

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 3rd DAY OF NOVEMBER 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: L. Jack & Mary Jane Peterson, Terry Scottorn, Beth Cahoon and Eldon
Frampton Pahvant Senior Center Board
Robert Cady University of Utah
Derek Anderson Sunrise Engineering
Amanda Allen Chronicle Progress
Bryant Anderson Commercial Business Radio, LLC
Sheryl Dekker County Planner
Wayne Jackson Military Liaison
Tate Bennett Public Defender
Sharal Young, Jaren Camp, Beau Gehre and Emery Hare 4-H Extension
Pat Manis County Assessor
Brandy Grace County Auditor
Sheri Dearden County Treasurer
Emery Polelonema Six County Association of Government (AOG)

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

APPROVAL OF OCTOBER 20, 2015, COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held October 20, 2015, were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Roper made a motion to approve the minutes of October 20, 2015, as corrected.

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

FOLLOW UP ACTION ITEMS FROM OCTOBER 20, 2015

Attorney Finlinson reported that he sent a letter to the National Parks Service requesting an extension of time for formal response regarding a communication site within Great Basin National Park.

Clerk Rowley reported that the grant request for the Kanosh Town Parking Lot was denied. She said that the reason for the denial was that the grant committee felt the scope of the work was beyond what they feel is an ADA improvement. The County will pursue smaller upgrades to bring this polling location ADA compliant.

Commissioner Roper said that he called Chelsea Bakitis, Six County Community Development Block Grant (CDBG) Administrator and found that Scott Barney, County Economic Development Coordinator, was attending the CDBG meeting as a representative for the County.

Commissioner Roper reported that he spoke with Landmark Dividend, the company interested in buying a County owned cell tower, to let them know the cell tower is not for sale. Landmark Dividend told him that it would be a significant amount of money.

The commissioners agreed that it does not make sense to sell an asset that the County would need to rent back.

Commissioner Roper will respond back to Landmark Dividend that the County is not interested in selling that cell tower.

DISCUSSION REGARDING ISSUES AT THE PAHVANT SENIOR CITIZENS CENTER - PAHVANT SENIOR CENTER BOARD, ELDON FRAMPTON

ELDon Frampton, Pahvant Senior Citizens Center Board President, discussed several maintenance and safety issues at the Senior Center that need attention right away.

Mr. Frampton informed the Commission that the Pahvant Senior Center has been instructed by Six County to have a Memorandum of Understanding (MOU) with the County.

Commissioner Roper said that he and Klint Penney, Maintenance Supervisor, will meet with Mr. Frampton at the Senior Center to go over all the issues together.

Attorney Finlinson will create an MOU and it will be presented to the Pahvant Senior Center Board at their next board meeting, which is November 16, 2015, at 10:00 a.m..

DISCUSSION AND POSSIBLE APPROVAL OF A PROPOSED CONTRACT RENEWAL BETWEEN MILLARD COUNTY AND COMMERCIAL BUSINESS RADIO, LLC - BRYANT ANDERSON

Mr. Anderson expressed his appreciation for the opportunity to work on and maintain the radio equipment in the County. He said that the proposed contract for 2016 is \$28,542.00, which is only \$4.00 higher than 2015.

Commissioner Roper made a motion to approve the contract renewal between Millard County and Commercial Business Radio, LLC, in the amount of \$28,542.00.

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

DISCUSSION AND POSSIBLE APPROVAL OF A CONTRACT WITH PAHVANT BUILDERS FOR THE WEED BOARD BUILDING

Commissioner Withers said that the contract for the Weed Board Building was awarded to Pahvant Builders at a previous commission meeting. He said that the total contract is for \$73,250.00, which is \$3,250.00 over budget. The work will begin today with a deadline of March 1, 2016, and there will be a 25% cash bond required.

Auditor Grace said that this will have to be re-budgeted for 2016 so there will be no problem adjusting the budget to \$73,250.00.

Commissioner Roper reminded the Commission that he had recused himself from the conversations at the previous commission meetings due to a possible conflict of interest.

Commissioner Draper made a motion to approve the contract with Pahvant Builders for the Weed Board Building.

Commissioner Withers stepped from the chair and SECONDED the motion. The motion was passed by a majority vote.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 15-11-03, A RESOLUTION APPOINTING A REPRESENTATIVE FOR UTAH COUNTIES INDEMNITY POOL (UCIP)

Commissioner Draper said that he was supposed to be the secondary representative for UCIP, however, he has since been nominated to be a member at large for the same committee and will not be able to serve as the secondary representative.

Later, Commissioner Roper made a motion to approve Resolution 15-11-03, a resolution appointing Commissioner Withers as a representative for UCIP and Commissioner Roper as secondary.

Commissioner Draper SECONDED the motion. Clerk Rowley called for a roll call vote. Commissioner Draper voted YES. Commissioner Roper voted YES. Commissioner Withers voted YES. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPROVAL OF CHANGING THE LENGTH OF JANITORIAL CONTRACTS FROM TWO YEARS TO FIVE YEARS

Commissioner Withers said that one of the janitorial contractors asked the Commission to consider changing the janitorial contracts from two years to five year contracts.

Attorney Finlinson said that the Procurement Code does not address this and it is at the Commission's discretion to change it.

It was discussed that the current contracts will expire December 31, 2015. When it is re-bid, the contracts will be for a five year term instead of a two year term.

Attorney Finlinson said that by law, there is a provision in every contract that the County can suspend the contract for performance.

Commissioner Roper made a motion to change the length of janitorial contracts from two years to five years.

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

DISCUSSION AND POSSIBLE APPROVAL REGARDING HIRING A NEW LANDFILL SUPERVISOR

Commissioner Withers said that the Commissioners interviewed eight applicants for the Landfill Supervisor position. He asked Attorney Finlinson for direction on how to discuss hiring the new employee.

Attorney Finlinson discussed the options with the Commission.

Commissioner Roper made a motion to go into a closed executive session to discuss the character, professional competence or physical or mental health of an individual.

Commissioner Draper SECONDED the motion. All three commissioners voted unanimously and the motion carried. Present in the closed session was: Commissioner Withers, Commissioner Draper, Commissioner Roper, Attorney Finlinson and Sheryl Dekker.

After the closed executive session the regular meeting reconvened at 10:48 a.m..

Commissioner Withers said that it has been decided to extend an appointment to John Higgins as the Landfill Supervisor.

Commissioner Draper made a motion to extend an appointment to John Higgins as the Landfill Supervisor.

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

DISCUSSION AND POSSIBLE APPROVAL OF A PROVIDER FOR THE CREATION OF THE HB323-MANDATED COUNTY RESOURCE MANAGEMENT PLAN (RMP)

Commissioner Draper said that it is now a State mandated law under title 17-27a-401b, that a County RMP be created to address 27 different categories, in particular how the use of air, energy and water might affect those categories. He said that the County ran a Request for Proposal (RFP) and received two RFP's back by the deadline:

- Epic Engineering \$8,500.00
- Mark Ward \$9,000.00

Commissioner Draper said that the deadline for the RMP is the end of June 2016.

Commissioner Draper said that Epic Engineering indicated that they would be contacting Millard County for information for the RMP.

Commissioner Withers said that Mr. Ward has worked with Millard County for a long time, especially with its water rights issues with Nevada and has a list of experiences with the County.

Commissioner Draper reminded the Commission that Mr. Ward is employed by UAC, but his work on the RMP will be on his own time.

Auditor Grace said that the UAC Executive Committee has reviewed the proposal and has agreed to allow Mr. Ward to move forward with it.

Commissioner Draper made a motion to accept Mr. Ward's proposal for \$9,000.00.

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

Commissioner Draper will contact Mr. Ward to see if a contract has been prepared. Mr. Ward has asked for \$4,500.00 up-front and \$4,500.00 when the RMP is complete. Commissioner Draper said there will be a reimbursement from the Legislature when it is complete.

Auditor Grace indicated that the \$4,500.00 can come out of the Special Projects Budget.

REVIEW AND POSSIBLE APPROVAL OF APPLICATION FOR A C-2 CONDITIONAL USE PERMIT (CUP) TO ALLOW FOR CONSTRUCTION AND OPERATION OF A SOLAR ENERGY SYSTEM (MAJOR). PAVANT SOLAR II, LLC - APPLICANT. MCCORNWOOD ENTERPRISES, LLC (GREG KESLER) - PROPERTY OWNER. APPLICATION #Z-2015-026

Ms. Dekker, County Planner, said that this CUP is for Phase II of the solar project under the umbrella company Juwi Solar. She indicated that the Planning Commission gave a favorable recommendation for this CUP.

Ms. Dekker and Derek Anderson, Sunrise Engineering, discussed the items that have to be completed before the CUP is recorded, including the finalized site plan, bonding and the rehabilitation reclamation plan.

Commissioner Roper made a motion to approve the application for a C-2 CUP to allow for construction and operation of a solar energy system (major). Pavant Solar II, LLC - Applicant. McCornwood Enterprises, LLC (Greg Kesler) - Property Owner. Application #Z-2015-026.

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

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON PROPOSED AMENDMENT TO THE MILLARD COUNTY ZONING ORDINANCE - MAP, TO ALLOW FOR A CHANGE TO THE OFFICIAL ZONING MAP FROM AGRICULTURE TWENTY ACRES (AG20) TO AGRICULTURE INDUSTRIAL (AI). RAY E. LYMAN AND COLLEEN LYMAN - APPLICANTS/OWNERS. APPLICATION #Z2015-028.

Commissioner Roper made a motion to enter into a public hearing for the purpose of receiving public comment on proposed amendment to the Millard County Zoning Ordinance - Map, to allow for a change to the official zoning map from AG20 to AI. Ray E. Lyman and Colleen Lyman - Applicants/Owners. Application #Z2015-028.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 11:03 a.m..

Present were: Attorney Tate Bennett, Ms. Dekker, Derek Anderson, Robert Cady, Auditor Grace, Treasurer Dearden, Wayne Jackson, Assessor Manis, Amanda Allen.

Ms. Dekker informed the Commission that this zone change is to allow the owner to build a large animal feeding operation on 80 acres, South of IPP and Magnum. It seems to be a good location for a cattle feeding operation and the Planning Commission gave a favorable recommendation.

Commissioner Draper said that the owner will need to get an odor waiver, as there is a neighbor that falls within the distance regulations.

Ms. Dekker said that the owners are aware of the requirement for an odor waiver.

There were no other comments made.

Commissioner Draper made a motion to close the public hearing.

Commissioner Roper SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at approximately 11:05 a.m..

The regular meeting reconvened.

REVIEW AND POSSIBLE ADOPTION OF ORDINANCE 15-11-03, AN ORDINANCE OF THE MILLARD COUNTY COMMISSION AMENDING THE ZONING MAP OF MILLARD COUNTY TO RECLASSIFY CERTAIN PROPERTY FROM AG20 TO AI; RAY E. LYMAN AND COLLEEN LYMAN, APPLICANTS. APPLICATION Z-2015-028.

Commissioner Draper said that Millard County is founded upon agriculture and feels that it should be promoted. He said that indications are that the neighbor does not have a problem and the owner should be able to get the required odor waiver.

Commissioner Draper made a motion to adopt Ordinance 15-11-03, an ordinance of the Millard County Commission amending the zoning map of Millard County to reclassify certain property from AG20 to AI; Ray E. Lyman and Colleen Lyman, Applicants. Application #Z-2015-

028.

Commissioner Roper SECONDED the motion. Clerk Rowley called for a roll call vote. Commissioner Roper voted YES. Commissioner Draper voted YES. Commissioner Withers voted YES. The voting was unanimous and the motion carried.

REVIEW OF THE PUBLIC DEFENDER CONTRACT

Attorney Tate Bennett expressed some concerns and informed the Commission of a report from the Sixth Amendment Center that was released last Thursday with recommendations regarding public defenders. He said the report does not have any binding laws and there is no State Statute that Millard County do anything different from what it is currently doing.

Attorney Bennett informed the Commission that the report indicates that public defender contracts, in general, create a financial conflict of interest in that there is conflict between the public defender's personal financial gain and the indigent defendant's defense. The recommendation in the report is to remove that conflict of interest from the contract and to put the public defender on more equal footing as the prosecutor.

Attorney Bennett said he will go over his contract in detail at the budget meeting scheduled later today.

Attorney Finlinson advised the Commission to double the current budget for the public defender, as he recommended at a previous commission meeting. He said that this has been an issue for awhile and could get much more aggressive.

4-H EXTENSION THANK YOU

Emery Hare, Beau Gehre and Jaren Camp, 4-H Extension, expressed their appreciation to the Commission for its support of the 4-H program. They each spoke of the skills and attributes they have learned from being a part of 4-H Extension.

PUBLIC INPUT

Wayne Jackson, Military Liaison, said that the Veterans Home in Payson is listed as a Millard County project. He said that the Veterans Home is doing a Sub for Santa on December 4, 2015. They will let the Veterans staying there pick out gifts and send them to whoever they want.

Mr. Jackson said that the veterans honor this year is to put a green light on your porch and he hopes that people will do that. He has asked the local stores to stock green lights and he expressed his appreciation to those stores for supporting the veterans.

Mr. Jackson reminded the Commission that they are invited to the Veterans Day dinner on November 11, 2015. He said that both Delta and Fillmore will be holding a dinner.

Mr. Jackson said that the United States Navy, with two chiefs and a bugler, along with the local American Legion, were at the funeral for Gwendolyn Rowley. He said that it was a wonderful ceremony and she was a great lady who will be missed. A picture of her from last year's Honor

Flight is up at the Legion Hall.

Robert Cady, Physics Department at University of Utah, said that he is here on behalf of the Cosmic Ray Project. He said that there has been a small problem at the facility, car headlights shining inside the facility have been affecting the electronics for several hours after. He said that they would like to install vehicle sensors on both sides of the road by the facility, so when a car goes by they can turn off their high voltage until the car has passed. They have done a few experiments and have found that the sensors do not always work on the side of the road and would like to bury at least one sensor under the road.

Commissioner Withers said that he talked to Brandon Winget, Road Supervisor, and he is willing to work with Mr. Cady on this. Mr. Cady will contact Mr. Winget.

OTHER BUSINESS

Auditor Grace said she received a hardship abatement for Joel Meinhardt, account #167388. She gave the letter of explanation to the commissioners to review.

Auditor Grace reminded the Commission that they have the authority to approve or deny hardship abatements. She said the total tax is \$1,256.09, which includes five acres. She said that hardship abatements are for the primary residence only, which is only on one acre.

Commissioner Withers reminded the Commission that in the past the County has done a 25% abatement.

Commissioner Roper made a motion to approve the hardship abatement, abating 25% of the tax for Joel Meinhardt, account #167388.

Commissioner Draper SECONDED the motion.

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

Commissioner Withers said that he received a call from Max Wood, West Millard Recreation. He would like a discussion with the commissioners regarding wage disparity between supervisors and referees/umpires. The commissioners will discuss this further with Mr. Wood when he comes in with the Recreation Budget.

Commissioner Withers said Mr. Wood also informed him that he will be retiring March 31, 2016. The process for hiring for that position will begin at the first of the year.

Commissioner Draper asked Attorney Finlinson if he received the GRAMA request from Holland and Hart about public defenders.

Attorney Finlinson said that GRAMA request is exclusively for the County Attorney's Office. It is an overwhelming request, so the Attorney General's Office has asked for more time to respond. He will be meeting tomorrow with all 29 elected County Attorney's in the State to hopefully come up with a unified response. This is all in anticipation of an ACLU lawsuit.

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

Attorney Finlinson advised the Commission to settle on a policy for the hiring procedures in the County. This policy change will require a resolution and will be brought back at a future commission meeting.

Commissioner Draper said that Sheriff Dekker informed him that Fillmore was without an ambulance one day last week. Sheriff Dekker would like to meet with the commissioners regarding this issue.

Commissioner Draper said that he and Adam Britt met with the BLM last Thursday to discuss the publication of the Millard County Tourism booklet.

Commissioner Draper said that Mike Gates and Joelle McCarthy, BLM, told him that Orion is looking into developing some green energy farms near Milford Wind, but no formal application has been made yet.

Commissioner Draper said that the BLM cancelled the Potash tour tomorrow. They would like to reschedule for November 12-13 or November 19-20, 2015.

Commissioner Roper asked if there was any follow up regarding adding a flashing stop sign to the East Frontage Road near Meadow.

Commissioner Withers has informed Mr. Winget of this request.

Commissioner Roper reported that the Fillmore City Splash Pad is complete.

Commissioner Roper said that he received three bids on the bleachers at the East Millard Soccer Field:

- Tom Haines \$28,600.00
- BSN Sports \$24,189.00
- Kay Park Recreation \$24,972.00

Commissioner Roper will go over the bids with Bart Whatcott, East Millard Recreation, to make sure the bids are to the specifications, and award that contract to the lowest bidder. This item has already been budgeted for.

Commissioner Roper said that he has been talking to Juwi Solar, they are concerned about their project going forward and are asking the County to reconsider approving a Community Development Agency (CDA). He said that he would like a public hearing for this.

Commissioner Draper asked if there was a power purchase agreement in place and would like more information, as he has heard conflicting information.

The commissioners will call Greg Kesler after commission today and get more information.

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 Roper made a motion to adjourn the meeting.

Commissioner Draper SECONDED the motion. The voting was unanimous and the meeting adjourned at 11:56 a.m..

Attest: _____

Approved: _____