

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 13th DAY MARCH OF 2018  
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Wayne Jackson..... Chairperson  
Dean Draper..... Commissioner  
James I. Withers..... Commissioner  
  
Pat Finlinson. .... County Attorney  
Marki Rowley. .... County Clerk  
Jamie Hair. .... Deputy County Clerk

ALSO PRESENT: Frank Paxton. .... Kanosh Town  
Kevin Bunnell & Lynn Zubeck. .... Division of Wildlife Resources  
Barb Clark. .... Chronicle Progress  
Travis Kyhl. .... Six Counties  
Mike Holt & Dena Iverson.. .... Fillmore City  
Dent Kirkland.. .... Delta City  
Brian Stephenson & Jim Masner. .... Holden Town  
Ronald Wilson. .... Lynndyl Town  
Adam Richins & Demar Iverson. .... Planning and Zoning  
Pamela Anderson. .... Scipio Town  
Ed Philips, David Gray & Judd Harwood. .... Citizens  
Steve Styler. .... Styler -Daniels P.C.  
Susan Wilcox, Margene Stevens & Pat Manis. .... Assessor's Office  
Robert Jones & Melanie Jones.. .... Quality for Animal Life, Inc.  
Sheri Dearden . .... County Treasurer  
Scott Barney. .... Millard County Economic Development Association (MEDA)  
Jamie Carter & Rylee Church. .... American Legion  
Tom Peters. .... Peters Scofield  
Bonnie Gehre. .... County Auditor

Note: Not all agenda items were followed in order.

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 Jackson to the

public and Commission members.

#### OPENING STATEMENTS

Commissioner Jackson 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 FEBRUARY 20, 2018, COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held February 20, 2018, were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Draper made a motion to approve the minutes of February 20, 2018, as corrected.

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

#### FOLLOW UP ACTION ITEMS FROM FEBRUARY 20, 2018

There were none.

#### RATIFY THE MOTION TO CHANGE THE MARCH 20, 2018 COMMISSION MEETING TO TUESDAY, MARCH 27, 2018

Commissioner Withers made a motion to ratify the motion to change the March 20, 2018 commission meeting to Tuesday, March 27, 2018.

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

#### RATIFY THE APPROVAL OF A BUSINESS LICENSE FOR ROWLEY HOMES, OWNER - RETT ROWLEY

This business application was approved by the commission prior to this meeting to help the business owner meet specific deadlines.

A business license application was presented for Rowley Homes, Owner - Rett Rowley, a business that buys, fixes, and sells homes. After review of the application and finding all signatures in order, Commissioner Draper made a motion to ratify the approval of a business license for Rowley Homes, Owner - Rett Rowley.

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

#### DISCUSSION AND POSSIBLE APPROVAL OF REDUCING OR WAIVING THE FACILITY USE FEES FOR THE HINCKLEY LIONS CLUB DEMOLITION DERBY

Commissioner Withers said that the Hinckley Lions Club has asked for reduced or waived facility use fees. He said that the Lions Club is concerned that the revenue won't be as high since the demolition derby will be held during the week. He said that the County currently charges the Lions Club \$700.00 which is half of what is normally charged and that the Lions Club also pays about \$600.00 for the cleanup and reclamation of the arena afterwards. Commissioner Withers said that this consideration will be a one time reduction for 2018.

Commissioner Draper said that the demolition derby is the Lions Club main money generating event and that the money is used to carry out their functions. He said that the Lions Club assists the community in many ways specifically with eye care. Commissioner Draper said that the clean up in the arena involves a lot of plastic which increases costs. He said that the usual facility use fee is \$1,400.00 and that the County currently charges the Lions Club \$700.00. He said that he would like to reduce the facility use fee by \$1,050.00 and charge the Lions Club \$350.00 for 2018.

Commissioner Draper made a motion to reduce the facility use fees for the Hinckley Lions Club Demolition Derby to \$350.00.

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

#### DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 18-03-13, AN ORDINANCE AMENDING ORDINANCE 18-02-20 TO CORRECT THE LEGAL DESCRIPTION

Attorney Finlinson said that this ordinance was passed at a previous commission meeting but that the Recorder's Office realized that there was an errant call in one of the parcels described. He said that this is the same ordinance that was already passed with the corrected parcel and that another ordinance needs to be approved because ordinances can't be amended. Attorney Finlinson said that this ordinance is the ordinance that will be published and will predate the moratorium approved at the last commission meeting.

Commissioner Withers asked Attorney Finlinson if the moratorium applied only to future projects. Attorney Finlinson confirmed that the moratorium only applies to future projects.

Commissioner Withers made a motion to adopt Ordinance 18-03-13, an ordinance amending Ordinance 18-02-20 to correct the legal description.

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

#### DISCUSSION AND POSSIBLE APPROVAL OF PAYMENT IN LIEU OF TAXES (PILT) DWR - KEVIN BUNNELL

Kevin Bunnell, Division of Wildlife Resources, said that he had a few updates to share with the commissioners and that he will continue to send emails to the commissioners regarding the wildlife in the State. Commissioner Draper explained to those in attendance, what those emails contained and expressed his appreciation to Mr. Bunnell for sending the emails. Mr.

Bunnell thanked the commissioners for their continued support with the sheep management program in the Oak Creek Mountains. He said that they are having their first sheep hunt and it has been successful. He said that the rams released this year are still doing very well.

Commissioner Draper asked how a hunter obtains the sheep permits. Mr. Bunnell said that the permits are usually given through the DWR draw, but occasionally a conservation permit is auctioned through the sportsman organizations. He said that when a permit is auctioned, 90% of the funds go back to the DWR and are allocated to habitat treatments.

Mr. Bunnell said that the DWR has really good employees in Millard County. He said that the DWR's biggest concern is that the water at Clear Lake is at a fraction of what it has been in the past. He said that they view it as part of their job to share their concerns.

Mr. Bunnell asked the commissioners if they had heard any comments regarding closing the goose hunt during the Snow Goose Festival. He said that this year they shortened the closure and it appears to be working well from their point of view.

Commissioner Draper said that the fear in the community is that children may be observing the geese during the festival when hunters fell them. Mr. Bunnell said that if children do see this, it may be a good teaching opportunity because, in this case, hunting is being used as a conservation tool to benefit the goose population.

Commissioner Withers said that the farmers are happy with the shorter closure because of the issues it causes with their farmground.

Mr. Zubeck said that the hunting window has been a great tool to move the geese and the schedule has worked well. He said that the festival activities at the reservoir have been scaled down and moved to the Community Center in Delta which has increased tourism within Delta City.

Commissioner Draper asked if the State Engineer has been contacted about irrigation and development practices for Clear Lake. Mr. Bunnell said that the State Engineer is aware of the issues at Clear Lake and he understands that a grant has been received to put water meters in a local water district. He said that water meters may be the best step forward from the DWR's point of view.

#### DISCUSSION AND POSSIBLE APPROVAL OF PRIORITIZING THE COMMUNITY IMPACT BOARD (CIB) LIST - TRAVIS KYHL, SIX COUNTY ASSOCIATION OF GOVERNMENTS (AOG)

Travis Kyhl, AOG, presented a handout for review. He said that Community Impact Boards (CIB) are happening statewide and that the capital improvement projects are required to be prioritized on a county level. Mr. Kyhl said that this year they collected the information through an online survey, for the first time, to see if they could get more complete and accurate information. He said that the process did work well, but a few of the numbers on the handout do not add up and need to be clarified today. He said that the list on the handout can be added to today and that the commissioners need to place the projects in order of prioritization.

Mr. Kyhl said that he was not contacted last year by anyone on last year's list about where their project was placed on the priority list. He said that the CIB looks at each funding project on its own merit. If a city's project is placed low on the priority list, it still may be looked at and awarded funding.

Commissioner Draper asked if the jail remodel needed to be added to this list because that project was unable to move forward last year. Mr. Kyhl said that these projects don't carry over from year to year, therefore, the jail remodel would need to be added to this year's list.

Commissioner Jackson invited each city representative to present their project.

Michael Holt, Mayor of Fillmore City, said that Fillmore City wants to finish roads in order to connect and open up some areas for growth. He said that he anticipates that there will be some growth in Fillmore and the City wants a place for developers to build homes.

Mr. Kyhl asked if the estimated cost listed on the handout of \$1,500,000.00 was accurate. Mayor Holt said the \$1,500,000.00 is an estimate but, that they are hoping for that amount.

Dent Kirkland, Delta City, said that an updated master plan is needed for Delta City. He said that the last master plan was done in the early 1980's. He said that they have been working with Six Counties on the cost of the plan and estimated the cost to be \$50,000.00.

Frank Paxton, Mayor of Kanosh, said that Kanosh Town would like to develop a spring for their water system. He said that each time the Kanosh Planning and Zoning Commission meets there are a few families who want to build homes in Kanosh and the City needs water for these families. Mayor Paxton said that the spring is located above the dam up Kanosh Canyon and it is the best spring the City has. He said that they are not currently capturing all the water from it.

Commissioner Draper asked if the \$369,000.00 estimate on the handout would be enough money for the project. Mayor Paxton said that the estimated amount probably would be enough.

Mr. Kyhl said that two engineers have previously looked at this project and estimated that price to be sufficient. He also said that this project's loan amount on the handout of \$268,000.00 shouldn't be there and that he was going to remove that number from the list.

Brian Stephenson, Holden Town, said that Holden has two projects to present to the commissioners for consideration. He said that the Holden Town Hall currently has inadequate storage space and they would like to build an addition. He said that the estimated cost for this project is \$11,000.00.

Mr. Kyhl asked what amount they are asking. Mr. Stephenson said that they are asking for \$7,000.00 and Holden City will come up with the rest.

Mr. Stephenson said that the other project needed for Holden Town is fixing the roads. He said that it has been over 20 years since a chip seal has been done on the roads. He said that they currently maintain the roads by sealing the cracks, but a chip seal really needs to be done because the sides of the roads are starting to break. Mr. Stephenson said that an engineer looked at the roads and recommended to chip seal them.

Mr. Kyhl said that the estimated price to put on the list is \$250,000.00 for the cost of the entire project. He said that \$25,000.00 is for other costs, and \$225,000.00 is the requested CIB grant.

Pamela Sheridan, Mayor of Scipio, said that Scipio Town needs to finish the parking lot

at its community center. She said that they want the parking lot on the front of the building, along the north side next to the museum, and a small section in the back. Mayor Sheridan said that the community center hosts senior lunches three days a week and most of the seniors access the building from the front.

Commissioner Draper asked if any part of the project area lies in the Utah Department of Transportation's (UDOT) right of way. Mayor Sheridan said that she met with UDOT recently and that they are considering putting a cement spillway in the front of the building so that when people back out it won't break the road. She said that she's had one bid on this project, but they didn't physically come measure the area so the price of \$54,000.00 is a broad estimate.

Commissioner Draper asked if UDOT had any objections to this project. Mayor Sheridan said that UDOT seemed to respond positively to the project.

Ronald Wilson, Lynndyl Town Council Member, said that Lynndyl Town's water situation is pressing. He said that Lynndyl Town has been leasing its water from the railroad for over 100 years and now the railroad wants to get completely out of the water business. Mr. Wilson said that they have three wells on railroad property that need to be moved onto town property. He said that Lynndyl Town also needs to purchase 200 acre feet of water from those wells. He said that other things may be needed for the project, such as water tanks, which is why the estimate cost of \$2,000,000.00 is so high. He said that there isn't currently a time frame on this project, but it needs to be completed soon.

Commissioner Draper said that he would like to add the jail remodel to the list with an estimated project cost of \$1.2 million dollars.

Mr. Kyhl said that any water issues presented to the CIB will be tabled unless they have been taken to the Division of Drinking Water, US Department of Agriculture, or any other water resource department for funding first. He said that the CIB wants to be the last to look at water projects. He said that last year there were 11 projects presented in Millard County and that only 2 actually went to the CIB. He said that he is available to help so that the submitted projects from Millard County will meet the requirements to be accepted by the CIB.

Commissioner Draper said that he views the highest priorities as the water projects for Lynndyl and Kanosh Towns and asked if other than meeting with the Water Quality if those projects have met the requirements to move forward to CIB. Mr. Kyhl said that they had met the requirements and that the CIB needs to see that they have gone through the process to apply and meet with the water departments and the engineers that the cities are going to be working with. He said that he will help the Cities through the process once they indicate they are ready to move forward.

The Commission prioritized the list as follows:

- 1-Lynndyl Town- Municipal Water Assets
- 2-Kanosh Town- Spring Development
- 3-Scipio Town- Parking Lot
- 4-Millard County- Jail Remodel

- 5-Holden Town- Chip Seal Roads
- 6-Delta City- Master Plan
- 7-Fillmore City- Complete Unfinished Roads
- 8-Holden Town- Storage Room

Commissioner Withers asked if there is a way for the County to contract with Holden Town to save money on chip sealing since the County already has the man power and equipment. Attorney Finlinson said that there is no legal issues with doing that. Commissioner Withers said that it would save taxpayers money and asked how many miles Holden needs to chip seal. Mr. Stephenson said that there are about 6 miles of road to chip seal.

#### POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND/OR ACTION

Commissioner Withers made a motion to enter into a BOE.

Commissioner Draper **SECONDED** the motion. The voting was unanimous and the motion carried. The BOE began at 10:43 a.m..

Margene Stevens, Assessors Office, presented a handout for review.

Pat Manis, County Assessor, stated that to begin, the appellant has the opportunity to state its case as to why they think the County made the wrong decision.

Melanie Jones, Secretary for Quality of Animal Life, said that they have had tax exempt status on this property for nearly twenty years and that the purpose of the land hasn't changed. She said that a year ago they went to a BOE with the state of Utah regarding this same issue, with Sevier County, and Sevier County's decision was overturned. She said that they appealed to Millard County for the same reasons.

Commissioner Withers asked why Quality for Animal Life should be tax exempt. Mrs. Jones said that it was granted in the past because it is a wild life refuge where animals are free to roam and the land is undeveloped. She said that they are a charity and are not making a profit from this property.

Commissioner Withers asked how they fund their activities if they don't make a profit and if the charity was run by volunteers.

Robert Jones, Trustee for Quality for Animal Life, said that this is a family run charity and that they have another corporation, Autonomy Inc., which makes donations to run this program. He said that Autonomy Inc. sells properties and that Quality for Animal Life holds properties for wildlife. Mrs. Jones said that they also have had other public donations and that Quality for Animal Life funds their activities on donations only.

Commissioner Withers said that he is concerned when the County grants tax exempt status to organizations or individuals because the County still has infrastructure costs and the obligation to provide the citizens of the County with basic necessities.

Commissioner Draper asked if there are other people involved in the organization besides members of the Jones family. Mrs. Jones said that they have had volunteers in the past and that some have passed away or moved away. She said that her husband was the biggest proponent for Quality for Animal Life and that he has since passed away. She said that since his passing, they have been in a holding pattern trying to decide what direction they should take with the charity.

She said that to be taxed on something that they hadn't been taxed on in the past is putting them in a bind. She said that the purpose of the charity was originally intended to create research facilities. She said that the land was an investment for that purpose, but at the same time they have been holding it as a wildlife refuge and not renting or leasing the land in the meantime.

Commissioner Draper asked if they let cattle graze on the property. Mrs. Jones said that they do not allow grazing and that any cattle on the property would be strays.

Commissioner Draper said that he hasn't seen any signs marking the property as a refuge and asked if they are required to put up signs indicating that it is a wildlife refuge.

Mrs. Jones said that there has been no trespassing signs along the property in the past. She said that they will go out again this summer to make sure that there are still signs posted.

Commissioner Draper asked Attorney Finlinson what is the standard requirement for the amount and space between signs on a property.

Attorney Finlinson said that the spacing between signs varies by use of the property and that there doesn't appear to be a standard. He said that he suggested to meet as a BOE because of the decision in Sanpete County which ignored the fencing requirement. He said that in the tax exempt language the standard of practice is to have some markings or fencing to clearly delineate the property.

Attorney Finlinson said that he felt it would be in an abundance of caution to bring this issue before the commissioners to be considered, but he doesn't think there is a standard in this context for how close the signs need to be.

Commissioner Draper said that it appears that the land is currently being held in reserves so that it can eventually be sold for development and that they are asking for tax exempt status on an investment. Mrs. Jones said that if they sold the property, the money made would still be for charitable use.

Commissioner Jackson asked how large this property is. Assessor Manis said that the property consists of 999.09 acres on county records. Assessor Manis said that he understands their frustration with their tax exempt status changing after being tax exempt for many years and gave a brief synopsis of the history of the BOE. He said that Quality for Animal Life owns properties in 9 counties and that this has happened previously in Sanpete and Sevier Counties. He said that Quality for Animal Life has won appeals with the State Tax Commission in both of those counties, but there are substantial differences between those counties and Millard County.

Assessor Manis referred to Exhibit 1 of the handout and said that Quality for Animal Life meets all six qualifications to receive a charitable exemption and that this is not why they were denied by his office. Assessor Manis then referred to the maps in the handout. He said the largest map shows all of the property owned by Quality for Animal Life and they have found and marked where two "No Trespassing" signs were found. Assessor Manis said that those two signs are exactly 12 inches by 8 inches and he referred to S1 and S2 of the handout that show pictures of those signs. He said that the handout page showing a picture of parcel 3973-2 which is next to the county landfill has evidence of cattle grazing there. Mrs. Jones said that she was not aware that cattle are grazing on the property.

Assessor Manis said that the term "Exclusive Use" in the Utah Tax Code states that property must be used exclusively for religious, charitable, or educational purposes which is where he finds an issue. Assessor Manis referred to Exhibit 1 of the handout under the Utah Tax Code section and further defined the terms of Exclusive Use.



Assessor Manis referred to Exhibit 3 of the handout and read through the statements from the Utah Tax Commission where they found it acceptable to give Quality for Animal Life tax exempt status in Sanpete and Sevier Counties. He said that several exemptions are allowed by the State and that there are qualifications that tax payers have to abide by to receive these exemptions. He said that Quality for Animal Life has inadequate signs marking this property as a wildlife refuge and that there are also cattle grazing on the property which are competing with the wildlife for forage. He said that, in his opinion, Quality for Animal Life is not holding up to their agreement to have tax exemption status.

Assessor Manis asked that the 2017 tax exemption decision to be upheld by the BOE. He said that this property will be reviewed again and that this decision is for the 2017 tax year only.

Commissioner Jackson asked if proper signs and fencing is the main issue. Assessor Manis said that Quality for Animal Life needs to have more signs posted to prevent people from hunting and cattle from grazing on the property. He said that the signs posted are inadequate and no one would know that this is a wildlife refuge.

Attorney Finlinson said that fencing is not a requirement specifically in of itself only in so far that it affects the exclusivity of the property. He said that this is the only reason fencing might be an issue in this case.

Commissioner Draper referred to the large map and said that the Bureau of Land Management (BLM) owns a large property along Highway 50. He said that he is guessing the cattle are coming from the BLM allotments and that there are fencing requirements for that. Attorney Finlinson said that exclusivity of use overrides the fencing issue.

Commissioner Withers asked Assessor Manis what makes this case different from the previous Sanpete and Sevier county cases where the state sided with Quality for Animal Life. Assessor Manis said that exclusive use has never been argued before the Tax Commission. He said that he doesn't know if this argument will be successful, but he has researched this issue to the best of his ability and those he's worked with in the Property Tax Division have said that he is correct in what he is doing.

Commissioner Withers asked Quality for Animal Life if they have plans to put up more signs and the other things required for tax exempt status. Mrs. Jones said that they are going to do that this summer, and that she was unaware that the other signs had disappeared. Assessor Manis said that his office wouldn't have appealed if there had been adequate signs.

Commissioner Draper said that the situation is correctable. He said that if the BOE holds the decision, this tax exempt status will be denied for 2017. Assessor Manis said that the lein dates are January 1<sup>st</sup> of every year and that Quality for Animal Life will likely be denied tax exempt status for 2018 as well, because the changes weren't completed by January 1<sup>st</sup>, 2018. Assessor Manis said that this BOE can only decide on the 2017 tax year.

Commissioner Draper said that the law is the law and because in 2017 the conditions were in place to deny tax exempt status he thinks the denial should stand.

Commissioner Draper made a motion to let the denial stand.

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

Commissioner Withers made a motion to close the BOE.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried. The BOE closed at 11:19 a.m..

#### REVIEW OF FINANCIAL REPORTS - TREASURER DEARDEN

Treasurer Dearden presented the financial reports for the month of February 2018. She said that the first three pages show the Pool Cash Report and that the third page shows credits that they are holding to apply to future invoices. Treasurer Dearden said that they are still holding distributions on the Mosquito Abatement District. Commissioner Withers asked Treasurer Dearden if she had heard from the Mosquito Abatement District. Treasurer Dearden said that she hasn't heard from them, but she has sent them a letter.

#### DISCUSSION AND POSSIBLE APPROVAL OF FUNDING FOR THE AMERICAN LEGION LADIES AUXILIARY GIRLS STATE - MIRIAM WADDINGHAM

Rylee Church thanked the commissioners for the donation that allowed them to attend Girls State last year. She said that she learned parliamentary procedure and how the court system works and that it was a great experience.

Jamie Carter said that she made some college connections and decided on what she wanted to do as a career. She said that attending Girls State is an amazing opportunity and she was able to see how diverse the people of Utah are.

Commissioner Jackson asked if attendees received scholarships. Miss Carter and Miss Church said that they both received scholarships.

Miss Church said that they are asking for \$1,200.00 total to give 6 girls \$200.00 each to attend Girls State.

Commissioner Draper asked if there are other fund-raising activities taking place to raise money. Miss Carter and Miss Church said that there are no other fund-raising activities and that they are not asking for donations from Delta City. Miss Church said that the girls come up with the rest of the money required to attend Girls State.

Commissioner Withers made a motion to approve funding in the amount of \$1,200.00 for the American Legion Ladies Auxiliary Girls State.

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

#### DISCUSSION AND POSSIBLE APPROVAL FOR THE RENEWAL OF MILLARD COUNTY'S ENTERPRISE ZONE- SCOTT BARNEY

Scott Barney, Millard County Economic Development (MEDA), said that the current zone expired at the end of 2017. He said that this is mostly procedural, and if the State designates this zone again, it will be dated January 1st, 2018, to not allow for a lapse. Mr. Barney said that this zone encompasses all of the unincorporated areas of Millard County. He said that enterprise zones are a state designated zone that allows employers to qualify for a tax break on new employees or capital investments.

Commissioner Draper asked if there is a form to sign. Mr. Barney said that today he is asking for permission to draft a letter of support to renew the zone.

Commissioner Jackson asked how close the enterprise zone is to the census zone. Mr. Barney said that they are a little different and explained some of the differences.

Commissioner Draper made a motion to authorize Mr. Barney to create a letter of support to renew Millard County's enterprise zone.

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

#### DISCUSSION AND POSSIBLE APPROVAL OF AN INTERLOCAL COOPERATIVE AGREEMENT BETWEEN JUAB COUNTY, MILLARD COUNTY, PIUTE COUNTY, SANPETE COUNTY, SEVIER COUNTY, AND WAYNE COUNTY FOR THE PURPOSE OF FORMALIZING AND MEMORIALIZING THE CREATION OF CENTRAL UTAH PUBLIC HEALTH DEPARTMENT (CUPHD), TO MORE EFFICIENTLY PROVIDE PUBLIC HEALTH SERVICES FOR THEIR CITIZENS

Attorney Finlinson said that the 50 year duration is standard for this type of contract and that the County is required to be a part of one of these. He said that this agreement says what it is expected to say.

Commissioner Draper made a motion to approve a 50 year Interlocal Cooperative Agreement Between Juab County, Millard County, Piute County, Sanpete County, Sevier County, and Wayne County for the purpose of formalizing and memorializing the creation of Central Utah Public Health Department (CUPHD), to more efficiently provide public health services for their citizens.

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

#### DISCUSSION AND POSSIBLE APPROVAL OF AN EAST MILLARD COUNTY SWIMMING POOL PROPOSAL

Commissioner Jackson said that the proposal includes employees duties and descriptions, staff meetings, pool responsibilities, and state codes.

Commissioner Withers asked if this proposal was just for East Millard. Commissioner Jackson said that it was written for East Millard because of an issue at the West Millard Swimming Pool, but it can be a policy for both sides. Commissioner Withers asked what that issue was. Commissioner Jackson said that it was a near drowning and they felt that clearing and posting policies on the pool wall were necessary.

Commissioner Withers brought up a different near drowning and the West Millard Swimming Pool and said that the procedures were followed by that lifeguard at the pool and that young boy was saved because the lifeguard did exactly what he was supposed to. He said that he doesn't want anyone construing that these changes are being made because policy wasn't followed in this instance.

Commissioner Jackson agreed that the lifeguard did everything he was supposed to do, and that this proposal is not a result of that, but that he would like these policies to be put up in the East Millard Swimming Pool. He said that these policies include use of cell phones and is a good policy.

Commissioner Withers said that he would like to reach out to the West Millard Pool Manager Brooks Jackson, to see if he has reviewed this and if he feels it is necessary. He said that he doesn't want any policy changes if there isn't a problem.

Attorney Finlinson said that the East Millard Pool Supervisor, Bart Whatcott, can go ahead and enact this as a policy without the Commission's approval.

Commissioner Draper said that he agreed with Attorney Finlinson.

Commissioner Withers made a motion to strike this agenda item.

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

#### DISCUSSION AND POSSIBLE APPROVAL OF MAKING AN OFFER FOR RED DOME MINERAL RIGHTS

Attorney Finlinson said that this is tremendous material that could last the County over 100 years. He said that he has an appointment with the BLM lawyers in two weeks to make sure that the reclamation and validity issues won't carry over if the County were to purchase these rights. Attorney Finlinson requested that this item be tabled until the April 17, 2018 Commission Meeting.

Commissioner Draper made a motion to table this agenda item.

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

#### DISCUSSION REGARDING A LETTER RECEIVED FROM T MOBILE NOTIFYING THE COUNTY OF ITS INTENT TO BEGIN 600MHZ OPERATIONS

Commissioner Withers said that T-mobile has been asking counties in Utah to release some of their bandwidths. He said that the County received this letter stating that there will be some changes. He said that the State has promised to help the Counties financially if necessary and that he hopes that the transition will be smooth.

Commissioner Draper said that the deadline for this is July 2018.

#### DISCUSSION REGARDING WRITING A LETTER OF SUPPORT TO THE UTAH PUBLIC SERVICE COMMISSION CONCERNING CELL PHONE SERVICE IN THE KANOSH AREA.

Mr. Phillips said that he appreciates the commissioners quick response to this. He said that the cell phone service in Kanosh has been horrible since service was initially put in the area. Mr. Phillips said that last week a lot of complaints regarding this issue from residents of Kanosh

were posted on Facebook. He said that these comments caught his attention and he has wondered why the poor service is just in Kanosh. He said that he would like the commissioners to write a letter in order to see if this item can be addressed. He said that the residents of Kanosh have reached out to their carriers and have not received much help. Mr. Phillips said that more and more people are reliant on cell phones for a variety of important services.

Attorney Finlinson said that the argument could be made that this is a public safety issue.

Commissioner made a motion to have Commissioner Draper write a letter of support to Verizon Wireless concerning cell phone service in Kanosh, Utah.

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

#### DISCUSSION REGARDING VACATING OR MAINTAINING COUNTY ROAD LOCATED ON 4000 N. WEST OF SR 100.

Attorney Finlinson went over the procedural history to give a clear record of this issue. He said that Mr. Gray initially came to the County Commission to develop a road or at least make it possible for him to take advantage of the franchise of Flowell Electric and have power lines installed. Attorney Finlinson said that it wasn't apparent to him at first that this was a road, but that Mr. Gray provided documentation of it being a road and Attorney Finlinson said that the courts would likely recognize this as a road. He said that legally, there is a road, not physically. He said that the Harwoods are against the development of that road and that the discussion today is to have the County decide to develop the road or vacate it.

Mr. Harwood said that he purchased this property over 10 years ago from Glade Stevens. Mr. Harwood presented a current county road map for review. He said that the map shows that the road dead ends at the middle of the section where a house used to be. He said that the County has never improved the road past this point. Mr. Harwood said that he has spoken with prior property owners who said there hasn't been anything done to the road since 1995. He said that he also spoke to Robert Stephenson who worked for the roads from 1972-2017 and Mr. Stephenson said that since 1995 the road has never been graded past where it dead ends. He said that he has also contacted Road Supervisor Brandon Winget and former Road Supervisor Thayne Henry who both said that the road hasn't been maintained past where it dead ends. Mr. Harwood said that there is not physically a road there, only a hayfield. He said that his opinion is that extending the road is only for Mr. Grays benefit. He said that they are not blocking Mr. Gray's access because there are three other accesses to Mr. Gray's property. Mr. Harwood said that this road is just the cheapest option for Mr. Gray to get power.

Attorney Styler said that since 1995 when this property was converted to agricultural use, the County has done nothing to this road. He said that he has prepared a formal petition to vacate and they are asking Millard County to abandon whatever claims it thinks it may have on this road beyond the dead end point. He said that since 1995, the County has not touched this road and that it has been a hay farm for 23 years. Attorney Styler said that the deeds that Mr. Gray may reference do not specify or designate the length of the road.

Mr. Harwood said that when he deeded the property to Mr. Gray there was no

representation that there was a road there. He said that putting the power lines through his property is not a necessity. Mr. Harwood pointed out the other accesses on the map to the Commissioners and said that he is not trying to deny something that Mr. Gray has a right to.

Mr. Gray said that he is requesting the County maintain the road as he requested back in December. He said that he has previously provided documentation on the road and Utah Code regarding the formal designating and abandoning of County roads. He said that he has made a formal request to Flowell Electric to put power down that road.

Commissioner Jackson asked Mr. Gray why the other accesses available weren't options. Mr. Gray said that the bird refuge road to the north is not an option because the fence cuts into Mr. Harwood's land about 35 feet. He said that Flowell Electric said that he would need an easement from Mr. Harwood to run a line because it may cut into his north two pivots. Mr. Gray said that the south end access is just too long of a run for Flowell Electric's transformer banks. He said that they dug a trench there last year and put wire in it, but that the wire isn't capable of the transmission voltage required. Mr. Gray said that the other options have been met with opposition and dismay by Mr. Harwood. He said that he also spoke with previous owners, Lamar Anderson and Glade Stevens and he has deeds with reservations that go back to 1917 and hydrology maps that show the road was there. He said that he is requesting that the County maintain that road and an easement for power along this road.

Commissioner Draper asked for clarification on the map where the 35 ft. property line is off. Mr. Gray said that it is the section line on the north end of section 21 and the south end of section 16 on the transportation map. He said that he owns the south half of the north half of section 21 and that they are trying to get power to the intersection of sections 28, 29, 20, & 21. He said that it is a half mile to come from the middle of section 21 and that it is about 2 miles from South Bald Mountain Road and Anderson Lane.

Commissioner Withers asked if Flowell Electric would build on the north end of section 21 if Mr. Gray requested it. Mr. Gray said that it would actually require 3 miles of power to build from the north end of section 21. He said that Flowell Electric recommended that he go down 4000 N or down along the fence line in the very middle of section 21 to the west which is the border between Judd Harwood and himself. Commissioner Withers asked if Flowell Electric was hesitant to build on the border between Mr. Harwood and Mr. Gray where the 35 ft. property line was off. Mr. Gray said that it was.

Commissioner Withers questioned state statute on existing fence lines. Attorney Finlinson said that it was case law after 20 years and that it's not automatic and requires judicial action.

Mr. Harwood said that Flowell Electric has already extended a line to the boundary that Mr. Gray is talking about.

Mr. Gray disagreed with Mr. Harwood, and said that they moved a meter service from an old homestead about 60 feet.

Commissioner Withers asked where the meter service is on the map today. Mr. Harwood pointed out the meter point on the transportation map through the center of section 21 on the east side along Highway 100.

Attorney Styler said that Millard County doesn't recognize the road going beyond the existing map.

Commissioner Jackson said that they have the information they need and no action will

be taken today. He then asked Attorney Finlinson about the process of vacating a road. Attorney Finlinson explained that it requires 4 weeks of publication and a public hearing. He said that any discussion on this needs to take place in a public forum.

Attorney Finlinson requested some time to look into the exclusivity of franchise.

Mr. Gray said that his request with Flowell Electric was made last August and that irrigation season is upon us and that a delay in action will result in some damages. He said that he would like to remind the commissioners that the County doesn't have immunity act protection like the State.

## PUBLIC INPUT

There was none.

## OTHER BUSINESS

Treasurer Dearden passed out handouts for review and said that tax sale time is rapidly approaching. She said that page one of the handout is a review of outstanding tax agreements from 2017. Treasurer Dearden referred to Parcel DO-3333-A-1, regarding Laurel Sue Hook. She said that an agreement was made to remove Ms. Hook's property from the 2017 tax sale and to waive penalties and interest. Treasurer Dearden said that Ms. Hook was to make \$100.00 monthly payments and that she has been consistent in those payments. Treasurer Dearden proposed to remove Ms. Hook's property from the 2018 tax sale as well.

Commissioner Withers made a motion to Extend the Agreement with Laurel Sue Hook, Parcel DO-3333-A1, to continue on as agreed in 2017.

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

Treasurer Dearden said that Travis Zufelt's property has been removed from the 2017 and 2018 tax sales and that his information on the report is just to show the commissioners his progress.

Treasurer Dearden referred to the Preliminary Tax Sale List and said that this list will be submitted to the Auditor's Office on Friday for processing.

Treasurer Dearden said that she has four applications for deferral of delinquent taxes and has not received any of those applications back yet. She said that she has been in contact several times with Jose Salazarone from the Mi Rancherita Restaurant in Delta. She said that he paid \$12,000.00 yesterday in the Delta office. Treasurer Dearden said that she explained to Mr. Salazarone that they can't remove his property from the tax sale until his application is received. She said that the Treasurer's Offices mails the code every year and that many tax notices are sent out to these people so that they are aware of any tax delinquencies.

Treasurer Dearden said that a rollback was issued for two parcels in Scipio owned by Michael Monroe. She said that Mr. Monroe indicated to her that he was not going to appeal; therefore, she is wondering who is going to set up a payment amount with him.

Commissioner Withers said that Mr. Monroe indicated to him that he would like to set up

payments. Mr. Monroe didn't have an amount, but requested that it be easy on him. Treasurer Dearden said that \$300.00 a month would have Mr. Monroe paid off by December.

Commissioner Draper asked what the total amount owing was. Treasurer Dearden said that Mr. Monroe owes a total of \$2,499.84.

Commissioner Withers asked Treasurer Dearden to reach out to Mr. Monroe to see what he can afford and to explain the process to make sure he understands it all.

Commissioner Draper said that there will be a public hearing held at the Fillmore National Guard Armory on March 20, 2018 at 7:30 p.m., regarding the water issues and the hog farm. He said that they have scheduled this with the State Division of Environmental Quality. Commissioner Draper said that this is being held on the same night as Caucuses and he had looked into this issue.

Commissioner Withers asked if anyone could attend this. Commissioner Draper said that he is going to attempt to attend both his caucus meeting and this water meeting.

Commissioner Withers said that he received a call regarding relocating the Public Health facility building in Delta. He said that it is currently next to the bowling alley and that the smoke from the alley is coming into the facility through the walls. He said that this has been a problem for a long time and that he had previously looked into a few building options that are available. Commissioner Withers said that he would like to turn this project over to Commissioner Draper.

Commissioner Draper said he will look into this issue.

Commissioner Withers said that he spoke with local hunters who would like the Commissioners to look at the County law about spotlighting after dark. Commissioner Withers said that he would like this discussion to be put on the next agenda.

Commissioner Draper thought that this was a Sheriff's Office issue. Attorney Finlinson said that this is an ordinance that the Commission can amend. He said that a few years ago the Commission authorized night time shooting of badgers because of the problems the badgers were causing; However, it was more of a suspension of the ordinance for the summer.

Commissioner Withers said that Chad Meinhardt and his wife are doing a fundraiser for her brother who has cancer. He said that they have had such a large amount of support that they have requested to move the location of the fundraiser to the fair building on March 24, 2018. Commissioner Withers said that the fee to use the fair building is usually \$200.00 and he would like to waive this fee with the understanding that the Meinhardts will clean up afterwards.

Commissioner Withers made a motion to waive the \$200.00 fee for use of the fair building for the Meinhardts to use for their fundraiser.

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

Commissioner Jackson said that he asked Brandon Winget to bring a trailer to the national guard building for the food drive which will then be delivered to Delta next Tuesday.



Commissioner Draper asked Attorney Finlinson what the difference is between pending litigation and possible litigation on closed session. Attorney Finlinson said that it is a gray line and he thinks it would have to be reasonably certain that there would be litigation.

Attorney Finlinson said that he attended a presentation by a few people on opioid litigation. He said that several counties in Utah are pursuing this and asked the commissioners if they were interested in pursuing this as well. Commissioner Jackson said that he is interested and said that this was the main topic during his trip to Washington D.C..

Commissioner Draper said that the problem is that we don't know who has been affected by this in our County and that they are in a position to do something.

Attorney Finlinson said that this litigation is not on behalf of individuals affected by opioids but rather for government entities who have helped pay for people who have been affected both in medical treatment and addiction treatment. He said that he will let them know that the commissioners are interested in this.

Mr. Barney said that there was an executive appropriations request at the state level for litigation regarding the carbon tax at IPP that California self imposes. The original request was \$2 million dollars, but that was reduced to \$1.64 million and it passed. He said that he will keep an eye on this.

Commissioner Draper referred to a previous discussion in this meeting where Mr. Gray had pointed out that the County did not have certain immunities. Attorney Finlinson said that the Government Immunities Act immunizes state, county, and city governments from some things, but the 4000 N road issue is not one of them.

Commissioners signed the already approved contract with Mike Barney Construction for the Sunset View Golf Course Clubhouse construction.

Commissioner Withers said that the Raceway Operation/ Promotion Contract with Mr. Wolfe was approved. Attorney Finlinson said that this is \$5,000.00 so it is not a purchasing policy issue and that this contract simply points out what the County's obligations are and what the contractors responsibilities are for these races. He said that the payment terms are \$1,000.00 per race and there are 5 races.

Commissioner Withers made a motion to approve the Raceway Operation/ Promotion contract with Russell J. Wolfe.

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

Commissioner Withers presented a change order for the Sunset View Golf Course Clubhouse construction. The change order will be filed in the Clerks Office.

Commissioner Withers made a motion to approve the change order in the amount of \$23,236.00 for the Sunset View Golf Course Clubhouse.

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

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

Clerk Rowley said that a one time fund of \$4,500,000.00 and an ongoing fund in the amount of \$500,000.00 per year was approved for voting equipment and software. She said that it has not yet been decided how much each county will receive, but she will let the Commission know as soon as it is decided.

Commissioner Draper said that he and Commissioner Jackson attended a National Association of Counties Convention (NACO) in Washington D.C.. He said that they were able to meet with three congressional representatives and one senator where they were able to discuss the issues impacting Millard County. Commissioner Draper said that one of the more interesting points was at an assemblage where Representative Curtis spoke about the land line telephone monopoly in San Juan County. Commissioner Draper said that there are similarities between San Juan County and Millard County with this issue and that they requested Representatives Curtis and Stewart look at the land line telephone situation in Millard County as well.

Commissioner Draper said that he and Commissioner Jackson also attended the Public Lands meetings and said that Planning 2.0 is a dead issue, but the BLM is looking at creating 13 areas in the United States that will be managed by watersheds. Commissioner Draper said that the boundaries are currently based on state lines instead of watersheds to preserve local input.

Commissioner Jackson said that opioids were discussed at just about everywhere they went in Washington D.C.. He said that it is a large concern and he wants to keep the issue open to try and stay on top of this issue in Millard County.

The commissioners signed the plat map for Taylor Peterson, which was approved in a previous meeting.

Commissioner Jackson said that he attended a Magnum meeting. He said that most of Magnum's questions for the commissioners had already been answered and they were going to Attorney Waddingham to finalize what the commissioners had asked them to do.

#### POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

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

Commissioner Withers made a motion to go into a closed executive session for the

purpose of discussing pending and/or threatened litigation.

Commissioner Draper SECONDED the motion. All three commissioners voted unanimously and the motion carried. Present in the closed session were all three Commissioners, Attorney Finlinson, Assessor Manis, Treasurer Dearden, and Tom Peters.

After the closed executive session the regular meeting reconvened at 1:15 p.m..

WHERE UPON THE MEETING ADJOURNED

Commissioner Jackson adjourned the meeting at 1:16 p.m..

Attest: \_\_\_\_\_

Approved: \_\_\_\_\_