

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 24th DAY OF MARCH 2015
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: James I. Withers Chairperson
Alan M. Roper Commissioner
Dean Draper Commissioner

Pat Finlinson County Attorney
Marki Rowley County Clerk

ALSO PRESENT: Lesli Shields Deputy Clerk
Wayne Jackson Military Liaison
Deb Oepfinger City Council, Fillmore City
Jason Faulkner, Tracy Whatcott & Samuel C. White UTNG
Terry Scottorn & Bart Whatcott American Legion Post 51
Eugene Larsen Fillmore City Mayor
Sheri Dearden County Treasurer
Nathan Selin & Bruce Costa Central Utah Public Health Dept.

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 Withers to the public and Commission members.

OPENING STATEMENTS

Commissioner Withers asked if anyone had an opening statement to give. Commissioner Draper noted that the United States Constitution can be reduced to seven words: “Don’t hurt me, don’t steal my stuff”. Commissioner Roper said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF MARCH 10, 2015 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held March 10, 2015 were presented for consideration and approval. Following review and consideration of minor corrections,

Commissioner Roper made a motion to approve the minutes of March 10, 2015, as corrected.

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

FOLLOW UP ACTION ITEMS FROM MARCH 10, 2015

Commissioner Roper said that Ken Martin accepted the appointment to serve as a member on the Justice Court Judge Nomination Commission.

Commissioner Withers said that several individuals in the County contacted him regarding the amount of time and money spent on law suits filed against County employees. He asked Attorney Finlinson how to go about getting that information to those who are inquiring.

Attorney Finlinson said that he will do his best to compile the requested information.

Commissioner Withers said that there are still some issues with the phone system; including the Delta Office not being able to call the Fillmore Offices on a local line. He will be contacting Frontier Communication to find out why the issues have not been fixed.

DISCUSSION AND POSSIBLE APPOINTMENT OF DIXON ELIASON AS PRESIDENT OF THE WEST MILLARD HOUSING AUTHORITY BOARD

Commissioner Withers said that the commissioners have asked Mr. Eliason to take over the role as president of the West Millard Housing Authority "Board", which is basically the Sands Apartments in Delta. He said that Roland Comeau resigned from the Board. Commissioner Withers said that the County appreciates the work Mr. Comeau did, while in that position.

Commissioner Draper made a motion to appoint Dixon Eliason as president of the West Millard Housing Authority Board.

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

RECOGNITION OF SAM WHITE AND TRACY WHATCOTT FOR YEARS OF SERVICE WITH THE NATIONAL GUARD

Wayne Jackson, Military Liaison, expressed his appreciation to the Commissioners for allowing him to honor these men at this meeting.

Commissioner Roper expressed his appreciation to both Mr. Whatcott and Mr. White for their services to the County. He said that he has known both gentlemen for years and they have been great assets in the County.

Commissioner Roper presented a certificate of appreciation to both gentlemen.

Mr. Jackson said that Mr. Whatcott is retiring and Mr. White has received a promotion. He then introduced Jason Faulkner, the new Readiness Center Sergeant.

Mayor Eugene Larsen said that he considers both Mr. Whatcott and Mr. White as his good friends. He said that they have all had a lot of good times together. He thanked both men for their service and presented each with a plaque of appreciation.

Terry Scottorn, Commander of American Legion Post 51, expressed his appreciation to both Mr. Whatcott and Mr. White. He said that he wishes well to both of them in their new endeavors. He then presented them with a certification of appreciation.

Bart Whatcott, American Legion Post 51, reminisced experiences with the two. He acknowledged some of the things that both men have done through the years. Both men had been deployed, twice to Iraq.

He said that both men are great soldiers and are a lot of fun. Mr. White was probably the number one Fire Direction Chief within the whole Battalion. He said that because of Mr. White, the Battalion rewrote a lot of the things done, as far as fire direction.

Bart Whatcott said that Tracy Whatcott is great with guns and ammunition. He has earned the only Distinguished Shooters Badge ever given in his unit.

Bart Whatcott said that Sam White and Tracy Whatcott have a combined 60 years of service. He then presented both of them with a medal of honor.

Mr. Jackson said that Honor Flights will be putting on another trip soon. He gave each commissioner honor flight books.

Mr. Jackson said that he is very honored to be a part of the Honor Flight Program and to be the County's Military Liaison.

Commissioner Withers expressed his appreciation to Wayne Jackson, Sam White and Tracy Whatcott for the things they have done for our County and Country, and their years of service.

DISCUSSION REGARDING POSSIBLE EMERGENCY FUNDING FOR THE OAK CITY IRRIGATION COMPANY

Commissioner Withers said that when the fire burned in 2013, near Oak City; the Oak City Irrigation Company began the process of getting grants from the Natural Resource Conservation Service (NRCS). They went through the process, but later found, that the irrigation system had been damaged and the pipes had been crushed. They did not identify these problems until the spring thaw. He said that they have also accrued costs due to the fighting of that fire.

The Oak City Irrigation Company approached the NRCS about some of the funds needed for repairs. They did not identify the damage up front, so they were unable to obtain funds for that project. Then the Oak City Irrigation Company asked the County if it had any funds available to help repair the irrigation pipes.

Commissioner Withers said that the County usually does not disburse funds to irrigation companies. This request is based on an emergency situation and the County budgets money each year to use for emergencies. He then asked Commissioners Draper and Roper what their thoughts were regarding this request.

Commissioner Roper questioned if the Oak City Irrigation Company felt that the damage was all caused by the fire that burned on Forest Service property. He also questioned if the irrigation company thinks that there may be more issues that might need to be corrected in the future.

Commissioner Withers said that until the irrigation company gets all the flow out of the canyon, and the complete volume in that pipe, they will not know exactly how much more damage there could be.

Commissioner Roper said that if the County were to pay this invoice; there may still be the chance that the Oak City Irrigation Company would come back and ask for more funding.

Commissioner Withers said that they need to discuss how much the County could fund, if any. He asked Attorney Finlinson if there were any legal ramifications that would not allow the County to disburse funds for this project. Attorney Finlinson said that he does not think that there would be any legal restrictions.

Commissioner Withers said that he does not want to have an open ended account, and is not sure if the County wants to pay the entire invoice of \$42,121.57. The invoice presented, itemized the costs and broke each down by who did the work.

Commissioner Draper said that he initially thought the pipe damaged was a culinary water pipe, not an irrigation pipe. He would like to take some time to review the itemization and go over the information.

Commissioner Roper said that Lars Rasmussen, NCRS, recommended the County visit with Bronson Smart, NCRS. Mr. Rasmussen thinks that there might be money available to cover this.

Commissioner Withers said that they will set up a meeting with Mr. Smart, but let it be known, that it was Mr. Smart who initially told him that there was not money available from the original grant.

All of the damage was on Forest Service land.

Commissioner Draper made a motion to table this agenda item until after meeting with Mr. Bronson.

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

DISCUSSION AND POSSIBLE APPROVAL OF THE FINAL CIB LIST - EMERY POLELONEMA, SIX COUNTY ASSOCIATION OF GOVERNMENTS (AOG)

Mr. Polelonema presented the commissioners with the final CIB list. He said that all of the input given by each town that he visited with is included on the list.

The commissioners discussed projects on the list and chose to remove the Sunflower Lane Road project from the list.

Commissioner Withers questioned the Public Lands Plan update for \$100,000, and asked where the request came from. Commissioner Roper stated it was a \$50,000 match from the CIB Board and \$50,000 from the Legislature to do a study.

Mr. Polelonema explained that the CIB would be obligated to pay \$50,000 and the State Legislature would match that amount. He said that six counties are thinking that they may need another \$50,000 match, and plan to go to the Legislature to get the additional \$50,000.

The commissioners and Mr. Polelonema discussed the Resource Management Plan. Mr. Polelonema said that there is a training workshop planned for April 2, 2015, and a Leadership Summit is scheduled for April 1, 2015. A brochure for the Leadership Summit can be found at www.sixcounty.com

Mr. Polelonema informed the commissioners that Mr. Gordon Walker resigned. Commissioner Roper said that he is aware that he resigned, and would hope the commissioners would have some kind of input in his replacement.

Commissioner Roper made a motion to approve the final CIB list.

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

DISCUSSION REGARDING CHERRY PIT DUMPING PERMITS ISSUED BY THE DEPARTMENT OF ENVIRONMENT QUALITY (DEQ) - NATHAN SELIN & BRUCE COSTA, CENTRAL UTAH PUBLIC HEALTH DEPARTMENT (CUPHD)

Nathan Selin gave a brief background on why this has been an issue. He said that since 2009, Rodney Philipsen has been illegally dumping large quantities of cherry pits in Juab County.

Mr. Selin said that back in 2012, the CUPHD worked with Mr. Philipsen on this issue. Since then, this has become a nuisance and has raised public health concerns, due to the amount and location of cherry pits being dumped.

CUPHD informed Mr. Philipsen that he would need to request a landfill permit from DEQ to turn his property into a landfill, and would need to meet all the requirements of a landfill; in order to properly dispose of the cherry pits.

Last year, the DEQ approved a permit for a recycling operation, which was nowhere near the level of care taken to process what is being dumped. In addition, the DEQ approved this permit without ever contacting anyone in the counties or the health department. The approved permit lists a Delta address; therefore, approving dumping in Millard County.

Mr. Selin said that they discussed the permit with the DEQ at the last Board of Health meeting and DEQ agreed to rescind its letter. Later, he received a phone call from the DEQ stating that they will not rescind the letter, because there was not justification to do so. They did, however, send Mr. Philipsen a second letter requesting more information.

Mr. Selin presented the commissioners with the two letters that the DEQ sent to Mr. Philipsen. He said that the first letter sent, approved a proposed plan of operation to recycle cherry pits to reuse as fuel, namely, with Ashgrove Cement. Mr. Selin said that he spoke with Ashgrove Cement and they informed him that they could not take the cherry pits due to air quality issues.

Mr. Selin said that the second letter sent by the DEQ requested that Mr. Philipsen meet any local ordinances or requirements and suggested that he go through local planning and zoning to receive a conditional use permit (CUP).

Mr. Selin said that CUPHD wanted to make the commissioners aware of this issue and would like their recommendation in moving forward.

Commissioner Withers said that he contacted Sheryl Dekker, County Planner, and asked her to address the permitting process required for this type of operation in Millard County. Ms. Dekker stated that the process would be quite an undertaking, based on the codes and ordinances in place,

that protect the County from individuals who want to dispose of waste.

Commissioner Withers said that he feels comfortable, based on the ordinances in place, that the County can defer this issue for the time being.

He then expressed his concerns with the DEQ sending an individual a letter of approval, when it promised a board of elected officials and public health officials, that the letter would be rescinded. He said that he may also reach out to the person in charge of DEQ to discuss this issue.

Mr. Selin said that he contacted the DEQ and tried to work through this issue. He said that due to the history with Mr. Philipsen and all the un-permitted, very large scale dumping, in numerous locations; there are multiple cases against him.

He said that Mr. Philipsen continued to dump, knowing that it was illegal. They are more concerned now because of the approval letter sent by the DEQ. Bruce Costa, CUPHD, said that he will discuss this with Amanda Smith who works for the DEQ.

Commissioner Withers asked for the DEQ's contact information so that he could contact them. He said that he may get the Senator involved, if needed. He also thinks that the County should be proactive, and send Mr. Philipsen a letter, informing him that there is a process he needs to be compliant with.

Commissioner Withers said that he will have Planning and Zoning write Mr. Phillipsen a letter informing him of the process.

Attorney Finlinson said that he is well acquainted with this family.

Commissioner Draper questioned if the dumping that took place in Juab County was on public or private land. Mr. Selin stated that the dumping took place on private land, owned by the family.

Commissioner Draper also questioned what hazards could be caused by dumping the cherry pits. Mr. Selin explained that it attracts disease carrying vermin and insects.

Mr. Selin said that Mr. Philipsen also claimed that he was going to use the cherry pits as feed for cattle. Mr. Selin said that cherry pits contain cyanuric acid and when consumed in large quantities, by animals or humans, can cause death.

Commissioner Draper questioned if there was any soil contamination from the dumping. Mr. Selin said that he was unaware of any soil contamination.

Commissioner Draper said that he thinks that, at this point, it is a Delta City problem, according to the approved address.

Mr. Costa said that they have been fighting things like this for over 25 years. There are a lot of companies who want to dump waste in the rural areas of the central counties. He said that if they let one, they will have to let everyone.

The commissioners will make necessary contacts and decide what to do, based on the information received today.

PUBLIC INPUT

There was none.

OTHER BUSINESS

Attorney Finlinson presented the commissioners with the documentation that is needed to create the Building Authority Board. He said that the County approved a Building Authority Board back in 2010. When he read through the minutes, he discovered that it was done incorrectly.

Attorney Finlinson said that the Building Authority Board needs to be approved and be organized through the Division of Corporations and Commercial Code, before the process of the bond can be complete.

Attorney Finlinson also presented the County's procurement code that was passed in December. He said that he found that the County has been operating under the procurement code, but it was never published. He also found that there were some changes that needed to be made to the procurement code.

Attorney Finlinson said that neither of these items would require a public hearing and asked that both be brought back for discussion and possible approval at the next commission meeting.

Attorney Finlinson presented information on the IHC release. He explained that this is the \$10,000.00 settlement that was discussed at previous meetings. He said that it is the final negotiation settlement and is ready for signature. He initially drafted a full release, but IHC's attorney reminded him that there is a land use agreement that the County did not want to vacate.

Attorney Finlinson said that the proposal of Frazier Kirton and McConkie is to exchange signatures and to file the documents of the pleadings in court.

Attorney Finlinson said that the GRAMA and Open Meetings Act training will now be presented by Gavin Anderson, Salt Lake County District Attorney. This training is tentatively scheduled for April 21, 2015, after the commission meeting.

Attorney Finlinson informed the commissioners that there is a demolition derby training scheduled, April 8, 2015, at 10:00 a.m., in Murray, Utah. He said that, in light of recent events, he thinks that it would be good to have one of the commissioners, Kevin Morris; West Millard Maintenance, himself and/or Attorney Jackson attend the training.

Attorney Finlinson discussed a situation regarding a road, located in the west desert area. He said that Patrick Pipkin is threatening to plow up county roads. Mr. Pipkin is in the process of privatizing trust lands, but the final patent has not been issued. Therefore, the road is technically still owned by SITLA.

Attorney Finlinson will send a letter to Mr. Pipkin informing him that he does not have permission to plow up any roads and if he does, he will be charged with a Class A Misdemeanor and will be arrested.

Attorney Finlinson also informed the commissioners that Mr. Pipkin owes the County a lot of money for privilege taxes.

Attorney Finlinson stated that Millard County is one of two counties that either does not have, or is not in contract with, a Children's Justice Center (CJC). He said that the Utah County CJC has been wonderful to work with and has let the County use its facility. He explained that the primary purpose of the CJC is to perform forensic interviews with children in abusive situations.

The CJC has invited the County to contract with them; to formalize the relationship.

Attorney Finlinson said that he thinks that contracting with the CJC makes sense and he will look into this further.

Attorney Finlinson said that Bart Whatcott, East Millard Recreation Director, approached him regarding a possible land swap with Fillmore City. He said that Fillmore City owns property located between the City building and the swimming pool that the County has been maintaining.

Attorney Finlinson said that Millard County owns property located between the courtyard area of the swimming pool and the playground area, which the City has used and maintained. Mr. Whatcott and the City have proposed a swap of the two properties.

Attorney Finlinson said that the swap would not require a public hearing because it would be an inter-government swap. It would however, require a survey.

The commissioners would like to look into this further, before making a decision.

Attorney Finlinson stated that if the County rejects the Community Development Agency (CDA) it would require discussion and formal action. He explained that it would not require another public hearing.

Commissioner Roper said that the commissioners will be interviewing the following six applicants for the Millard County Economic Development position: Jamie Orullian, Hans-Erik Stegeby, Patty Solt, Scott Barney, Cheri Dean, and Shirley B. Westenskow.

Commissioner Roper said that the County received a bid for work on the County Courthouse in Fillmore. The total sum of that bid was approximately \$109,000.00, but the County only budgeted \$80,000 for this project. He said that he thinks that they may need to start with one office at a time; to see what problems might occur. He also said that he would like to go over the bid specifications to see if they could possibly eliminate some of the costs.

Commissioner Withers said that the bid is over budget, and suggested that they start the renovations downstairs this year, and re-budget the renovations upstairs in next year's budget. Attorney Finlinson said since there was only one bid he did not see a problem with doing the work one office at a time.

Commissioner Draper suggested to see what the needs are for each office. He suggested to do the more urgent renovations first and then see if anything can be re-budgeted in next year's budget.

The commissioners will see if the jail crew could do some of the work to lower the costs. They will also visit with each office and the contractor to discuss these options.

Commissioner Roper said that there are a few gentlemen who have offered to volunteer their services to groom the Equestrian Park Arena in Fillmore. He said that the work would require them using the county tractor. He questioned if there were any legal issues with letting these men use the equipment. Attorney Finlinson thought they would be required to take the defensive driving course if they were to operate any county equipment.

Commissioner Withers said that they will have to look at the policy to see if it is even allowed and to see how to handle it.

Attorney Finlinson said that liability of a volunteer is the same as an employee and that they

would be treated the same. He said that the he will look into the policy for clarification.

Commissioner Roper said that the commissioners will be meeting with representatives from Magnum Gas Storage, at the Delta City Center, tomorrow, from 11:00 a.m. to 12:00 p.m.. They will also be meeting with Don Watts at 2:00 p.m. at the County Satellite Offices in Delta.

Commissioner Roper said that Representative Stewart's Office will be holding a meeting in Delta, on April 8, 2015, at 6:00 p.m., with the commissioners. The general public is invited at to attend at 7:00 p.m..

Commissioner Roper said that Greg Kesler contacted him and expressed his appreciation to the County for putting road base on the County roads.

Mr. Kesler also said that the road base is going fast due to the number of trucks on one certain road. He suggested to either add more road base or some kind of coating to help keep the dust down.

Commissioner Withers said that he thought that there was a CUP in place that requires the company who owns the trucks to provide dust control. Commissioner Roper said that he too thought that there was a CUP with that language.

Commissioner Withers will visit with the Road Department to see what they can do.

Commissioner Roper had the opportunity to make a presentation to the Governor's Office of Economic Development (GOED). He discussed Senate Bill 216 (SB 216) and how it will effect Millard County. He said that GOED seemed excited about the bill, as well as going on the tour of Magnum facilities. He said that GOED wants to use Magnum as an example of what SB 216 can do. Commissioner Roper said that he is also excited for what the bill can do for Millard County.

Commissioner Draper questioned if the application period for the Economic Development position has closed. Commissioner Roper said that it closed March 23, 2015.

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

Commissioner Draper reported that on March 8, 2015, the County interviewed five candidates for the County Fire Warden position. He said that Landon Rowley, of Oak City, Utah, was offered the position, which he accepted. Mr. Rowley will start on April 6, 2015.

Commissioner Withers said that they interviewed six individuals for the replacement in the Road Department for the Gandy/Garrison area. The Road Department has made the decision to hire two individuals to help reduce the cost of having to send someone out there from this area. The new employees will start next week.

Commissioner Withers said that several farmers in the Delta area have requested that the County look into what it would take to prohibit shooting predators on cultivated ground. He said that the County has always paid a bounty on coyotes and foxes.

He said that some of the farmers have expressed concern with the amount of voles and gophers and are worried that it is maybe due to all of their predators being eliminated.

Commissioner Withers said that he will reach out to these farmers and to the landowners who own livestock; to see how this might affect their businesses. He will also reach out to the DNR to discuss this issue.

This item will be brought back for further discussion at a future commission meeting.

Commissioner Roper recognized and welcomed Lesli Shields, who was recently hired as a deputy in the County Clerk's Office.

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

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

There was none.

WHERE UPON THE MEETING ADJOURNED

Commissioner Roper made a motion to adjourn the meeting.

Commissioner Draper SECONDED the motion. The voting was unanimous and the meeting adjourned at 11:30 a.m..

Attest: _____

Approved: _____