

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 8th DAY OF MAY 2006  
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Kathy Y. Walker ..... Chairman  
Daron P. Smith..... Commissioner  
John C. Cooper. .... Commissioner  
  
LeRay Jackson . .... County Attorney  
Norma Brunson ..... County Clerk  
Janice Robins..... Deputy County Clerk

ALSO PRESENT: Mr. & Mrs. Keith Burris

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.

COORDINATION SESSION

The Commissioners scheduled events for the month of May 2006.

PUBLIC WAS WELCOMED

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

OPENING STATEMENTS

Commissioner Walker asked if anyone had an opening statement to give? Commissioner Cooper read a quote by Henry Ford and then said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

FOLLOW UP ACTION ITEMS FROM MINUTES OF MAY 1, 2006

There were none.

APPROVAL OF THE AMENDED MINUTES OF MAY 1, 2006

Commissioner Smith made a motion to approve the amended minutes of May 1, 2006 and Commissioner Cooper SECONDED. The voting was unanimous.

AUDITORS REPORT

Chief Deputy Auditor Bonnie Gehre gave the Commissioners various invoices to review and approve for payment through the Auditor's Office. Invoices for capital expenses at the fairgrounds and the West Millard Swimming Pool were approved for payment.

Chief Deputy Auditor Gehre gave the Commissioners the Check Edit Report of May 5, 2006 and the Overtime Report of April 28, 2006 to review and sign.

Chief Deputy Auditor Gehre said that Utah Retirement Systems operates on the fiscal year and they have set the non-contributory, contributory and public safety rates. The public safety rate increased by 3.04 percent. The contributory and non-contributory rates increased by .50 percent. These rates are set by URS and are non-negotiable, it is the cost of membership. Millard County sets the 401 K rate for all county employees. In the past Millard County has given the same percentage to all county employees. The Commissioners asked for a printout of what this year's cost would be with an across the board increase of 3.04 percent. The results of the printout were reviewed and discussed at length. An estimated amount has already been put into the budget to cover this expense.

Commissioner Smith made a motion to set the retirement and 401 K rates to include the 3.04 percent increase across the board based on the rates set by the Utah Retirement Systems. This will keep all county employees at the same rate.

Commissioner Cooper SECONDED the motion and stated that any raises given by the county should be discussed. The voting was unanimous. The motion carried.

The retirement rates effective July 1, 2006 are as follows:

	Retirement	401 K	Total
Contributory	13.58%	8.80%	22.38%
Non-Contributory	11.59%	10.79%	22.38%
Public Safety	22.38%	0%	22.38%

#### POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR COVE FORT SUBWAY - OWNER MARK MILLER

Commissioner Cooper made a motion to approve the business license for Cove Fort Subway - Owner Mark Miller.

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

#### RATIFY THE SIGNING OF A QUIT CLAIM DEED FROM MILLARD COUNTY TO MARION R. ANDERSON

Commissioner Smith made a motion to ratify the signing of a Quit Claim Deed to Marion R. Anderson.

Commissioner Cooper SECONDED the motion. The voting was unanimous. The motion carried. The deed has been recorded and filed in the Clerk's Office.

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

Commissioner Smith attended the Millard County Planning and Zoning meeting. He was on the agenda and spoke about the new transportation language to be adopted into the Millard County General Plan. Copies of the proposed changes to amend the general plan were given to the members for review. Planning and Zoning will handle it as an agenda item and will make a recommendation to the county commissioners. Millard County will hold a public hearing.

Commissioner Cooper and Delta City Mayor Gayle Bunker attended the Six County Association of Governments meeting in Richfield. Commissioner Cooper also attended the Economic Development meeting afterwards. The Six County Economic Development board will be reorganized and Millard County will nominate several names for approval.

Commissioner Cooper said he has had numerous phone calls from people expressing their concerns about the Clerk's decision to have eleven of the precincts in the county declared absentee districts. He has done some checking with the Lt. Governor's Office who concurs that Millard County Clerk Norma Brunson is doing the same thing many of the other clerks in the state are doing this election. The Clerks are gradually introducing the electronic voting machine in their counties. It is the Clerks' statutory responsibility to make these decisions. The Commissioners support the clerk and her staff in the decisions made in regards to the upcoming elections.

Commissioner Walker had been asked some election questions by Peter Greathouse, County Republican Party Chairman who had been contacted by Randy Memmott, Republican Party Chairman on behalf of some concerned voters in Scipio.

Clerk Norma Brunson said she has talked to Steven McDonald in the State Elections Office and she is doing everything according to law.

- Question• How will the mail in process work?  
*Applications will be mailed out to all Republicans and Unaffiliated voters. Voters wishing to receive a ballot will return the application and the voter registration (if an unaffiliated voter wishes to affiliate as a Republican) to the Clerk's Office. An optical scan ballot will be mailed out to Republicans and voters who were unaffiliated with a party and have re-registered as a Republican as requested. The optical scan ballot will be voted by filling in circles with a number two pencil or black ink and instructions will be enclosed. The voted ballot will be sent back to the Clerk's Office for counting. People wanting to do early voting can come into the Clerk's Office to vote on the voting machines.*
- Question• There are concerns about getting the ballots back and forth in the mail.  
*Voters will need to respond quickly to the application so their ballots can be mailed to them in time to be returned to the Clerk's Office.*
- Question• How will the two primary races in the county be handled?

*A ballot style will be developed for each precinct's needs.*

Question• Will this save the county money?  
*It will save paying for 44-55 people's training and a day at the polls.*

Question• Will this be a one time situation?  
*The plan is for this years' elections and then it will be reviewed.*  
*"I Voted" stickers will be sent out with the ballots.*

Clerk Norma Brunson said that some people think their rights are being taken away, which they are not, just a change of how they are going to vote. She thanked the Commissioners for their full support in this election process.

Commissioner Walker and Sheryl Dekker visited some of the local and federal agencies in Millard County to see what information is available for distribution to tourists. Roger Killpack and Sheryl Dekker gave hospitality training to all paid tourism employees. A tour of the North Park's booth was taken to see what equipment and supplies are needed and could possibly be provided by tourism.

Millard County Attorney LeRay Jackson informed the Commissioners that the potential buyer for the old care center said he will pay the county for the building by the middle of June and plans to be open for business by July 1, 2006. The potential buyer has started mowing the lawn.

Commissioner Cooper reported that a meeting had been set with White Pine County Commissioners for getting acquainted and a discuss public land issues on May 22, 2006 at 3:00 p.m. Utah time 2:00 p.m. Nevada time. No public advertisement is necessary.

## OTHER BUSINESS

Commissioner Walker read a letter from the State Auditor to Treasurer John Hansen that all property taxes not be distributed to Lynndyl Town, Millard County Drainage District No. 4 and Millard County Water Conservancy District without authorization from the State. These entities have not filed their reports to the state.

Commissioner Smith reported that he had received a copy of the environmental assessment of the Cosmic Array Project from the BLM and there are not significant impacts to deter the building of the project.

## PUBLIC INPUT

Keith Burris from Kanosh Town Council representing the town of Kanosh on a water issue. Kanosh gets its drinking water from four springs located on 10 acres in the county. The 10 acre parcel straddles Corn Creek. Next to the 10 acre parcel is a half acre parcel that has a culinary well on it and an individual has a permit for about 6 gallons per minute. The 10 acre parcel and the half acre parcel are encompassed by 150 acres with the Corn Creek Road going through that parcel.

Sometime prior to 1999 the 150 acre property was owned by the Christensen family and then was sold to Mr. Tillotson. In 1995, Aristata Investments owned it and today it is owned by Roger Brockbank. In 1999, Kanosh Town requested Sunrise Engineering Company to do a survey of a Source Water Protection plan. Sunrise Engineering recorded the survey and reported the possibility that someone could inject something in the well and contaminate the town's water source, however, the well is below the spring it shouldn't be a problem. They also wrote a list of the things that are prohibited items to be stored near a water source. Items on the list included junk and salvage yards. Sometime between 1999 and 2003 someone put junk on the northeast corner of the 150 acres parcel. The junk is in the form of abandoned vehicles, a tractor, and trailer.

When Mr. Burris was elected to the town council and put in charge of the water system he read the Source Protection Plan and started getting involved with the rules and regulations of culinary water and the Sunrise Engineering's list of prohibited items near in a protected water source zone. Millard County's Water Source Ordinance No. 01-04-09 carries no weight as far as enforcement on the county level.

*(Attorney Jackson inserted that when the ordinance was created the Commissioners had said that the county did not want to be a policeman. They will facilitate entities to file a source protection with the county but will not police violations.)*

Mr. Burris had spoken to Leon Smith, Millard County Planning and Zoning about clear evidence of hydrocarbons being leaked on the ground. He asked what Kanosh Town's options were and was told there was really nothing the county could do. He then talked to Wade Tolbert at the Cental Utah Public Health Department and was told there was probably nothing the CUPHD could do to help. However, he was then told about the county's nuisance ordinance. He looked up the state law on nuisance Section 19-5-107 1-A for direction. He talked to Deputy County Attorney Brent Berkley and he was too busy to help. Mr. Burris then contacted Lynn Wall an engineer who happened to be doing some work for Mr. Brockbank and said he would contact him. Roger Brockbank wrote a letter giving permission for Kanosh Town to remove the debris on the north east corner of his property. Mr. Burris has contacted Ramon Rodriquez who has offered to remove the debris and sell it and give a salvage fee to Kanosh Town.

The State of Utah made a site visit to the property and reported the junk is detrimental to a water source area. The leaking fluids need to be controlled and they provided the special regulations for the removal of the chemicals and wastes. Mr. Burris thinks he can get the junk removed from the property at no cost to the land owner and get some salvage money to help cover the costs of removal and has permission from the land owner to enter and remove it. Mr. Burris said the only equipment Kanosh Town owns are a backhoe and a dump truck. He asked the county to give indemnity to himself and Kanosh Town to go in and removed the junk. He is worried that if the vehicles are removed the original owner will come back on them.

County Attorney Jackson said that the county doesn't strictly enforce the nuisance ordinance. The Commissioners at the time the ordinance was approved didn't want to use county funds to enforce source protection areas for towns. If the county enforced the nuisance ordinance, then everyone in the county would have to be treated the same. The county's insurance would not allow the county to indemnify Kanosh Town in this issue.

Commissioner Cooper said he thinks the League of Towns and Cities would say Kanosh is covered to remove the debris.

Attorney Jackson said that he and the Commissioners are in agreement that Mr. Burris had

researched the issue and has presented his case to the Commission very well. He has found possible solutions to remove the contamination of the property near the water source. The Department of Environmental Quality recommends that Kanosh Town go and remove the debris and the contaminated soil. Attorney Jackson said that it is his opinion without any doubt the owner of the personal property has waived any rights he has had. He would never be able to establish a claim where he has abandoned it for that long a time.

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

Commissioner Cooper made a motion to go into a closed meeting to discuss the character, competence of individual personnel issue.

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

WHERE UPON THE MEETING ADJOURNED

Commissioner Cooper made a motion to adjourn the meeting.

Commissioner Smith SECONDED the motion. The voting was unanimous. The motion carried. The meeting adjourned at 12:20 p.m..

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

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