

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 3rd DAY OF JANUARY 2017
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Dean Draper Chairperson
James I. Withers Commissioner
Wayne Jackson Commissioner

Pat Finlinson County Attorney
Marki Rowley County Clerk
Lesli Shields Deputy County Clerk

ALSO PRESENT: Hannah Jones Chronicle Progress
Todd Macfarlane Citizen
Deric Despain USU Extension
Pat Manis County Assessor
Robert Dekker County Sheriff
Bonnie Gehre County Auditor

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 Draper to the public and Commission members.

OPENING STATEMENTS

Commissioner Draper asked if anyone had an opening statement to give. Both Commissioner Withers and Commissioner Draper stated that they are looking forward to working with Commissioner Jackson and welcomed him to the board. Commissioner Jackson said that it is an honor to be on the board. Commissioner Withers said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF DECEMBER 20, 2016, COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held December 20, 2016, were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Withers made a motion to approve the minutes of December 20, 2016,

as corrected.

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

APPROVAL OF DECEMBER 27, 2016, SPECIAL MEETING COMMISSION MINUTES

The proposed minutes of a County Commission Special Meeting held December 27, 2016, were presented for consideration and approval. Following review, Commissioner Jackson made a motion to approve the minutes of December 27, 2016, as presented.

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

FOLLOW UP ACTION ITEMS FROM DECEMBER 20, 2016

Commissioner Draper asked if any additional information had been received regarding the application for mitigation of property tax from William Shawn Pitcher and Laurel Sue Hook that was presented at the last Commission meeting. He said that he will follow up with Treasurer Dearden regarding this item.

APPOINTMENT OF THE NEW COMMISSION CHAIRPERSON AND THE CHAIRPERSON PRO TEMPORE

Commissioner Draper made a motion to appoint Commissioner Withers as the new commission chairperson.

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

Commissioner Draper made a motion to appoint Commissioner Jackson as the new chairperson pro tempore.

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

Commissioner Draper will continue as the commission chair through the rest of this meeting and Commissioner Withers will take the chair at the next commission meeting.

ASSIGNMENT OF COMMISSION DUTIES FOR 2017

The commissioners briefly discussed and made several changes to the assignments.

Commissioner Withers made a motion to approve the 2017 Commissioner Duties.

Commissioner Jackson SECONDED the motion. The voting was unanimous and the motion carried. *See attachment.*

DISCLOSURE STATEMENTS

Attorney Finlinson stated that the 2017 disclosure statements will be emailed today to all department heads.

DISCUSSION AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR SAGERS EXCAVATING, OWNER - LANCE SAGERS

A business license application was presented for Sagers Excavating, Owner - Lance Sagers, an excavation, water and sewer main, heavy equipment hauling business. After review of the application and finding all signatures in order, Commissioner Withers made a motion to approve a business license for Sagers Excavating, Owner - Lance Sagers.

Commissioner Jackson **SECONDED** the motion. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPROVAL OF A CELL PHONE ALLOWANCE AND A CREDIT CARD FOR COMMISSIONER WAYNE JACKSON

Commissioner Withers made a motion to approve a cell phone allowance, in the amount of \$120.00, and a credit card with a \$3,000.00 limit, for Commissioner Wayne Jackson.

Commissioner Draper stepped from the chair and **SECONDED** the motion. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPROVAL OF A CELL PHONE ALLOWANCE AND A CREDIT CARD FOR LUANNE MILLER, DELTA COUNTY SATELLITE OFFICE

Commissioner Jackson made a motion to approve a cell phone allowance, in the amount of \$60.00, and a credit card with a \$1,500.00 limit, for LuAnne Miller, Delta County Satellite Office Manager.

Commissioner Withers **SECONDED** the motion. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPROVAL OF A ROAD PROJECT AGREEMENT WITH USDA, FOREST SERVICE & FISHLAKE NATIONAL FOREST

Commissioner Withers said that this is an annual contract with the Forest Service for Mag Chloride, in the amount of \$17,500.00.

Commissioner Withers made a motion to approve a road project agreement with USDA, Forest Service & Fishlake National Forest, in the amount of \$17,500.00.

Commissioner Jackson **SECONDED** the motion. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPOINTMENT OF MEMBERS TO THE MILLARD CARE & REHAB BOARD

Commissioner Draper said that there are three positions on the Millard Care & Rehab Board up for re-appointment and/or replacement. He said that the three positions are currently held by Tony Dearden, Gale Chapman and JoAnn Campbell. He said that he has spoken to all three board members; Mr. Dearden and Mr. Chapman will be re-appointed, and Ms. Campbell will retire from the board. He said that Bonnie Shamo has asked to serve on the board.

Commissioner Jackson made a motion to appoint Tony Dearden, Gail Chapman and Bonnie Shamo to the Millard Care & Rehab Board.

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

Commissioner Draper expressed appreciation to Ms. Campbell for her service on the board.

DISCUSSION AND POSSIBLE ADOPTION OF THE INTERNATIONAL BUILDING CODES 2015

Commissioner Withers made a motion to table this agenda item.

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

The Commission briefly discussed the International Building Code and the Uniform Building Code.

Attorney Finlinson will look further into this agenda item and report back.

CONSIDERATION AND POSSIBLE RESOLUTION OF APPEAL OF RESOURCE MANAGEMENT PLAN (RMP) CONTRACT AWARD

Attorney Finlinson reminded the commissioners that the RMP contract was awarded to Brian Bremner, Beehive Enterprises, on October 4, 2016, under the Other Business agenda line item. It was then ratified as an agenda item at the next meeting on October 18, 2016. In November, Mr. Macfarlane filed a Notice of Appeal/Notice of Claim, which was forwarded to UCIP.

Attorney Finlinson said that a response to the appeal was sent to Mr. Macfarlane indicating that the appeal was not timely and was, therefore, denied. He said that further communication took place and it was decided to invite Mr. Macfarlane to express his appeal.

Mr. Macfarlane stated that he has registered an objection in writing and will state it in person today. He said that his position, under applicable law, is that a person who is exercising the right to an appeal is entitled to fair and reasonable notice and a meaningful opportunity to be heard by a fair and impartial tribunal. He said that he does not consider the Millard County Commission to be an impartial tribunal in this appellate situation, as it is being asked to review its own decision.

Commissioner Draper asked Mr. Macfarlane if he wanted an independent appeal board appointed. Mr. Macfarlane did not request such a board at that time.

Mr. Macfarlane presented the commissioners with a copy of the County Purchasing Policy. He briefly discussed certain portions of the County Purchasing Policy applicable to this appeal. He said that according to the Policy, the County Auditor should be the first appeal.

Mr. Macfarlane briefly discussed the section of the Policy labeled “Use of Competitive Sealed Proposals in Lieu of Bids”. He then discussed the appeals provision of the Policy.

Mr. Macfarlane presented the commissioners with a copy of the Request for Proposal (RFP), for the RMP, that was advertised in the local newspaper and briefly discussed what it entailed. He then discussed the time line that took place from when he submitted his proposal to when the proposal was awarded.

Mr. Macfarlane said that he received a letter from Attorney Finlinson stating that his Notice of Appeal was untimely. The Policy states that an appeal should be filed within 5 days of when a person knows or should have known of the decision. He stated that he knew of the decision on November 14, 2016, and filed his appeal on November 17, 2016. He stated that he was never given reasonable notice of the decision; he had to search through the minutes to find that the decision was made.

Mr. Macfarlane stated that Millard County has not complied with its Purchasing Policy or with how the appeal should be handled. He said that there are no written findings on file at the County Clerk’s Office; the only thing that is available is the commission minutes. He briefly discussed the commission minutes relevant to the RMP.

Mr. Macfarlane said that it is his position that, as a matter of practice, it appears that Millard County routinely deprives applicants and prospective contractors of the right of due process, by not giving them fair and reasonable notice of their rights under the Purchasing Policy, including the right to appeal.

Attorney Finlinson stated that in April 2015, the County Purchasing Policy was amended, however, it was not published. He said that the Purchasing Policy that Mr. Macfarlane is referencing has since been amended and will likely be revised further in the future. He then provided Mr. Macfarlane with a copy of the current Purchasing Policy.

Mr. Macfarlane stated that it is his opinion that the County needs to take action in this case to comply fully with its Purchasing Policy. By violating its Policy, it deprived a local service provider from receiving the RMP contract, as well as depriving the local economy.

Attorney Finlinson advised the commissioners to not act on the appeal today, as he would like time to research some of the points raised today. The commissioners agreed.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 17-01-03, A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MILLARD COUNTY, UTAH, AMENDING RESOLUTION 13-01-22 (ADOPTING MILLARD COUNTY’S STEP & GRADE POLICY) BY CHANGING, RENAMING, ELIMINATING AND/OR ADDING POSITIONS IN THE STEP & GRADE SCALE AND ASSIGNING THE APPROPRIATE PAY GRADES TO NEW OR CHANGED POSITIONS

Attorney Finlinson stated that there are several positions in the Delta County Satellite Office that need consideration. He said that it has recently been discovered that the County Planner position had been combined with the Landfill Manager position on the Step & Grade Scale, which Sheryl Dekker held until she retired; she also held the Delta Office Manager position. LuAnne Miller has

since been promoted to the Delta Office Manager position, which was already a separate position.

Commissioner Draper briefly discussed the positions in question in the Delta Office; the County Planner, County Landfill Manager and the County Building Inspector. He stated that it is his opinion that the County Landfill Manager and the Delta Office Manager should be combined into one position, which would still be held by Ms. Miller.

Commissioner Withers and Commissioner Jackson both agreed that combining the County Landfill Manager and the Delta Office Manager would be a good idea.

Commissioner Withers made a motion to approve Resolution 17-01-03, a resolution of the Board of County Commissioners of Millard County, Utah, amending Resolution 13-01-22 (adopting Millard County's Step & Grade Policy), combining the Delta Office Manager and the Landfill Office Manager, with a grade designation of 12.

The motion was later retracted.

The commissioners briefly discussed whether to combine the County Planner and the County Building Inspector positions or to keep them separate. The possible step & grade was also discussed for each position. Combining positions and defining duties will most likely result in the need for a higher paid position than currently exists under step and grade.

Sheriff Dekker asked for the commissioners to reconsider updating the policy regarding giving only one year credit for experience. He said that he has lost a lot of great deputies because of that policy.

The commissioners agreed that this policy should be looked at and discussed further.

Commissioner Withers made a motion to approve Resolution 17-01-03, a resolution of the Board of County Commissioners of Millard County, Utah, amending Resolution 13-01-22 (adopting Millard County's Step & Grade Policy) by changing, renaming, eliminating, and/or adding positions and making appropriate step and grade assignments. The Planning & Zoning Director/Landfill Manager positions will be severed. The Delta Office Manager and Landfill Office Manager will be combined, with a grade designation of 12; the County Planner will now be a separate position with a grade designation of 16.

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

PUBLIC INPUT

There was none.

OTHER BUSINESS

Sheriff Dekker presented a payroll change notice for Joshua Leugers. He also presented a request for a cell phone allowance for Daniel McCann, a new deputy in the jail.

Commissioner Withers made a motion to approve a cell phone allowance for Daniel

McCann, in the amount of \$40.00.

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

Commissioner Withers expressed appreciation to Sheriff Dekker regarding his deputies. He said that he observed a deputy at Maverik talking to several special needs adults in the parking lot; who also gave them a badge of some sort. He said that he appreciates that the Sheriff's Office goes out of their way to spend time with the youth and special needs in the County.

Commissioner Draper said that there will be an informational meeting held January 5, 2017, at 6:30 p.m., at the County Fairgrounds in Delta; to collect information and discuss a possible zone change from AG20 to AG Industrial, for Smithfield Hog Farms. He said that it was originally advertised to take place in Deseret; signs have been put up in Deseret indicating the change of location. This meeting was later rescheduled due to inclement weather.

Commissioner Draper said there will be a public hearing tomorrow night, during the regular Planning Commission meeting, at the Millard County Office in Delta, regarding a proposed zone change to AG Industrial on the Millard County/Beaver County line, for Smithfield Hog Farms. He said that this hearing is not connected to the zone change in Deseret.

Commissioner Draper said that there will be a meeting January 11, 2017, at 7:00 p.m., at the Millard County Office in Delta, for anyone who grazes sheep or cattle in Millard County. He said that the Governor's Office, the BLM and Forest Service will all be in attendance. He said that a meeting between those entities and the commissioners will take place January 12, 2017, at an undetermined time.

Commissioner Draper said that Central Utah Public Health wants to conduct a public hearing February 1, 2017, at the Millard County Office in Delta, during the regular Planning Commission meeting. The public hearing is to discuss non-public water systems, which includes wells that produce water for seven or less dwellings. He said that a notice will be submitted to the local newspaper.

Commissioner Jackson said that the next Intergenerational Poverty meeting will be held January 12, 2017, in Delta.

Commissioner Jackson said that he and Commissioner Draper will be attending a meeting with Six County tomorrow morning in Richfield.

Commissioner Withers said that he will be attending the County School Board meeting January 12, 2017, in Delta. He said that the commissioners are on the agenda regarding the School Resource Officers (SRO).

Commissioner Withers briefly discussed the possibility of a fencing project on SR 257, south of the lime plant and said that he will be looking into some options.

Commissioner Withers asked for advisement from Attorney Finlinson regarding selling certain County property east of the Indoor Arena in Fillmore.

Attorney Finlinson will look into this and let him know what he finds.

Commissioner Withers said that the County Road Department generally spends Christmas pushing snow, without getting paid overtime. He said that he would like to discuss this issue further in the future.

Attorney Finlinson will look into this further.

Commissioner Jackson briefly discussed the East Millard Recreation and East Millard Swimming Pool Supervisor positions.

Attorney Finlinson advised that any changes made will have to be approved through resolution, as well as any job description changes must be approved by Kaela Jackson, Human Resources.

Commissioner Jackson briefly discussed the playground in Flowell that was discussed at a previous commission meeting. He said that there may be outside funding possibilities.

The commissioners stated that when this item was previously discussed, there were not any approvals given by the commission, it was only a discussion.

Commissioner Withers expressed appreciation to Commissioner Draper for being the commission chairperson for the last year.

Clerk Rowley expressed appreciation from the Clerk's Office for the employee bonus.

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

There was none.

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 adjourned the meeting at 12:20 p.m..

Attest: _____

Approved: _____