

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 22nd Day of AUGUST 2005
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: John C. Cooper Chairman
Daron P. Smith..... Commissioner
Kathy Y. Walker. Commissioner

LeRay Jackson County Attorney
Norma Brunson County Clerk
Janice Robins..... Deputy County Clerk

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN PROVIDED TO each member of the governing body, the local news and located on the front and back doors of the County Courthouse as required by law the following proceedings were had.

ALSO PRESENT: Brent Berkley

COORDINATION SESSION

The Commissioners scheduled events for the months of August & September 2005.

PUBLIC WAS WELCOMED

The meeting began at 10:00 a.m. after a brief welcome by Commissioner Cooper to the public and Commission members.

OPENING STATEMENTS

Commissioner Cooper read a quote from Abraham Lincoln. He gave the opening prayer. Everyone stood and said the Pledge of Allegiance to the Flag.

FOLLOW UP ACTION ITEMS FROM MINUTES OF AUGUST 15, 2005

There were none.

APPROVAL OF THE AMENDED MINUTES OF AUGUST 15, 2005

Commissioner Walker made a motion to approve the amended minutes of August 15, 2005 and Commissioner Smith SECONDED. The voting was unanimous. The motion carried.

AUDITORS REPORT

Auditor Brandy Grace gave the Commissioners various invoices to review and approve for payment through the Auditor's Office.

Auditor Grace gave Commissioner Smith the colored copy of the Check Edit Report dated August 19, 2005 for the Commissioners to review and sign.

Auditor Grace said the State Alcohol Funds Annual Report showing where the county has used the beer money is ready for signing. Commissioner Cooper signed the document.

Auditor Grace presented the July 2005 IHC bills showing the county's costs for long term care. The bill for the swing beds at the Fillmore facility was \$23,152.88 and \$192,995.09 for the Millard County Long Term Care Center. Commissioner Walker signed the authorization for payment of the bill.

Auditor Grace said East Millard Maintenance Supervisor Gary Hone sent in a note saying that after talking with Commissioner Cooper, he had increased the cleaning services bid amount from \$235.00 to \$250.00 @ month at the indoor arena facility for Bruce and Lisa Giles. Mr. & Mrs. Giles had taken over the cleaning after Callie Peterson left the job. Auditor Grace said one paycheck had already been issued. The raise was approved by all the Commissioners.

AUDITOR GRACE - APPROVAL FOR CHANGES IN THE MILLARD COUNTY POLICY AND PROCEDURES MANUAL FOR HIRING PROCEDURES AND RENTAL POLICY

Auditor Grace handed out copies of the changes for Section VI-Hiring for New and Vacant Positions. The Commission discussed the changes. See Exhibit B.

Commissioner Smith made a motion to approve the changes in the Millard County Policy and Procedures Section VI-Hiring New and Vacant Positions. Commissioner Walker SECONDED. The voting was unanimous. The motion carried.

Some more changes are being made on the rental policy so a review and possible approval will be taken care of at a later date.

POSSIBLE APPROVAL OF TAX ADJUSTMENTS YEAR TO DATE

Millard County Treasurer John Hansen invited the Commissioners to his office to discuss the tax adjustments to date. The item will be put on the next Commission Agenda.

POSSIBLE APPROVAL AND SIGNING OF DOCUMENTS FOR A PURCHASING CARD AGREEMENT BETWEEN MILLARD COUNTY AND US BANK

Auditor Grace said the document on the purchasing card agreement was examined by County Attorney LeRay Jackson and is ready for signing.

Commissioner Walker made the motion to sign the purchasing card agreement. Commissioner Smith SECONDED. The voting was unanimous. The motion carried. The document was signed by Commissioner Cooper.

POSSIBLE APPROVAL AND SIGNING OF THE HAVA CONTRACT

Millard County Attorney LeRay Jackson briefly explained the HAVA contract between Millard County and the State of Utah at the request of Commissioner Walker. Additional information was provided by Attorney Jackson and Clerk Norma Brunson. The state is purchasing the voting equipment and giving it to the counties with 92 percent of the money given to them from the Federal Government. The counties will be responsible for the cost of storage, maintenance, replacement of the equipment and for the purchase of any additional machines.

Commissioner Walker made a motion to approve the signing of the HAVA Contract. Commissioner Smith SECONDED. The voting was unanimous. The motion carried.

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

All the Commissioners attended the Congressional Appreciation Day sponsored by Six County AOG and Millard County on August 16, 2005. They thought it was a huge success. Approximately forty-five congressional representatives including Senator Hatch, County Commissioners, City Mayors and Millard County Land Use Committee members were present. The purpose of the event was to acquaint everyone with the wilderness study (WSA) and to discuss some of the issues affecting the west desert. The ride went to the north side of Notch Peak.

Special thanks was given to Gary Church, Leon Smith, Sheryl Dekker, Thayne Henrie, Steve Jensen and Russ Cowley for making the preparations for the event and repairing the road. Thanks to Delta Sports Center for the loan of the Yamaha Rhino.

Senator Hatch visited with some of the local dairies after the trail ride but because of a lack of time was not able to meet with some of the other interested groups.

Commissioner Walker attended a Millard County Tourism Meeting on August 17, 2005. Only two members were present so the meeting was cancelled. Chairman Roger Killpack is looking for additional people to serve on the board.

Commissioner Walker attended the Scipio Senior Center for lunch on Thursday, August 18, 2005. They discussed citizens' concerns including raising property taxes and the lack of work done on county road south of Scipio.

Attorney Jackson said that the work in Scipio is scheduled to be begin within the next ten days. Any missing GIS stakes will be replaced. Commissioner Smith said the gravel for the Petticoat Lane Road project will be taken out of a pit near Fillmore.

Commissioner Walker reviewed the playing conditions at Sunset View Golf Course. She reported the play was increasing at the course and the grounds are in great shape, thanks to greens

keeper Brent Spencer and crew.

Commissioner Walker attended the play "Pirates of Penzance" in the Fillmore North Park. Brent Berkley and John Holliday from the County Attorney's Office participated the play.

Commissioner Walker attended Oak City Days on Saturday, August 20, 2005.

Commissioner Walker was given an update by West Maintenance Supervisor Kevin Morris who said \$3,496.00 revenues were brought in from the Central Utah County Horse Association show on June 17, 18, and 19, 2005 in Millard County. A cow cutting event is scheduled for October 2005.

Commissioner Smith attended the Millard County Mosquito Abatement meeting on August 22, 2005. Commissioner Smith expressed his appreciation for the way they have handled the mosquito problem in Millard County. Monitored traps have been set up in various areas of the county and if mosquitos show up in the traps, then the area is fogged. The method is pretty cost effective and is working well. He reported there have been two cases of West Nile Disease in the State of Utah.

Commissioner Smith reported that Auditor Grace had received some more information about the FLSA exempt employees. The Commissioners had planned to make a decision on adjustments to exempt employees' status and benefits by the first of September 2005, but they will postpone a decision until January 1, 2006. In the meantime the following questions will need to be answered.

- What are the qualifications for an exempt employee?
- Who will qualify as an exempt employee?
- Which county employees are exempt now?
- Can an exempt employee do any blue collar work?
- What constitutes a work day? One hour, two hours, ½ day or what?
- Should an exempt employee earn sick leave and vacation leave?
- All exempt employees should be treated the same.
- The amount an employee can carry over until the first of the year.

OTHER BUSINESS

Chief Deputy Attorney Brent Berkley read the draft of the letter that will be sent to Reed Searle regarding Millard County's decision on whether IPP should apply for a new Conditional Use Permit or if the old permit would suffice. See exhibit A.

After amendments were made to the letter, it will be sent to Mr. Searle. Copies will be on file at the Millard County Clerk's Office.

Commissioner Smith reported the State Predator Control Contract is ready for approval and signing. The contract is for \$20,000 and gives Millard County the opportunity to match up to six thousand dollars from the state.

Commissioner Smith made a motion to sign the State Predator Control Contract. Commissioner Walker SECONDED. The voting was unanimous. The motion carried. A copy of the contract will be on file in the Millard County Clerk's Office.

Commissioner Smith received a letter from the Division of Oil, Gas, and Mining requesting comments on proposed mining rule changes. Information about the request will be reviewed and then comments will be made by the Commissioners.

Commissioner Walker made a motion to approve the use of the West Millard County Swimming Pool at no cost, one hour every other week for special needs individuals from Community Careers to train for Special Olympics. Millard County has an agreement with Millard School District for all special needs students to have free use of the pool and this will now extend the agreement to include adults that are enrolled in the community program. Max Wood, Recreation Director and Swimming Pool Director Cindy Manning and Commissioner Walker worked out the details of the agreement.

Commissioner Smith SECONDED. The voting was unanimous. The motion carried.

Commissioner Walker said there is still a need for 7-10 more golf carts at the Sunset View Golf Course. The cart rental fees on the thirteen available carts for the first three weeks in August, were \$2,000.00. She reported that people are still being turned away on the week ends because of the unavailability of carts. Commissioner Walker said she was gathering information to graph showing use and availability of carts. There are enough electrical outlets and storage area for about ten more carts. Commissioner Smith said considering that it was nearly the end of golf season, maybe five more carts would be enough to be purchased for now. Commissioner Walker said seven refurbished carts should be the minimum number purchased. The Commissioners will look at the budget to see where the money can be taken out of for seven refurbished carts.

Commissioner Walker said a request has come in for a donation for \$100 of Pro Shop merchandise to allow Sunset View Golf Course's name be put on a tee box during a tournament as advertisement for the golf course. Attorney Jackson said that type of donation does not fit Millard County's purchasing policy.

Commissioner Walker had an inquiry from a citizen to have the starting point within the Delta City limits for the new proposed walking/ running trail near the golf course. Commissioner Walker said that according to the trail committee, one requirement of the grant was to have the starting point be within the city limits.

Commissioner Cooper received a letter from Lyle Bennett at the Natural Resource Office giving notification of applications for outdoor recreation projects for land and water projects for FY 2006. There are \$350,000 available for projects. The county will look into the feasibility of applying for any of the money for county projects.

Commissioner Cooper talked to Lynn Zubeck, Utah Division Wildlife Resources, about the Pahvant Upland Game Area Restoration project proposal which resulted because of Millard County's

flood control efforts, destroying some wildlife habitat owned by DWR. Millard County's projected cost of materials was \$5,697.72 plus some equipment work and labor.

PUBLIC INPUT

There were none.

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

There were none.

WHERE UPON THE MEETING ADJOURNED

The meeting adjourned at 11:40 a.m. .

Attest: _____ Approved: _____



EXHIBIT A

OFFICE OF
MILLARD COUNTY ATTORNEY



LeRay G. Jackson
County Attorney

CRIMINAL DIVISION:

BRENT G. BERKLEY, Chief Deputy
JOHN D. HOLLIDAY, Deputy
DEXTER L. ANDERSON, Special Deputy
765 South Highway 99, Suite 3
Fillmore, Utah 84631
(435) 743-6522
FAX (435) 743-6923

Reply to:

Brent G. Berkley
bgberkley@co.millard.ut.us

August 22, 2005

Mr. Reed Searle
General Manager
Intermountain Power Agency
10653 South Riverfront Parkway, #120
South Jordan, Utah 84095

Re: Conditional Use Permit
IPP Unit 3

Dear Mr. Searle;

On behalf of the Millard County Planning and Zoning Commission and the Millard County Board of Commissioners, I would like to thank you for your presentation on July 6, 2005. We appreciated the information you provided to us. As we discussed, we have reviewed the current conditional use permit ("CUP") and analyzed whether proposed Unit 3 could be constructed and operated under the current arrangement. It is our opinion that a new CUP should be applied for in order to begin construction and operation of this new unit. Our first consideration is that it is our opinion that the current CUP does not cover the new ownership structure of Unit 3. Although the current CUP covers IPP, IPA, and "its successors, assigns and transferees", we believe that based on your representations as to the new ownership, Unit 3 would not be owned by any successor or transferee of IPP or IPA. If I understand correctly, Unit 3 will be owned by a joint venture of approximately 40 entities which include UAMPS, PacifiCorp, and the City of Glendale. IPA would then operate Unit 3, not as an owner, but under contract with this new entity.

Consequently, it is our opinion, that while IPA is certainly a successor of IPP under the current CUP, IPA, as it relates to Unit 3, will derive its authority not from IPP, but from this new, third party entity. As such, we feel a new CUP would be necessary in order to legally operate Unit 3.

MR. REED SEARLE

August 22, 2005

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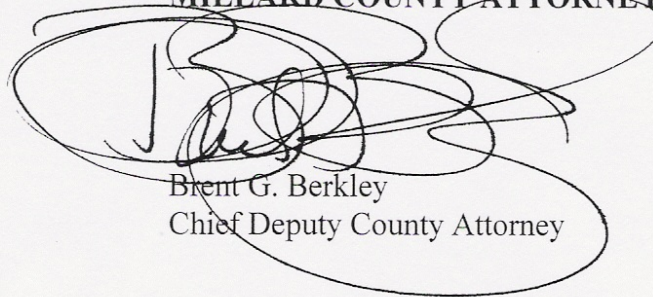
Secondly, we feel that as the current CUP's terms are over twenty-four years old and that there will be different and updated methods of construction and operation, that it would be advantageous to both Millard County as well as to the operation of Unit 3, that a new CUP be drafted to better address the needs of all parties involved. It is our opinion that this will benefit not only Millard County, but those of Unit 3 as well. In my review of the current CUP it seems that there are terms therein that may be unnecessary at this point and also some terms which perhaps both parties would like to add.

As we stated at Planning and Zoning meeting, we are supportive of the plans to build and opera Unit 3 and would like to make this process as amenable and advantageous to all parties involve We therefore invite your group to advise us as to a convenient time to meet and discuss the various issues that need to be addressed in the application for a new CUP. I would be happy to act as the facilitating party for these meetings, so feel free to get in touch with me as soon as possible to discuss times and locations.

Again, thank you for your presentation and I look forward to working with you on this project. you have any questions or need additional information, please do not hesitate to contact me at your earliest convenience.

Sincerely,

MILLARD COUNTY ATTORNEY

A large, stylized handwritten signature in black ink, appearing to read 'Brent G. Berkley', is written over the typed name and title. The signature is enclosed within a large, hand-drawn oval.

Brent G. Berkley
Chief Deputy County Attorney

cc: Leon Smith
Robin Smith, Chair P&Z
LeRay Jackson
Millard County Commission
file

EXHIBIT B

SECTION VI - HIRING FOR NEW AND VACANT POSITIONS

- A. Recruiting: Selecting and advancing employees in the county personnel system shall be on the basis of their ability, knowledge, and skill levels related to the vacant position.
- B. Disqualification: The county reserves the right to reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position. Applicants and subsequently hired applicants who make false statements or who are found to have engaged in any type of deception or fraud in the application or testing process shall be rejected or immediately terminated.
- C. Testing: Applicants may be subjected to competitive testing which may include, but not be limited to: determination of bondability, rating of education and experience, written, oral, or physical agility tests, essential function demonstrations, proof of academic attainment, etc. In addition, applicants may be subject to background investigations and/or polygraph testing. For certain positions, psychiatric exams may be required but only subsequent to a job offer being made and only if all entering employees in the same job category are subjected to the same exam. Applicants for positions which require the worker to operate county vehicles or equipment on public roadways must provide a copy of a Moving Violation Report. MVR's will be used to assist in the ranking of applicants who meet the minimum qualifications. For competitive examinations specific to certain county positions, i.e. law enforcement, the deadline for receiving applications shall be seven (7) days prior to the scheduled examination day. When all test results are compiled, the eligible candidates shall be ranked according to highest scores, which register of names shall remain active for two (2) years, with a one (1) year extension at the option of the County Sheriff.
- D. Physical Examinations/Drug Testing: Public health and safety demands that employees be physically able to perform the duties of the job classification to which hired. The physical requirements of the job constitute bona-fide occupational qualifications. The county will accommodate employees and applicants in compliance with the Americans With Disabilities Act (ADA) and provide "reasonable accommodation" when the cost of such is deemed "reasonable" within the county's ability to pay, and where to do so does not impair the county in its business necessities.
1. An applicant may be required to submit to a physical exam only subsequent to a job offer being made and only if all others being hired for the same job category are required to do the same. The results of the exam will be presented to the department head/elected official in writing.
 2. The county may require a medical examination at any time during the employee's work tenure if deemed necessary to assure the safety and health of the employee, co-workers, and the public. The county will pay the cost of any required medical examination.
 3. Applicants for any position may be required to undergo chemical screen testing to determine the presence of alcohol and chemical substances in the blood. Subject to "handicapped" (ADA) laws, any applicant who tests positive may be disciplined according to state law (see Drug Free Work Place Policy, Utah Code 34-38-8).

- E. Final Appointment: The human resources personnel and department head/elected officials shall work closely with the Board of County Commissioners and shall make recommendations for final appointments for new hires. If exceptions are made in the recruitment and selection process, it shall be documented and included in the personnel file as a "change in conditions of employment."
- F. Employment Eligibility Verification: In conformance with the "Immigration Reform and Control Act of 1985"(P.L. 99-503) and in order to avoid monetary penalties for the hiring of illegal workers, the human resources personnel shall establish an employment verification system, and shall verify that all applicants for vacant positions or persons hired to fill vacant positions are authorized to work within the boundaries of the United States.
1. The human resources personnel shall complete or have completed Immigration and Naturalization Service Form I-9 prior to a hired employee's first day of work and verify work eligibility through examining such documents as a U.S. passport, birth certificate, social security card, driver's license, or an alien identification document.
 2. Employees must also attest in writing that they are authorized to work in the United States. Forms and all written verifications shall be kept along with other personnel records for a seven (7) year period and shall be made available to the Immigration and Naturalization Service or the Department of Labor as requested.
- G. Hiring Procedures:
1. When ~~a position opens~~ or a need arises to create a new position, the elected official or department head shall notify the Board of County Commissioners of recruitment needs. Notification shall be accompanied by the position title and a description of the duties, responsibilities, and required knowledge and skills. Minimum qualifications for education and experience shall be outlined for recruited positions. All regular and most exempt employees and appointments must be hired into allocated positions (except seasonal, temporary, contractual, non-career, and part-time professional positions). Authorization to hire individuals into non-allocated positions must be approved in advance by the Board of Commissioners.
 2. Upon being given approval to recruit, the department head/elected official and human resources personnel shall prepare, advertise, and post the opening where all county employees will be made aware of the opportunity if the vacancy is not filled by promotion. Employees wishing to bid for the position must do so by the closing date of the recruitment. First consideration in filling the vacancy will be given to county employees who qualify. All applicants will be given equal consideration.
 3. The community and labor market shall become the object of an appropriate recruitment effort. Outside applications will be accepted for a minimum of seven calendar days after or concurrent with in-house recruitment. The department head/elected official will utilize Utah Department of Workforce Services or another recruiting entity to assist in the application gathering and review process.

4. Upon closing the recruitment, the supervisor and/or department head/elected official over the position being recruited for shall review all applications and select ~~at least three~~ qualified interview candidates. Upon completing the interviews and related selection tests (including medical where appropriate), ~~the supervisor and/or department head/elected~~ elected officials shall submit ~~the recommendation for notification of hire to the Board of County Commissioners.~~ Department heads and/or supervisors (other than elected officials) shall submit the recommendation for hire to the Board of County Commissioners for final approval, ~~where appropriate.~~

Employee Induction: After the new employee is hired, he/she shall promptly receive a general orientation concerning benefits, compensation practices, personnel policies and procedures, and various employment expectations from the human resources personnel and immediate supervisor. The involvement of the department head/elected official is also encouraged.

Orientation Period: All appointments to positions within the county, whether new hires, rehire, reinstated (affected by reduction-in-force or leave without pay), or promotional, require an orientation period during which both the county and the employee can determine compatibility and competence. This period is regarded as a testing period designed to acquaint the new employee with the position and allow the employee, supervisor, and department head/elected official to measure fairly the employee's suitability for the job. The orientation period shall be six (6) months in duration, with an option by elected officials or department heads to extend the period an additional six (6) months. Promoted employees who fail to demonstrate competence and/or compatibility with the new assignment within the six (6) month period shall be restored to their former position and status and shall have all rights of appeal and due processes as defined by policy and procedures. For deputy sheriff positions, the six (6) month orientation period does not begin until the employee completes POST and the sheriff's office FTO program.

During the new hire orientation period, all benefits accrue. Upon completion of the orientation period, the supervisor shall conduct a performance review to apprise the employee of their suitability for the position and determine the employment action to be recommended to the Board of County Commissioners.