but there is some willingness to move forward. Mayor Rogers asked about a one on one committee to make decisions on land and water, with the help of an arbitrator if an agreement cannot be reached. \*\* Audio was restored. \*\* Mr. Lund replied and suggested an odd numbered counsel to avoid additional expense and delays finding someone to arbitrate. Title to the water right is going to stay in Daggett County's name with some stipulations and there was further discussion. Mr. Woolley addressed the group about negotiating details. He recommends capturing what can be agreed upon now. Mayor Rogers asked for 2000 acre feet of water. On another unrelated note, Mr. Lytle brought up water revenues split with taking 15% off of the top for EMS and holding the funds in escrow. Mr. Lund, for clarification, stated that the county's understanding for the proposal at the BOR meeting must have been different. His understanding is as follows: Out of the revenues, 15% will be taken off of the top for EMS; the remaining 85% will be split 60%-40% in favor of Daggett County. Mr. Lund stated that Commissioner Slaugh, who is not present, will not agree to anything less than 60%-40% and there was some further discussion. Interpretations of what happened at the BOR meeting were discussed. Commissioner Slaugh's absence was discussed and Mr. Lund brought up that Mr. Slaugh maintains the taxpayer coalition's proposal as his position. Mr. Woolley then asked the group if they were willing to accept a one on one committee with an arbitrator and Mr. Asay responded that he could live with that. Water revenues split will be put on hold in an effort to move forward. Mr. Lytle made an attempt to summarize what's on the table including lands and equipment. It was asked if there will be an

opportunity for public comment and Mr. Lytle shared his thoughts about what is going to be said, the tone it is going to be said in, and limiting each commenter to four-five minutes. Before breaking for lunch, Mr. Woolley stated that he would like to know how much longer the meeting will go because he is trying to fly out before the impending storm. Mr. Lund stepped into the conversation before the group gets too heavy in land negotiations and stated that both Commissioner Slauch and Commissioner Asay have made it clear that they will not agree to anything that involves transferring title of the land to Dutch John. With that being said, if Dutch John will not agree to anything that doesn't involve some transfer of the title then it may need to be put on the back-burner for today's meeting. Mr. McDonald concurred. Commissioner Lytle addressed the town council and asked if the one to one with arbitration is agreed to, will it relinquish the need for Dutch John to take ownership? Mr. McDonald stated that "it does not fix that for us." It was then asked if Mr. McDonald was speaking for the town council and Councilwoman Sandy Kunkel asked for the question to be repeated and the discussion became heated.

Commissioner Asay motioned to break for lunch at 12:05 p.m. with Councilman Dave McDonald's second. The motion passed and it was agreed to return at 1:00 p.m. The meeting came back into session at 1:12 p.m.

Commissioner Lytle welcomed the group back to regular session. As outlined in the beginning of the agreement the water/sewer, tools, equipment, buildings, and the water as bifurcated from the land, Mr. Lytle stated that he would like to leave the meeting with something binding and provided some thoughts. Mr. Lytle asked if there were any way to stipulate to the water/sewer, tools, equipments, and buildings. Ownership of the water and land were discussed. Because there is already 1000 acre feet of water that is designated for the water/sewer plant, Attorney Niel Lund stated that he doesn't see any reason the water/sewer plant couldn't be agreed upon. There was some discussion regarding the transfer of the bond, the water right, and the water services contract with the Bureau of Reclamation ("BOR"). Attorney Chad Woolley interjected and asked the town council what is stopping Dutch John from taking over the water/sewer system, which according to Mr. Woolley should have been done since Dutch John incorporated. It was answered by Mr. McDonald that the water rights are stopping them from taking over the water/sewer facility and there was further discussion. Mr. Lytle suggested going into an agreement for functional transfer with a potential amendment. It was discussed that the water rights will stay in Daggett County's name with the Town of Dutch John becoming the water services contractor, potentially, but Mr. Woolley doesn't agree with that and provided some further explanation. Mr. McDonald suggested moving on to the agreement for the total water right, and was asked by Mr. Woolley if the town would agree to the 60%/40% split in favor of Daggett County. It was answered "no" by Mr. McDonald so there can be no agreement today, as per Mr. Woolley. Mr. McDonald then stated that the meeting is done and there was further discussion. Councilwoman Harriet Dickerson asked a question regarding the deed to the water/sewer facility and if it would contain the 2000 acre feet of water which started a discussion. Mr. Woolley stated that it is clear that if the town and county can come to an agreement, then the details can be worked through. In the meantime, the bond and the water/sewer facility should be transferred according to Mr. Woolley. Mr. McDonald then spoke up and made the recommendation for the county to deed 2000 acre feet of water to the town with the water/sewer facility and then wait for a bigger agreement and there was further discussion. Mr. Woolley asked the commission if they would agree to Mr. McDonald's proposal. Attorney Niel Lund addressed the group and stated that he placed a call to Rod Smith at the BOR and asked him about the water services contract. According to Mr. Lund, Mr. Smith stated that the BOR is certainly willing to enter into multiple water service contracts if that's what it takes and has already made that recommendation in the past. Mr. Smith also stated that he is not entirely certain that a new water

service contract would be necessary to transfer the water/sewer. There was further discussion with Mr. Woolley addressing the group. Mr. Woolley stated that he personally feels that it doesn't matter who owns the water rights, it's who controls it and there was even more discussion. One thing that Mr. Woolley thinks needs to be clear is that whatever the group agrees upon can be workable with the BOR. Councilwoman Sandy Kunkel addressed the Privatization Act of 2008 and how it is interpreted by the town council versus how it is interpreted by the county. Mr. Woolley stressed to the group to move forward with the water/sewer facility transfer and take the rest to court, if needs be. Mr. Woolley feels that the Town of Dutch John is not functioning as a municipality. Mr. Woolley then made the recommendation to focus on what it takes to get the water/sewer system transferred. Mr. McDonald answered for the county to quit-claim 2000 acre feet of water with the system and Dutch John will take it. Commissioner Asay asked about the water/sewer employee and Mr. McDonald answered that Dutch John does not have a problem with taking on Chris Collett, but stated that it's the Town's decision who to hire or not hire. Additional discussion followed. Mr. Woolley asked the commission if they would accept the offer on the table and it was answered "no" by Mr. Asay. Mr. Asay counters with 1000 acre feet of water with the guarantee that Dutch John gets the water they need when they need it. Councilman Ryan Kelly suggested splitting the difference and making it 1500 acre feet which the BOR will make work. Mrs. Kunkel asked Mr. McDonald why having the water "deeded" to the town is so important and Mr. McDonald provided explanation that he is concerned about the bond. Mr. Woolley, for clarification, asked Commissioner Asay if he was willing to deed the 1500 acre feet to Dutch John. Mr. Asay will not "deed" any water to Dutch John, but in turn will let them use it under the ownership of Daggett County, and will consider the 1500 acre feet. There was further discussion including speculation on how Commissioner Slauch feels. Mr. Asay recommends leaving Commissioner Slauch out of it. It was recommended by Mr. Lund to get Mr. Slauch on the phone to get his input. Mr. Lund stated that he called Mr. Slauch and he is available if the group would like to call him, but would like Mr. Lund to relay what he told him. With the deal on the table now, Mr. Slauch's response is that he is not in favor of deeding the water to Dutch John, but is in favor of guaranteeing that they have the use of the water. There was some discussion between the Dutch John Town Council and Mr. McDonald motioned to recess for caucus at 2:30 p.m.

Meeting came back in session at 2:45 p.m. and Dutch John Mayor Buddy Rogers addressed the group. Mayor Rogers stated that the town would agree to the 60%/40% split in favor of Daggett County, with Daggett County deeding 1500 acre feet to Dutch John to go with the water/sewer facility. The 15% to go towards EMS as previously discussed is off the table and there was further discussion. The possibility of entering into a special service district for EMS was conversed about and ideas were given by both the county and the town. Commissioner Lytle spoke of the necessary updates associated with the equipment for the fire department and shared his thoughts. After some discussion, Councilwoman Sandy Kunkel motioned that the Daggett County Commission transfer the equipment, buildings, and grounds to the Town of Dutch John, and that started negotiations once again. Attorney Niel Lund then proposed Daggett County draft an agreement that covers only the buildings and the equipment then send it to the town council as a proposal. Councilwoman Harriet Dickerson then asked about the cemetery and the rental house and there was some conversation. Commissioner Lytle interjected and stated that for the sake of the offer that has been made, he motions to accept the 60%/40% split on the water and deed 1500 acre feet of water to Dutch John for their purposes. After some thought Commissioner Asay seconded the motion, but wants it on record that it's too bad that Dutch John doesn't trust the commission. Commissioner Lytle voted "aye." Commissioner Asay voted "aye." The motion carries. Attorney Chad Woolley will draft a document that states the motion so that the town can start the transfer of the bond. Mr. Lund stated that he will meet with Rod Smith to update the BOR on what is going on. Mr. Lund will include Mayor Rogers

in all his email communication. Mr. Lytle stated that with Daggett County's motion, he would like to have a concurrent motion from Dutch John to reflect that they have a deal. Another motion to include what was missed was discussed including the equipment and the buildings. Mayor Rogers stated that he is entertaining a motion that Dutch John agree to the 60%/40% split with no split for EMS, 1500 acre feet deeded to Dutch John to facilitate the water/sewer plant. Councilman Dave McDonald seconded the motion. All were in favor and the motion carried for Dutch John. There was further discussion regarding the complications to the motions made by both Daggett County and the Town of Dutch John. The water/sewer billing was brought up by Mrs. Dickerson. There was some confusion and it was suggested to write the motions down on a piece of paper. Mr. Woolley agreed to write and he asked for some clarification. Commissioner Lytle answered and restated his motion with further discussion. After the motion was written by Attorney Chad Woolley, Commissioner Lytle motioned to transfer the following properties from Daggett County to the Town of Dutch John: Quonset hut/hangar, rental home, conference hall, justice court, firehouse, cemetery, and lands associated therewith, plus the equipment list as agreed upon by Mayor Buddy Rogers and Commissioner Slauch once the language is agreed to as part of the document. Commissioner Asay seconded the motion. All were in favor and the motion carries. The Dutch John Town Council then moved to accept the County's motion regarding buildings and grounds. The motion carried and the meeting was adjourned at 3:35 p.m. by motion.

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/s/ Brian Raymond

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/s/ Jack Lytle

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/s/ Clyde Slauch

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/s/ Randy Asay