Ent 022756 Bk 63 Pg 416
Date: 09-FEB-2006 11:46AM
Fee: None
Filed By: SS
RANAE WILDE, Recorder
DAGGETT COUNTY
For: DAGGETT COUNTY

DAGGETT COUNTY
ORDINANCE NO. 06-02

AMENDING ORDINANCE NO. 04-07 AND PROVIDING FOR THE DISPOSAL OF CERTAIN PROPERTIES IN THE DUTCH JOHN AREA

WHEREAS, the area commonly known as Dutch John, was previously a Federal government community and the land therein was owned by the Federal government; and,

WHEREAS, as result of Federal legislation, the Dutch John area has been privatized and much of the real property there has been conveyed to Daggett County for its use and sale; and,

WHEREAS, Daggett County has previously adopted Ordinance No. 01-07 on or about September 4, 2001, and amended this ordinance on or about October 1, 2002, with Ordinance 02-14 and March 2, 2004 with Ordinance 04-07, providing for disposal of land in the Dutch John community; and,

WHEREAS, the Daggett County Commission has previously adopted a general plan for the Dutch John area providing for the orderly development of the land conveyed to Daggett County pursuant to the Federal legislation; and,

WHEREAS, the Daggett County Commission has previously adopted temporary zoning ordinances relating to the Dutch John area; and,

WHEREAS, there is a need to establish a procedure for the eventual sale and disposal of the undeveloped lands in the Dutch John community consistent with the general plan; and,

WHEREAS, the interests of the citizens of Daggett County and in order to promote the general health, safety, and welfare and orderly growth and development of the community, it is necessary to adopt a comprehensive ordinance governing the disposal of lands conveyed by the federal government to Daggett County.

NOW, THEREFORE, the County Legislative Body of Daggett County, Utah ordains that Daggett County Ordinance No. 04-07 is amended and reenacted as follows:

Article I. SALE OF SURVEYED AND IMPROVED LOTS.

Surveyed and subdivided lots belonging to Daggett County in the Dutch John area may be made available for sale by the Daggett County Commission as set forth in this Article.

Section 1.0 PROCEDURES.

1.01 FINDING OF PUBLIC BENEFIT. Upon a finding that disposal of certain subdivided lots within the Dutch John community is in the public interest. The Daggett

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Date: 10-FEB-2006 10:35AM
Fee: None
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County Commission may sell those lots through a competitive process at no less than fair market value.

1.02 NOTICE. Prior to sale, the Daggett County Commission shall provide notice at least 21 days in advance of the proposed sale, to two newspapers of general circulation in the area as well as other media outlets and shall post the notice of the proposed sale at three locations in Daggett County including the Daggett County Courthouse and the Dutch John Post Office. In addition, the County may send notice to individuals or entities that have expressed interest in purchasing land in the Dutch John area.

1.03 NOTICE CONTENTS. Notice of the sale shall include a legal description and size of the parcel to be sold, the appraised value or the value as determined by the County Assessor of the land to be sold, a description of the process and location for submitting bids, the present zoning and land use allowed for the land, any restrictions placed on the use or development of the property by the Daggett County Commission by deed restriction and such other information considered relevant by the County Commission and a statement that the property will be sold to the highest bidder offering at least the minimum bid amount established by the County.

1.04 SALE. The Daggett County Commission, after notice as provided in this section, shall sell the lot(s) or land described in the notice of sale through fixed price written bids and public auction. Bids shall not be considered that are for less than the value identified in the notice of sale.

1.04(a) WRITTEN BIDS. Written bids may be submitted to the County Clerk until 5:00 p.m. on the day prior to the date established in the notice of sale. All persons submitting written bids must post 10% of the bid price at the time of sale by cash or cashier's check.

1.04(b) ORAL BIDS. On the day of the sale, the highest written bid shall be the starting point for oral bidding. If no oral bids exceed the highest written bid, the offered land shall be awarded to highest written bid, subject to the terms and conditions identified by the County in the notice. All participants in the public auction shall submit to the County Clerk a cashier's check or cash for 10% of the value as established by the County Commission and identified in the notice of sale. At the time of the auction, bidding shall be opened at the designated time and shall continue until the highest bidder is determined.

1.04(c) BIDDING BY TELEPHONE. A person who submits a 10 % minimum bid deposit prior to the auction may participate in the public auction by a telephone conference call. Such payment shall be made to the Daggett County Clerk at least 24 hours in advance of the auction and arrangements for the conference call shall be made by the County Clerk and the telephone bidder. The county shall not be responsible for any failure or interruption of telephone service and may at its option proceed with the auction without telephone bidders.

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1.04(d) REFUND OF BID DEPOSIT. Deposits of all bidders other than the successful bidder shall be returned to the unsuccessful bidder promptly following the award of the bid. The bid deposit of the successful bidder shall be applied to the purchase of the land.

1.04(e) AWARD OF BID. The County may reject any and all bids. The sale shall be binding on the County only upon award of bid and receipt of the full price and delivery of a Deed by the County to the successful bidder. The award of bid shall be made at the next regular meeting of the Daggett County Commission following the date of the auction.

1.05 CONDITIONS OF SALE. The County Commission may establish conditions for sale including a maximum time between the sale and the development of the property, development standards, connection fees, provision for affordable housing, and such other conditions as may be determined by the Daggett County Commission. Notice of all such conditions of sale or restrictions shall be included on the notice of sale and shall be binding upon the successful bidder at the sale.

1.06 PAYMENT. The successful bidder must pay the full amount of the bid to the Daggett County Clerk within fourteen (14) days of the date of sale. If the highest bidder fails to complete the sale, the County may keep the 10% deposit and may award the bid to the next highest bidder provided that the next highest bid is in an amount not less than the value established for that land.

1.07 UNSOLD LOTS. In the event any developed subdivided lot offered for sale as set forth herein is not sold at the time of sale due to failure of the County to receive a sufficient bid or for other cause, the County Commission may sell said lot to the first person making payment to the County, in an amount not less than the value established for that land, within 30 days of the original sale date; thereafter, unsold lots shall be placed in the inventory of lots to be considered for sale at a future offering.

1.08 WAIVER. The Daggett County Commission may waive any minor irregularities in the bid process or offering so long as said waiver does not materially disadvantage other potential purchasers or the amount to be received for the real property by Daggett County.

1.09 POSTPONEMENT OF SALE. The Daggett County Commission may at any time order postponement of a sale for a period of up to 45 days by giving written and/or oral notice to those who have already submitted written bids or telephone deposits and by appearing at the time and place of sale and advising those in attendance of the postponement. A postponement of more than 45 days shall require re-notice of the sale as set forth in this ordinance.

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In the event that a sale is postponed for more than seven (7) calendar days, any person that has previously submitted a written bid and bid deposit may, upon written request, withdraw the bid and receive a refund of the bid deposit.

Article II. SALE OF UNIMPROVED OR UNSUBDIVIDED LANDS IN DUTCH JOHN AREA.

Unimproved or unsubdivided lands belonging to Daggett County in the Dutch John area may be made available for sale by the Daggett County Commission as set forth in this Article.

Section 2.0 INITIATION OF SALE OF BY COUNTY COMMISSION. Upon a finding that disposal of any parcel of unimproved or undeveloped or unsubdivided land belonging to Daggett County within the Dutch John area is necessary to accomplish the public need and public good and is in the interest of Daggett County, the Daggett County Commission may offer said property for sale for a specific purpose or use, as identified by the County Commission, to the highest bidder.

2.01 NOTICE. Prior to sale, the Daggett County Commission shall provide notice (30) to (60) days in advance of the proposed sale, to at least four newspapers of general circulation (1) Wasatch Front, (1) Western Colorado and others in the area as well as in other media outlets and shall post the notice of the proposed sale at three locations in Daggett County including the Daggett County Courthouse and the Dutch John Post Office. In addition, the County may send notice to individuals or entities that have expressed interest in purchasing land in the Dutch John area.

2.02 NOTICE CONTENTS. Notice of the sale shall include a legal description and size of the parcel to be sold, the appraised value or the value as determined by the County Assessor of the land to be sold, a description of the process and location for submitting bids, the present zoning and land use allowed for the land, any restrictions placed on the use or development of the property by the Daggett County Commission by deed restriction and such other information considered relevant by the County Commission and a statement that the property will be sold to the highest bidder offering at least the minimum bid amount established by the County.

2.03 SALE. The Daggett County Commission, after notice as provided in this section, shall sell the land described in the notice of sale through fixed price written bids and public auction. Bids shall not be considered that are for less than the value identified in the notice of sale.

2.03(a) WRITTEN BIDS. Written bids may be submitted to the County Clerk until 5:00 p.m. on the day prior to the date established in the notice of sale. All persons submitting written bids must post a deposit of $1500 per acre or partial acre at the time of sale by cash or cashier's check.

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2.03b) ORAL BIDS. On the day of the sale, the highest written bid shall be the starting point for oral bidding. If no oral bids exceed the highest written bid, the offered land shall be awarded to highest written bid, subject to the terms and conditions identified by the County in the notice. All participants in the public auction shall submit to the County Clerk a cashier's check or cash for the amount of $1500 per acre or partial acre or as established by the County Commission and identified in the notice of sale. At the time of the auction, bidding shall be opened at the designated time and shall continue until the highest bidder is determined.

2.03(c) BIDDING BY TELEPHONE. A person who submits a minimum bid deposit prior to the auction may participate in the public auction by a telephone conference call. Such payment shall be made to the Daggett County Clerk at least 24 hours in advance of the auction and arrangements for the conference call shall be made by the County Clerk and the telephone bidder.

203(d) REFUND OF BID DEPOSIT. Deposits of all bidders other than the successful bidder shall be returned to the unsuccessful bidder promptly following the award of the bid. The bid deposit of the successful bidder shall be applied to the purchase of the land.

2.03(e) AWARD OF BID. The County may reject any and all bids. The sale shall be binding on the County only upon award of bid and receipt of the full price and delivery of a Deed by the County to the successful bidder. The award of bid shall be made at the next regular meeting of the Daggett County Commission following the date of the auction.

2.04 CONDITIONS OF SALE. The County Commission may establish conditions for sale including a maximum time between the sale and the development of the property, development standards, connection fees, provision for affordable housing, and such other conditions as may be determined by the Daggett County Commission. Notice of all such conditions of sale or restrictions shall be included on the notice of sale and shall be binding upon the successful bidder at the sale.

2.05 PAYMENT. The successful bidder must pay the full amount of the bid to the Daggett County Clerk within (14) to (60) days of the date of sale. Length of time will be at the discretion of the Commission and included in the Notice of Sale. If the highest bidder fails to complete the sale, the County shall keep the deposit and may award the bid to the next highest bidder provided that the next highest bid is in an amount not less than the value established for that land.

2.06 UNSOLD LAND. In the event any unimproved, unsubdivided or commercial land is offered for sale as set forth herein is not sold at the time of sale due to failure of the County to receive a sufficient bid or for other cause, the County Commission may sell said lot to the first person making payment to the County, in an amount not less than the value

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established for that land, within 30 days of the original sale date; thereafter, unsold land shall be placed in the inventory of land to be considered for sale at a future offering.

2.07 WAIVER. The Daggett County Commission may waive any minor irregularities in the bid process or offering so long as said waiver does not materially disadvantage other potential purchasers or the amount to be received for the real property by Daggett County.

2.08 POSTPONEMENT OF SALE. The Daggett County Commission may at any time order postponement of a sale for a period of up to 45 days by giving written and/or oral notice to those who have already submitted written bids or telephone deposits and by appearing at the time and place of sale and advising those in attendance of the postponement. A postponement of more than 45 days shall require re-notice of the sale as set forth in this ordinance.

In the event that a sale is postponed for more than seven (7) calendar days, any person that has previously submitted a written bid and bid deposit may, upon written request, withdraw the bid and receive a refund of the bid deposit.

Section 3.0 <u>REQUEST FOR PROPOSAL</u>. Upon a finding by the Daggett County Commission that disposal of land within the Dutch John area is in the best interest of the public and of Daggett County, the Daggett County Commission may identify a specific parcel or parcels of undeveloped property owned by Daggett County and may offer said property for sale not specifying a specific use, but requesting proposals as well as a bid price.

3.01 NOTICE CONTENTS. The notice of sale, in addition to establishing a minimum bid price, shall require that the prospective bidder submit to the County a proposal for the intended use or development of said real property and, in addition, the amount bid for purchase of the real property. Daggett County Commission shall provide notice at least (14) to (60) days in advance of the proposed sale, to at least four newspapers of general circulation in (1) Wasatch Front, (1) Western Colorado and in other areas, and in other media outlets and shall post the notice of the proposed sale at three locations in Daggett County including the Daggett County Courthouse and the Dutch John Post office. In addition, the County may send notice to individuals or entities that have expressed interest in purchasing land in the Dutch John area.

3.02 BID SUBMISSION. For disposals under this section all bids must be submitted in writing, to the County Clerk by 5:00 p.m. on the date established in the notice of sale.

3.03 BID CONTENTS. Each bid submitted pursuant to this section shall set forth in detail the following:

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a. the proposed use of the parcel of real property including a site plan drawing;
b. proposed landscaping;
c. construction schedule and completion date;
d. estimated cost of construction;
e. estimated water and sewer usage requirements for the project;
f. estimated number of residents and/or employees;
g. in the event of residential development, the number or percentage of units available to low income families;
h. any proposed limitations or restrictive covenants;
i. projected additional infrastructure needs for the project;
j. information concerning the impact on County services including impact on schools;
k. projections as to local tax revenue to be generated by the project;
l. type or style of construction;
m. information showing the financial viability of the project;
n. information documenting the proposed purchasers financial stability and available funds and resources to complete the proposed project;
o. information concerning similar developments or projects undertaken by the proposed purchaser in the past;
p. the amount bid for the purchase of the described parcel of real property;
q. and such other information as may be requested by the County Commission in the notice to submit proposals.
r. In addition, during the process of evaluation of proposals, the County may request follow up information or documentation.

3.04 BID DEPOSIT. Proposals submitted under this section shall include with the written proposal, a bid deposit in the amount of fifteen hundred dollars ($1500.00) per acre or a fraction of an acre of land proposed to be purchased.

3.05 BID OPENING AND EVALUATION. Upon opening the sealed proposals, the County shall determine and award the bid based not only upon the highest price bid, but upon an evaluation of the proposal to determine which proposal will provide the most long-term benefit to the community. Factors to be considered include:

a. Generation of tax revenues and completion date of project.
b. Providing needed services to the community.
c. Esthetic values and compatibility with surrounding uses.
d. Reasonable prospects for success of the business or enterprise and the financial stability or capabilities of the proposed developer.
e. Past experience of purchaser in similar projects.
f. Other factors determined by the Daggett County Commission.

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All proposals must include an offer to pay at least the value established for the property by date established by the Daggett County Commission consistent with the provisions of this ordinance and the use proposed must be consistent with the General Plan for Dutch John.

3.06 PROCEDURES. At the time of offering property for sale under this section, the County Commission shall establish procedures that provide for notice of not less than 21 days to prospective developers or bidders and which requires posting of a bid deposit. The procedures, limitations, and restrictions adopted by the County Commission shall be contained within the notice or shall be made available to interested prospective bidders.

3.07 REFUND OF BID DEPOSIT. Deposits of all bidders other than the successful bidder shall be returned to the unsuccessful bidder promptly following the award of the bid. The bid deposit of the successful bidder shall be applied to the purchase of the land.

3.08 AWARD OF BID. The County may reject any and all bids. The sale shall be binding on the County only upon award of bid and receipt of the full price and delivery of a Deed by the County to the successful bidder. The award of bid shall be made at the next regular meeting of the Daggett County Commission, unless otherwise specified.

3.09 CONDITIONS OF SALE. The County Commission may establish conditions for sale including a maximum time between the sale and the development of the property, development standards, connection fees, provision for affordable housing, and such other conditions as may be determined by the Daggett County Commission. Notice of all such conditions of sale or restrictions shall be included on the notice of sale and shall be binding upon the successful bidder at the sale.

3.10 PAYMENT. The successful bidder must pay the full amount of the bid to the Daggett County Clerk (14) to (60) days of the date of sale. Length of time will be at the discretion of the Commission. If the highest bidder fails to complete the sale, the County may keep the deposit and may award the bid to the next highest bidder provided that the next highest bid is in an amount not less than the value established for that land.

3.11 WAIVER. The Daggett County Commission may waive any minor irregularities in the bid process or offering so long as said waiver does not materially disadvantage other potential purchasers or the amount to be received for the real property by Daggett County.

3.12 POSTPONEMENT OF SALE. The Daggett County Commission may at any time order postponement of a sale for a period of up to 45 days by giving in written and/or oral notice to those who have already submitted written bids or telephone deposits and by appearing at the time and place of sale and advising those in attendance of the postponement. A postponement of more than 45 days shall require re-notice of the sale as set forth in this ordinance.

In the event that a sale is postponed for more than seven (7) calendar days, any person that has previously submitted a written bid and bid deposit may, upon written request, withdraw the bid and receive a refund of the bid deposit.

Section 4.0 **DEVELOPER REQUESTED SALES**. Individuals or companies interested in purchasing for purposes of development certain lands belonging to Daggett County within the Dutch John area may submit a request to Daggett County that certain lands be considered for sale.

4.01 CONCEPT PLAN. If a proposed sale is in response to an applicant's request for sale, the applicant shall submit a concept plan for County review to the County Clerk. The concept plant shall include all of the information required in Section 3.03 above. (A-C for Public Review and D-R Restricted Use.)

4.02 PLANNING REVIEW AND RECOMMENDATION. The concept plan shall be referred to the Daggett County Zoning and Planning Commission which shall review the proposed concept and make a determination whether the proposed uses are consistent with the Dutch John General Plan and the applicable Zoning Ordinance classifications. A recommendation shall be forwarded by the Planning and Zoning Commission to the Board of County Commissioners as to whether or not the proposed use of the property meets the applicable land use policies and the General Plan. All action by the Zoning and Planning Commission shall be at a properly noticed public meeting with opportunity for public comment.

4.03 PUBLIC HEARING/NOTICE. The Planning and Zoning Commission may schedule a public hearing on the proposal. If a public hearing is scheduled, notice shall be provided to newspapers of general circulation in Daggett County and to other media outlets and a notice generally describing the proposal shall be posted in at least three public places within Daggett County including the Daggett County Courthouse and the Dutch John Post Office.

4.04 COMMISSION REVIEW/NOTICE. Upon receiving a recommendation from the Planning and Zoning Commission, the Daggett County Commission shall schedule a public hearing to consider the proposed sale. Notice of the public hearing and proposed sale shall be mailed to interested persons known to the County and shall be posted in at least three public places in Daggett County, including the Daggett County Courthouse and the Dutch John Post Office and shall be published at least two times in two newspapers having circulation within Daggett County. Notice shall be given at least fourteen (14) days prior to the public hearing.

The notice shall state the date, time, and place of the proposed public hearing, which may be part of regularly scheduled commission meeting. The notice shall identify the parcel of real property being considered for sale, the name of proposed purchaser or developer, the proposed use, and a brief outline of the concept plan. In addition, the notice shall state how

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interested individuals may review the concept plan and the date for submitting competing proposals if such a date has been established by the Commission pursuant to the Section 4.06. In addition, the notice shall identify any factors in addition to those set forth in this ordinance which have been identified by the County for consideration in the sale of the identified parcel of real property, and any conditions or limitations which have been established by the Commission.

4.05 DETERMINATION WHETHER TO SELL. After due notice and consideration, the County Commission shall determine whether or not to sell the proposed parcel of real property. Commencement of this process does not require that the real property be sold to anyone or for the County to accept any concept or proposal if it is not determined to be in the best interests of the County to do so.

4.06 NOTICE. The notice of sale, in addition to establishing a minimum bid price, shall require that the prospective bidder submit to the County a proposal for the intended use or development of said real property and, in addition, the amount bid for purchase of the real property. Daggett County Commission shall provide notice (14) to (60) days in advance of the proposed sale, to at least four newspapers of general circulation in (1) Wasatch Front, (1) Western Colorado and in other areas, and in other media outlets and shall post the notice of the proposed sale at three locations in Daggett County including the Daggett County Courthouse and the Dutch John Post office. In addition, the County may send notice to individuals or entities that have expressed interest in purchasing land in the Dutch John area.

4.07 OTHER PROPOSALS. Counter-proposals for the same use and development of the same parcel of real property, which are consistent with the guidelines and standards set forth herein, and which are submitted and offered in good faith to the County shall considered.

4.08 EVALUATION OF PROPOSAL/FACTORS. Following the public hearing, and after receiving other proposals, the County Commission may refer the proposals to persons with expertise or experience for review and to make suggestions or recommendations on the proposed project. In making its decision or determination, the Commission shall consider:

a. public input;
b. the level of interest expressed by other potential developers in the real property;
c. the consistency of the proposed development with the Dutch John General Plan;
d. the compatibility of the proposal with the community and the existing infrastructure of the community;
e. the positive and negative impacts, if any, that the development will have on the community;
f. the need for additional County or community services that will be created by the proposed development;

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g. the amount bid for the purchase of the described parcel of real property.

h. the potential of the proposed development to generate tax revenue for the County;
i. the availability of utilities and infrastructure and the cost of providing the utilities and infrastructure;
j. the general financial viability of the proposed developer and the proposed project;
k. whether the proposed project will provide needed services and/or employment and/or economic stimulus to the Dutch John community;
l. such other factors as are deemed relevant by the County Commission.
m. any problems or failures that have arisen from previous developments of the proposed developer including lack of compliance with rules, regulations, and ordinances of the community in which the prior development was created.

4.09 ACCEPTANCE OF PROPOSAL. In the event that it decides to sell the real property, the County Commission shall, in its discretion and after considering public input and the factors set forth herein and such other factors as have been identified by the County in notices to interested parties, determine the proposal which will be in the best interest of Daggett County.

4.10 PURCHASE. The person or entity making the successful proposal shall be offered the opportunity to purchase the property for the purposes set forth in the approved proposal or concept on such conditions and terms as are established by order of the County Commission but in no event shall the sale be for less than the fair market value of the property as determined by Daggett County Commission. The conditions of the sale shall require prompt development in accordance with the approved proposal and the payment by the prospective developer of the costs of any public notices given during the development process as well as the costs of surveying and the costs of any infrastructure development that is required, etc.

4.11 DEPOSIT. Any person making a proposal to purchase land, pursuant to this Section 4.0, shall, at the time of making the proposal, submit a deposit to the County Clerk a cashier's check or certified funds in the amount of not less than fifteen hundred dollars ($1500.00) per acre or a fractional portion of an acre proposed to purchased. If the proposal is accepted, the deposit shall be applied toward the purchase price. If the proposal is not accepted, the deposit will be refunded less the costs of publishing and posting notice and any administrative costs associated with evaluating the proposal.

4.12 CONDITIONS OF SALE. The County Commission may establish conditions for sale including a maximum time between the sale and the development of the property, development standards, connection fees, provision for affordable housing, and such other conditions as may be determined by the Daggett County Commission. Notice of all such conditions of sale or restrictions shall be included on the notice of sale and shall be binding upon the successful bidder at the sale.

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4.13 PAYMENT. The successful bidder must pay the full amount of the bid to the Daggett County Clerk within (14) to (60) days of the date of sale. Length of time shall be set by the Commission in the acceptance of proposal. If the highest bidder fails to complete the sale, the County shall keep the deposit and may award the bid to the next highest bidder provided that the next highest bid is in an amount not less than the value established for that land.

4.14 REFUND OF BID DEPOSIT. Deposits of all bidders other than the successful bidder shall be returned to the unsuccessful bidder promptly following the award of the bid. The bid deposit of the successful bidder shall be applied to the purchase of the land.

4.15 WAIVER. The Daggett County Commission may waive any minor irregularities in the bid process or offering so long as said waiver does not materially disadvantage other potential purchasers or the amount to be received for the real property by Daggett County.

4.16 POSTPONEMENT OF SALE. The Daggett County Commission may at any time order postponement of a sale for a period of up to 45 days by giving written and/or oral notice to those who have already submitted written bids or telephone deposits and by appearing at the time and place of sale and advising those in attendance of the postponement. A postponement of more than 45 days shall require re-notice of the sale as set forth in this ordinance.

Section 5.0 COMPLIANCE WITH ORDINANCES. All development must meet applicable state and local standards relating to construction and development of land and be in compliance with the general plan and the Zoning and Planning Ordinances.

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Enacted this 7th day of February, 2006.

Commissioner Reed	X Aye	___ Nay
Commissioner Collett	X Aye	___ Nay
Commissioner Leith	X Aye	___ Nay

Daggett County Commission

ATTEST:

County Clerk

I certify that a copy of this ordinance was duly posted on the 7th day of February, 2006, on the front door of the Daggett County Courthouse in Manila, Utah. I certify that this ordinance was posted at the following public places within Daggett County on or before the 7th day of February, 2006.

County Clerk

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