

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 7th DAY OF JULY 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
Lesli Shields Deputy County Clerk

ALSO PRESENT: Sheri Dearden County Treasurer
Brandy Grace County Auditor
Robert Dekker County Sheriff
Hannah Jones Millard County Chronicle Progress
Scott Patton Delta Egg Farm/Cal-Maine Foods
Steve Styler Waddingham & Associates, P.C.
Wayne Jackson Military Liaison
Scott Barney MEDA Coordinator
Tony Dearden Citizen

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 said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF JUNE 16, 2015, COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held June 16, 2015, were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Draper made a motion to approve the minutes of June 16, 2015, as corrected.

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

FOLLOW UP ACTION ITEMS FROM JUNE 16, 2015

Commissioner Roper said that Holden Town Mayor, James Stephenson, reported back that Holden Town is not interested in implementing the new transportation tax this year.

Commissioner Withers reported that Deborah Greathouse, Delta City Library Director, informed him that Jennifer Tolbert, Millard County/West Central Utah Bookmobile, gave her two week notice and they will be looking for someone to take her place.

REVIEW OF THE JUNE FINANCIAL REPORT - TREASURER DEARDEN

Treasurer Dearden presented the financial reports for the month of June.

APPOINTMENT OF INTERIM SUCCESSORS

Attorney Finlinson presented the interim successors lists that he has received to date. He said that the majority of the elected officials submitted their interim successors in November 2014 and those successors will remain the same. He stated that the Sheriff's Office has had some structural changes and will submit a new succession plan.

The following offices submitted interim successors:

- Clerk's Office
- Attorney's Office
- Treasurer's Office

Attorney Finlinson will provide the Clerk's Office with a copy of the interim successors provided in November 2014.

Clerk Rowley will submit copies of all interim successors to the Sheriff's Office and to the State.

Commissioner Roper made a motion to accept the new interim successors and existing successors as presented.

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

DISCUSSION OF REGISTERED AGENT CHANGE

Attorney Finlinson said that while working with the County Building Authority, it was found that former Commissioner Daron Smith is listed as the County's registered agent. He said he has filed a new document indicating that the Millard County Clerk will be the County's registered agent.

DISCUSSION AND POSSIBLE RE-APPOINTMENT OF THE MILLARD COUNTY AGRICULTURE PROTECTION AREA ADVISORY BOARD

Commissioner Withers explained that the Millard County Agriculture Protection Area Advisory Board brings proposals to the County Commission regarding any protection areas or buffer zones for protection of agriculture.

Deputy Clerk Shields said that Sheryl L. Dekker, Millard County Planner, indicated that the current board members each have agreed to serve another five year term.

Commissioner Roper made a motion to re-appoint Doyle K. Mitchell, Donald R. Probert, Kelby Swallow, Dale E. Hamaker and Rick Smith to the Millard County Agriculture Protection Area Advisory Board, with Doyle K. Mitchell as Chairman.

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

DISCUSSION AND POSSIBLE APPROVAL OF JIM DYER AS THE MEDA BOARD CHAIRMAN

Commissioner Roper said that Jim Dyer was the Assistant Chairman last year and the MEDA Board has recommended that Mr. Dyer serve as the MEDA Board Chairman.

Commissioner Draper made a motion to approve Jim Dyer as the MEDA Board Chairman.

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

DISCUSSION AND POSSIBLE APPROVAL OF A CELL PHONE ALLOWANCE FOR SCOTT BARNEY, MEDA COORDINATOR

Commissioner Roper made a motion to approve a cell phone allowance for Scott Barney, MEDA Coordinator, in the amount of \$120.00.

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

DISCUSSION AND POSSIBLE RENEWAL OF THE INSPECTIONS PLAN SERVICES CONTRACT WITH SUNRISE ENGINEERING - MARK HUNTSMAN

Commissioner Roper reported that he talked with Mr. Huntsman about the issue with mileage reimbursement in the proposed contract, that was discussed at the last commission meeting. Mr. Huntsman told him that Sunrise Engineering has a building inspector in both Fillmore and Delta and the only time extra mileage would be added is if the County needed something quickly when the building inspectors in town were unavailable. At that time, Sunrise Engineering would have to pull an inspector from outside the County and Millard County would be charged mileage only from the County line.

Commissioner Roper made a motion to approve the Inspections Plan Services Contract with Sunrise Engineering.

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

*need copy of contract

DISCUSSION AND POSSIBLE APPROVAL OF EMERGENCY FUNDING FOR OAK CITY IRRIGATION

Commissioner Withers said that for several months the commission has discussed Oak City Irrigation Company's unforeseen damages caused by a fire back in 2013 and whether or not the County will approve emergency funding to help with the costs of repairs. He reviewed the statements in the amount of \$42,121.57 received from Oak City Irrigation Company and it seems that some of the charges are for normal maintenance.

The commissioners will meet with Oak City Irrigation Company and ask for a specific number based only on repairs.

Attorney Finlinson said that if the County decides to fund this recoupment, it would be considered as a gift to a private entity and the County will need to make specific findings on the record as to why it is helping the Oak City Irrigation Company with these unforeseen expenses.

DISCUSSION AND POSSIBLE APPROVAL OF FUNDING FOR PUBLIC SAFETY AT GUNNISON BEND RESERVOIR

Commissioner Draper said he was approached by Kevin Morris, West Millard Maintenance, regarding possibly having a deputy on the beach at Gunnison Bend Reservoir on holidays and weekends. He said the State Parks used to help fund a deputy's presence there but that does not happen anymore.

Commissioner Draper said there are individuals that misuse the property, either too much noise, parking their vehicles in the wrong place, driving their boats where they shouldn't and/or endangering patrons.

Sheriff Dekker said there is currently not enough funds in his budget, with no wiggle room, to place a deputy out there.

It was stated that Gunnison Bend Reservoir is a County Park, not a State Park. The land is owned by the County, the water is owned by the BLM, irrigation companies and/or private landowners.

Attorney Finlinson stated that liability would ultimately be the County's and/or the private landowners depending on where an incident takes place.

Sheriff Dekker said that deputies already patrol the area during their regular shifts and he has increased patrol there on weekends and holidays.

Commissioner Withers stated that the gate to the Reservoir gets locked at night.

Commissioner Draper asked Sheriff Dekker what the cost would be to have a deputy at the beach on an 8-10 hour shift on weekends and holidays. He also asked if Sheriff Dekker thought there should be a deputy on the beach full time.

Sheriff Dekker explained that it would be about \$50.00-\$60.00 per hour to have someone there full time and if the commissioners want someone out there on a regular basis, they would have to increase his budget. He said he did not think a deputy would need to be on the beach full time and if the commissioners decide they want someone there, he would recommend trying a 2-4 hour shift instead of an 8-10 hour shift. He stated that he wants to do whatever needs to be done to keep the County safe.

Commissioner Draper said he would like to see how things develop through the month of July and look at possibly opening the Sheriff's Office budget to have a deputy at the Reservoir for two hours in the evenings.

Commissioner Withers asked Sheriff Dekker what his Resource Officers do during the summer when school is out.

Sheriff Dekker explained that he requests that the Resource Officers reserve any vacation plans for summer. He also gives them special assignments like patrolling the canyon during the ATV Jamboree.

DISCUSSION AND POSSIBLE APPROVAL OF HIRING PROFESSIONAL HELP WITH THE COUNTY RESOURCE MANAGEMENT PLAN (RMP)

Commissioner Withers said it has been mandated by the State of Utah to come up with a RMP for the County. He said the commissioners have reached out to Mark Ward, Utah Association of Counties (UAC) Attorney, to discuss if he would be interested in helping with the RMP. Mr. Ward has a lot of history and knowledge of Millard County.

Attorney Finlinson said this might be a procurement code issue and could possibly require a Request for Proposal (RFP). Auditor Grace said since Mr. Ward has done this for other counties and it is a specialized thing it may fall under sole source. Attorney Finlinson said he will look into this further.

Later, Attorney Finlinson said that this could be a sole source situation but more research needs to be done at this point. He said we need to contact the other counties in the State to see if they are all using Mr. Ward or if they are using someone else. He said if the other counties are using Mr. Ward, it would be considered a sole source situation and would fall under the procurement code. If they are using someone other than Mr. Ward, then a Request for Qualifications (RFQ) would have to be provided.

Commissioner Draper stated that the first final draft of the RMP is due by July 1, 2016, and Mr. Ward would work as a private contractor working nights and weekends. Mr. Ward's offer is for \$9,000.00 for preparing the legal portion of the RMP.

Later, Commissioner Draper said that the Community Impact Board (CIB) would pay \$50,000.00 to the County for the scientific portion of the RMP. He will talk to the other counties and find out who they are using.

The commissioners agree it would be advantageous to hire Mr. Ward. This item will be brought back for further discussion at the next commission meeting.

DISCUSSION AND POSSIBLE APPROVAL OF A MORATORIUM ON POULTRY OPERATIONS IN MILLARD COUNTY

Attorney Steve Styler, Waddingham & Associates, P.C., said he sent the commission a petition for a temporary land use regulation granting a six month moratorium on commercial poultry development within a five square mile radius around the Delta Egg Farm in Millard County. He stated that this regulation would only be for large grade poultry businesses.

Scott Patton, Delta Egg Farm/Cal-Maine Foods, gave examples of how the Avian Influenza (AI) virus spreads. He stated that he believes this virus is airborne, although there is no conclusive data corroborating this. He said he is asking for this temporary land use regulation so more research can be done on this virus.

Mr. Patton stated that there will be a meeting with the Commissioner of Agriculture and all poultry business owners in the State on September 10, 2015, to discuss this virus.

Attorney Styler said that along with the petition they are asking to consider options with Planning and Zoning for buffer zones. He said that the Delta Egg Farm has over 80 employees and they would like to expand and grow their business in a safe zone.

Commissioner Roper said he talked to Dr. Hall, Assistant Director of Agriculture, in Iowa, about the problems with the virus there. Dr. Hall told him there has not been a moratorium there nor do they have any regulations on how far apart poultry businesses should be.

Mr. Patton said they are basing the five square mile radius around the Delta Egg Farm from the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), quarantine zones that are used when eradicating birds in the Midwest. He discussed the precautions that the Delta Egg Farm is taking, as well as the downfalls it would cause to his business if this virus were to infect his poultry.

Attorney Finlinson wanted clarification on the record that this request is only for the five square miles in all directions around the Delta Egg Farm, not for all of Millard County. He said that this would no longer require a moratorium, which would be declared in an emergency, it would now require a temporary land use ordinance. He asked Attorney Styler to review Millard County's land use ordinance and define the uses that would be restricted within that five mile radius.

Commissioner Draper presented a document he prepared and discussed it with the commission. He said that Tennessee declared a moratorium in June using the APHIS red book guidelines. Those guidelines indicate an initial quarantine zone of 1.86 miles from the Infected Zone and a Buffer Zone of an additional 4.35 miles. The perimeter of the Control Area should be at least 6.21 miles and the Surveillance Zone width should be at least 6.21 miles, but may be much larger. APHIS eradicates all birds in that zone if the infection is found.

Commissioner Draper said that Tennessee, Georgia, Iowa, Wisconsin and Minnesota have all adopted these guidelines.

Commissioner Draper stated that there is a farm within the 6.21 mile zone mentioned, with hundreds of chickens and a high mortality rate. He is interested in finding out the reasons for this high mortality rate. There are also several backyard flocks in that zone.

Commissioner Draper said at the last commission meeting there was a direct quote from him stating that he did not see any reason for a moratorium at that time. After some research, he now believes that the quarantine zone guidelines from APHIS set a good standard for a possible moratorium in part of the County.

Attorney Finlinson reiterated that this would no longer require a moratorium, but rather a temporary land use ordinance suspending allowed uses within a defined area. It will require adoption of an ordinance and possibly a public hearing. He said that Planning and Zoning would

have to work on a permanent solution.

Commissioner Draper stated that he is worried about this virus on an agricultural level; agricultural interests, employment and food supply. He feels the commission needs to move forward with this.

Attorney Styler asked for the temporary land use ordinance to be approved today and the language perfected later.

Attorney Finlinson respectfully advised the commissioners against doing that.

Attorney Styler will work on the language necessary to move forward.

PUBLIC INPUT

Wayne Jackson, Military Liaison, thanked the commission for the military pride in the County. There were veterans on floats in the Fourth of July parades both in Fillmore and Delta.

Mr. Jackson asked the commission to help get the word out in the County regarding the outreach programs for veterans in the County. He said they meet in Fillmore and Delta once a month for any veteran that needs help. Transportation is available if needed.

Commissioner Roper asked Mr. Jackson if he could get a fly over or a helicopter at the Millard County Fair on either August 5,6,7 or 8 to promote excitement. He said the National Guard is bringing a climbing wall and possibly a mechanical bull.

OTHER BUSINESS

Auditor Grace presented a donation request from Utah Association of Counties (UAC) in support of Rich County Commissioner Bill Cox's campaign for second Vice President at National Association of Counties (NACo). She said she thinks Commissioner Cox has a good chance to win and it would be great for Utah to have representation on a national level.

Commissioner Withers said he thinks it is a good opportunity to have someone from Utah to educate the East about public lands.

Commissioner Roper made a motion to donate \$500.00 to support Commissioner Bill Cox's campaign for NACo second Vice-President.

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

Auditor Grace said she received the Payment in Lieu of Taxes (PILT) Funding in the amount of \$1,309,816.00. She said that her office has not receipted the Road Department's portion yet due to the potential passage of the new transportation tax. She said any money allocated this year or any year preceding the approval of the tax cannot be taken back, once the money is there it has to be guaranteed each year. She expressed her concerns with doing this.

The commissioners discussed if they will be putting the new transportation tax on the ballot this year and what other counties in the State are doing regarding this tax.

Commissioner Draper made a motion to receipt the PILT Funding into the general fund until a decision can be made regarding the transportation tax.

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

A business license application was presented for Wardle & Son, Owner - Jason K. Wardle, a handyman service, including concrete work. The commissioners asked Clerk Rowley to get clarification regarding a note indicated on the business license before approving it. This will be brought back for approval at a future commission meeting.

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

Attorney Finlinson reported that he attended the Demolition Derby on July 4, 2015. He said the new safety measures in place helped significantly and it was very enjoyable. He said an insurance policy was submitted prior to the derby so the County was covered.

Attorney Finlinson reported that there have been some great meetings with members of the Paiute Tribe over the last few weeks. He said that Sheriff Dekker, Captain Jacobson, the State Commissioner of Public Safety and the Bureau of Indian Affairs met in Cedar City, Utah, a few weeks ago and covered a lot of issues.

Attorney Finlinson said he also met with the attorney that represents the Paiute Tribe, along with the new Band Chair Phil Pikyavit. He thinks the leadership structure for the band and the tribe has changed and he expects things to improve dramatically. He said he is working on a memorandum of understanding with the tribe, but the tentative agreement is that the County Deputies will receive cultural training and the tribe will receive training on what the role of local law enforcement is on Tribal Lands.

Commissioner Roper attended a Constitutional Defense Council Meeting a few weeks ago. It was discussed there that UAC would be requesting funding to help Commissioner Lyman, which was later withdrawn.

Commissioner Roper said he received a letter from the School & Institutional Trust Lands Administration (SITLA) that gives notice for application to claim and make permanent existing temporary easements or rights of entry that cross the following SITLA property proposed for sale: Township 23 South, Range 19 West, SLB&M, Section 32, 640 acres.

Any party asserting a claim to a temporary easement or right of entry in the subject property pursuant to 72-5-203, Utah Code Annotated, may file an application from July 7, 2015, to October 5, 2015, at the Trust Lands Administration, 675 E 500 S, Suite 500, Salt Lake City, UT 84102; (801)538-5100; Reference No. PS 8562.

Commissioner Roper said there are nine individuals in Millard County who have received citizenship. There will be a banquet recognizing them July 11, 2015, at 7:00 p.m., where they will be presented with an American Flag. Representative Merrill Nelson, a representative for Senator

Mike Lee's office and Betty Ariel will be attending the banquet. The commissioners and mayors have also been invited to the celebration.

Commissioner Roper attended a mental health retreat on June 17, 2015, in Nephi, Utah. He said they toured the tomato plant, Houweling's Tomatoes, which has been an economic boost for Juab County.

Commissioner Roper reported that the commissioners met with Dr. Ken White, Vice President of USU Extension/4-H, on June 19, 2015. They spoke about who will be replacing Trent Wilde, Millard County USU Extension.

Commissioner Roper was contacted by the staff for Senator Orrin Hatch. They want to spend half a day with the commissioners sometime in July. It needs to be decided when to meet and where to take them.

Commissioner Draper attended CIB last week with Delta City Mayor Gayle Bunker and a representative from the Delta City Fire Department. They were seeking grants and loans for approximately \$2.5 million dollars, to begin construction on the new fire station. They were able to receive a 20 year loan at 1.5% interest for approximately \$800,000.00. The balance will come in a grant.

Commissioner Draper reported that the Scipio fire on the North side of I-15 burned 184 acres. A Type 3 Management Team was brought in on the fire and was able to put out the fire. There was also a 240 acre fire by the Beaver/Millard County line at Black Rock Point which is now under control.

Commissioner Draper said he spent a day last week with Mike Gates, BLM Director, touring some of the Pahvant Heritage Trail. He said there have been some depredations in the Indian artifacts at Black Rock Mesa; people have also been stealing things which has brought national attention.

Commissioner Roper said he spoke to the Emery Polelonema, Six County Association of Governments (AOG), about applying for CIB funds for the jail renovation. Mr. Polelonema told him that it is too late to get it on the list this year, unless it is an emergency.

Commissioner Roper said it needs to be decided whether it is an emergency, if it is they need to get the figures together and make application to CIB for the renovation.

Commissioner Withers reported that he attended a UAC meeting in Logan last week and it was a very interesting meeting.

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

POSSIBLE CLOSED MEETING PURSUANT TO UTAH CODE ANNOTATED SECTION 52-4-4&5

There was none.

WHERE UPON THE MEETING ADJOURNED

Commissioner Draper made a motion to adjourn the meeting.

Commissioner Roper SECONDED the motion. The voting was unanimous and the meeting adjourned at 12:05 p.m..

Attest: _____

Approved: _____