

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 18th DAY OF SEPTEMBER 2006
AT THE COURTHOUSE, FILLMORE, UTAH

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

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

ALSO PRESENT: Dean Draper, Tracy Norr, David Christensen, Arlene Bartholomew, and Janet Gwinn

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 September 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 told a personal story about a friend being recently made an American citizen and how grateful she was for this opportunity. Commissioner Walker read a quote from Ben Franklin. Commissioner Smith said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

FOLLOW UP ACTION ITEMS FROM MINUTES OF SEPTEMBER 18, 2006

There were none.

APPROVAL OF THE AMENDED MINUTES OF SEPTEMBER 18, 2006

Commissioner Cooper made a motion to approve the amended minutes of September 18,

2006.

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

AUDITORS REPORT

Auditor Brandy Grace gave the Commissioners various invoices to review and approve for payment through the Auditor's Office. She gave each Commissioner a copy of an IHC billing for long term care for the month of August. The Commissioners will review the billing and ill authorize the payment to be made.

Auditor Grace gave the Commissioners the Check Edit Report of September 15, 2006 to review and sign.

Auditor Grace reported that she had received an e-mail from Jesse Brown, the man who had sent in two bids on a 520-acre property owned by Millard County. Both bids were denied by the Commissioners and he wanted to know what an acceptable bid would be. He stated that the assessed value is much lower on the 520 acres than he had bid and he doesn't know what to base another bid on other than two prior purchases from Millard County where he purchased 800 acres for \$52.50 per acre and 320 acres at \$21.25 per acre.

The Commissioners authorized the Auditor to talk with Assessor Talbot and find out what the assessed value of the property is and what property is and going for in that area. She will report back to the Commissioners.

Commissioner Smith told the Auditor that receipts will be turned into for travel, hotel and meals by Gerald Anderson who had represented the county at the Nevada water hearings. The hearings were held Monday through Friday of last week. The money should be taken out of the public lands budget.

ARLENE AND RANDY BARTHOLOMEW-DISCUSSION ON A SMALL CLAIM DECISION

Arlene Bartholomew came before the Commissioners with a concern she had concerning Duanes Market. They had a young lady from the Delta area come into the store, who told them she needed to cash a child support check from her ex-husband. The store okayed it and the check was cashed. Later in the afternoon, the same lady came in with another check who said the check had been okayed, but it had not been, and it was cashed. As it turned out, both checks were stolen and she had forged the signature. The store reported the incident to the Sheriff's Office. The case went through to the court process, but court was postponed and another date set up. The store then received a motion and order to dismiss the case from Deputy County Attorney John Holliday which left the store without their money, making them the victim gain. A few years ago the store had an embezzlement case and the store was awarded restitution and interest. One day the payments stopped coming in and so Mrs. Bartholomew said she had called to check why the payments had ceased coming in. They found that the case had been dismissed by Deputy County Attorney John

Holliday and they had not received the full amount due them. They met with Mr. Holliday and asked him why this had happened. He said that he had looked at the case and everything looked okay so he had dismissed it. He was told that the store had not been paid off and this made the store the victim. Mrs. Bartholomew said she thought the Commissioners and County Attorney Jackson should be made aware of these situations and asked what she could do now to recoup the store's money? The store is out thousands of dollars because these cases were prematurely dismissed by the county attorney's office. County Attorney LeRay Jackson said that he will talk to Deputy County Attorney John Holliday and find out what is going on and then he will let Mrs. Bartholomew and the Commissioners know the answer to her questions.

GEORGEANN DILLARD-REQUEST FOR FUNDING FOR THE COMMUNITY CENTER

She rescheduled for another time.

REVIEW AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR ARMANDO CASTELLANOS, CHINO'S TIRE

Millard County Planning and Zoning is still reviewing the business license. The concern is whether a tire business fits the zoning for the area. No decision was made at this time.

REVIEW AND EXECUTION OF A MEMORANDUM OF MUTUAL AID AGREEMENT BETWEEN MILLARD COUNTY AND UTAH ATTORNEY GENERAL OFFICE

Attorney LeRay Jackson said this is a new agreement process with the Attorney General's Office in case a county needs their office's help with a homicide. Millard County has had two homicide cases, however, one of those cases is resolved now. The Utah Attorney General's Office was able to resolve the Rhoades case with the Attorney General's Office in Texas. The Attorney General's Office has the right to bill a county attorney's office 20 percent of the cost if necessary. Attorney Jackson said that to date the county has not been billed for any charges.

Commissioner Smith made a motion to execute the Memorandum of Mutual Aid Agreement between Millard County and Utah Attorney General Office.

Commissioner Cooper SECONDED the motion. The voting was unanimous and the motion carried. Three copies of the agreement were signed and one copy will be on file in the Clerk's Office.

FILLMORE CITY MAYOR DAVID CHRISTENSEN AND COUNCILMEN BEVAN JOHNSON-REPORT ON THE COMPACTOR AT THE FILLMORE TRANSFER STATION

Fillmore City Mayor David Christensen introduced the new Fillmore City Recorder, Tracy Norr. Bevan Johnson was not in attendance. Mayor Christensen said that a little over a month ago the city discussed the compactor at the Fillmore Transfer Station with the Commissioners, Mike and Laurie Holt. At the time, Fillmore City was asked to do a little research on the history of the compactor. Fillmore City Councilmen Bevan Johnson did the research on the compactor and

transfer station and found there was very little about information available. The compactor was mentioned in Commission minutes on March 1985 and January 1986.

Mayor Christensen said that one of the problems in the beginning was with the volume of garbage being generated and when the garbage contractor would unload into the open bins it was messy and the garbage would fly everywhere. The contractor's load would nearly fill the bins and necessitate the county to transport it immediately to the landfill. At that time a compactor was purchased to save the county trips to the landfill. Mr. Johnson spoke to former Commissioner AB Johnson and was told that the compactor was purchased as a benefit for the county as well as the city. He also talked to Robin Pearson who was the land fill administrator at that time. Both AB Johnson and Robin Pearson wrote a letter which was given to the Commissioners. Fillmore City had given the county their existing landfill site for bulky waste items to save the county from purchasing other land and county has maintained it ever since. (See Exhibit A & B) The letters will be filed in the Millard County Clerk's Office.

Commissioner Smith said it was his understanding that Fillmore City collects an administration fee of \$2.50 to recoup past expenses of which 50 cents was offered to the county for maintenance of the compactor, however, the county didn't follow up. Fillmore City's private contractor, Mr. Holt is the one who is using the compactor and that is the reason there is some interest in selling the compactor to him and/or the city.

Mayor Christensen said that Fillmore City's recommendations are:

- Because the transfer station is part of the county's landfill operation and the compactor was added after the fact as a benefit to the county so it would be a mistake for the city to take over the operation and to do so maybe illegal.
- The fuel economy, reducing the number of truckloads and putting garbage to wind are the reasons the compactor was put into place as a benefit to the county.

Commissioner Cooper said that the transfer station with the compactor is a dual benefit for the county and the city. It may be illegal as it now exists having the compactor which is county equipment operated by a private contractor under Fillmore City. Normally county equipment is operated by county employees. It is different in this case.

Mayor Christensen said that the county owns the transfer station property and if the compactor was given away the station is still a county facility. Part of the problem is that the compactor has not been maintained regularly and it is worn out. The sensor on the compactor hasn't worked for years and when a new operator comes on, the compactor has been overloaded. Fillmore City doesn't feel good about accepting the compactor because the original premise was to help out the county.

Cooper said that the compactor should be put in the ownership of the city or the private contractor. He suggested that if the compactor was worn out, a new compactor could be purchased by the county and then given to Mr. Holt and the county will wash their hands of the issue. Commissioner Smith said that it is not legal to give away county property and if they do so the other communities who have to drive a distance to the landfill may want a compactor too. One entity should not be treated above another one.

Mayor Christensen said that it is part of the county's contract with the city to provide a land fill and a compactor. Fillmore City is mandatory garbage pickup.

The Commissioners said that at present, a copy of the contract isn't available. Many changes have taken place since the transfer station and its inception twenty years ago. Attorney Jackson said

it was the intent to have the title of the transfer stations put in the county's name and the fences and the roads maintained by the cities but it has been found that ownership on all the sites had not been transferred to the county. A new contract is in order no matter what the history is. The compactor is outdated and worn out and would take several thousand dollars to repair it. A decision needs to be made of whether to purchase a new compactor now or not. There are boxes of old records in Delta that Sheryl Dekker will be asked to look through for a contract between Millard County and Fillmore on the transfer station and compactor. Commissioner Walker said that Sheryl Dekker's recommendations were to give the compactor to the private contractor to maintain.

The Commissioners and Mayor will arrange a meeting to discuss a contract on the compactor after some more research is done in locating the old contracts and agreements.

JANET GWINN-COMMUNITY FIRE PROTECTION PLAN

Janet Gwinn SWC Environmental Consultants representing the core planning team for the Essential Community Wildfire Development Plan said they have been working on the plan since June. She said that Russ Cowley has been the commission representative for the area and asked if this was appropriate representation for the commissioners and they answered in the affirmative. The team is interested in getting community support and input for the plan in order to make it as accurate as possible throughout the six county area. They will be holding six community meetings and would like the Commissioners support in getting community input. One meeting will be held in Fillmore at the courthouse on October 25, 2006 and the Commissioners are invited to participate in this meeting.

The Commissioner stated that since 80 percent of the fires are in the Fillmore and Delta areas they think it would be beneficial to have the regional headquarters of the interagency fire task force located in Fillmore and have the resources stationed in Fillmore or Delta instead of Richfield or Nephi. It would cut the response time in half. They have asked the BLM and Forest Service for their support in this effort. This has been a really bad fire year for Millard County with many acres of land being burned and losing one of our local fire fighters.

Janet Gwinn said that it sounds like the fuels in these areas show a high risk assessment and recommendations should be made to cut response time. This idea could be added to the plan along with the other risk factors. At the Fillmore meeting the concept of moving the interagency fire task force team to Fillmore could be brought up before the public for their input and support. The Commissioners are planning to bring this issue up at the Commissioners Conference next week.

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

Commissioner Smith reported county's canopy microwave system is in place and operating and going well. This is a system that will link the county offices in Fillmore and Delta. The county maps and other information are available on the system.

Commissioner Smith and Gerald Anderson attended the Nevada State Water Engineer's hearing on the Spring Valley that was held in Carson City, Nevada. Millard County is not a protestant in the hearing but they wanted to view how the hearing was handled and if Southern

Nevada Water Association added any technical data to meet their claims. At the hearing the SNWA stated it was not a growth issue but more about mitigating drought issues. The mayors of North Las Vegas and Henderson and Clark County all testified that they need the water for the growth they are experiencing and that the drought mitigation is small part of it. The Bureau of Land Management, Forest Service, Bureau of Indian Affairs, and the Fish & Wildlife had signed a stipulation agreement before the hearing to withdraw their protests pending being able to set up some biological and technical committees that would review any mitigation in the future. Snake Valley was excluded from the stipulated agreement. Spring Valley was addressed and Hamblin Valley where some monitoring wells were desire to have pumped. Public comment was taken on Friday. Millard County will submit written comments. The hearings will go on for another week and a half and will be monitored by Millard County. This is a Nevada appropriation process and the State of Utah will not interfere. An important issue to be considered is Nevada has an Interlocal Basin Transfer Act that protects any basin that anyone tries to transfer water out. Commissioner Smith gave copies of the stipulated agreement to the other Commissioners and Attorney Jackson.

Commissioner Smith reported that Leon Smith was contacted by Reed Searle at IPP asking why the process of the Conditional Use Permit had been delayed. They are interested in having one payment for both the impact alleviation and conditional use permit. Millard County is meeting with the State Tax Commission, the sales tax division and the property tax division to find out what changes need to be addressed before a CUP is issued to IPP. The process should go through the proper course with the Millard County Planning and Zoning Board. Juab County would like to get involved in the negotiation discussions. Commissioner Smith will contact Mr. Searle and tell him that the county needs some more time to review the CUP and to address any county issues before they meet together.

Commissioner Smith received a petition signed by some citizens from Flowell about the Robison's road they would like improved. The Commissioners will take a tour of the road and review the situation and budget money to fix the road if possible.

Commissioner Cooper and Commissioner Walker attended a meeting with the elected officials after Commission meeting last week to discuss budgets.

On September 11, Commissioner Cooper attended a Days of the Old West Rodeo committee meeting.

Commissioner Cooper talked to Mr. Jeff Christensen who is interested in evaluating the Millard County Care Center and is working on the evaluation.

Commissioner Cooper met with Aaron Kesler and Peter C. Vander Meide in regards to the property east of town that was purchased by Mr. Westoff from the Kimball family. After the property was purchased for cattle pasture, they cut off the south and west access for other properties to get to the Forest Service. Gate keys had been given to the other property owners, but they haven't been closing the gate. Mr. Kesler proposed that they would allow the county to build a road on the north east section of that property above the landfill. Commissioner Cooper had told him that the

county wasn't interesting in getting more roads to maintain. Mr. Vander Meide said that Resort Properties would be willing to build a private road in that location. Commissioner Cooper is arranging a meeting with the interested parties including the Forest Service to discuss the possibility of deeding the road to Resort Properties.

On Tuesday, September 12, Commissioner Walker and other local and county economic development people met with Jon Nilson of Red Rock Cheese in Delta. Jon Nilson discussed introducing organic milk, feed and produce in Millard County. They are hoping to produce an organic cheese and they need organic feed to do so. Mr. Nilson said there is a market for organic products.

Commissioner Walker attended a tourism meeting in Fillmore discussing additional brochures for the county.

On Thursday, September 14 Commissioner Smith and Commissioner Walker met with Jake Greenland and Nancy Schmid at the Millard County Care Center. They talked about solutions to the three patio canopies at the care center that don't have sprinkler systems. Without the installation of the sprinkler system under the canopies, MCCC wouldn't qualify for medicaid funding. Two sprinkler systems will be installed under the canopies and the third canopy will be shortened so a sprinkler system wouldn't be necessary.

Commissioner Smith and Commissioner Walker attended a two hour meeting with Nancy Schmid, with employees at the Millard County Care Center to discuss rumors that the IHC would be issuing a letter to Millard County on October 1, 2006 to say they would be withdrawing as managers by January 1, 2007. The care center department head had been told that if the Commissioners didn't respond the letter by October 1 then employees would have to seek another position by January 1, 2007. Another rumor was the Commissioners were planning to lease, give or sale the care center to a different contractor. Once it was pin pointed where the rumors had originated and the IHC had no intention of issuing a letter nor had they contacted the county. Millard County had talked to private operators to evaluate the care center had been some action. Hopefully all the rumors had been eliminated.

Commissioner Walker attended the Delta Car Show in the park. There were about 100 vehicles in the show.

OTHER BUSINESS

Attorney Jackson said a Request for Commissioner Waiver for the Friends of the NRA to use the fair building. The waiver was denied as per Millard County's policy. Notification of the decision will be given to them through Millard County Recreation.

Commissioner Walker received two letter of recommendation for Justin Bond for the public defender contract. The proposed public defender contract was discussed. Commissioner Cooper recommended that the Commissioner talk to James Slavens and offer him a two-year contract for

\$91,000.00 instead of a four-year contract at that same price. Quarterly reports will need to be done so performance can be evaluated more often. Attorney Jackson was asked to contact James Slavens about the changes before the finalization of the contract is made.

Commissioner Smith said he saw the estimate for the installation of the playground equipment installed in Garrison. Gary Hone is installing the equipment and the money could be taken out of the East Millard Recreation budget.

Commissioner Smith reminded the Commissioners that the Delta City and Fillmore City law enforcement contracts has not been finished. Attorney Jackson said that the county was waiting for information whether Delta City wanted 18 hours or 24 hours' coverage. Attorney Jackson was asked to give a number for both choices and then it would be given to Delta City.

Commissioner Walker announced that Leon Smith Planning and Zoning and Gary Church Building Inspector will be retiring at the end of this year. The duties of these positions will be combined. The position opening will be advertised and as soon as it is filled the new employee will receive at least six weeks training with Mr. Smith and Mr. Church. The duties of the Economic development will be moved to a different area.

PUBLIC INPUT

Dean Draper, newspaper reporter asked where the property is located that Jesse Brown bid on? (He was told that it is north of Highway 50 & 6). He asked if the county really had to sell the 520 acres or any other property for that matter? Juab, Millard and Beaver are getting known for the best land deals in the nation and there are a lot of people moving in on that fact. If you are going to accept bids on this or any other property it should be done on a broad basis. The Commissioners assured Mr. Draper that the county did not have to sell the property. The only advantage would be to get it back on the tax rolls. He mentioned an illegal subdivision in the Hickey area where the owner had applied for five wells.

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

There were none.

WHERE UPON THE MEETING ADJOURNED

Commissioner Cooper made a motion to adjourn the meeting.

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The meeting adjourned at 12:15.

Attest: _____

Approved: _____

August 30, 2006

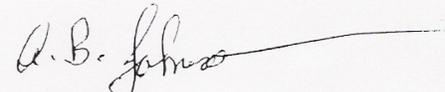
To Whom It May Concern;

Councilman Bevan Johnson contacted me as to what I may know and remember about the compactor at the Fillmore collection site located West of the Freeway on Highway 100 and 1100 west.

When the present collection site and landfill system was put into place I was serving as a County Commissioner. At that time Fillmore was the only City in Millard County having mandatory door to door garbage pickup and during the planning and shortly after the new system was put into operation we could see the open bins were not going to work well for Fillmore, it was decided to go with the compactor due to distance from the landfill and Fillmore's method of collection. Sometimes one load of Mr. Keel's filled one bin where with the compactor several of his loads are compressed into one. By having the compactor it accommodates both Fillmore City and the County to hold down transportation costs. Mr. Keel was the only one with a key or allowed to use the compactor. By Mr. Keel using the compactor this left the bins for the public. Also, by placing the site at its location, it saved us building another dump site in the Flowell area thus saving considerable money. To my knowledge the compactor was to be maintained as a part of the overall operating costs of the landfill.

The State and Federal Agencies tried to get us to operate one landfill for the entire county. If this would have happened everything would have been hauled to Delta. This problem was solved when Fillmore City agreed to have the county take over their existing Landfill for bulky waste items only, thus solving the problem of the county obtaining another site.

If I can be of any other help please feel free to contact me.



A.B. Johnson

August 24, 2006

To Whom It May Concern,

On Monday August 20th, Bevan Johnson, representing the Fillmore City Council, asked me to give my opinions, to the best of my recollection, regarding what precipitated the installation of the compactor at the Fillmore transfer station. My thoughts are as follows:

Fillmore City had mandatory door to door garbage collection when the County opted to implement the new transfer station concept. The contractor for the city had a compactor truck that he was using to collect the garbage and then the garbage was taken to the transfer site west of Fillmore and there dumped into the open bins. This was a difficult process, since the dumping of compacted garbage into the open bins was messy and he was not able to keep the garbage from going everywhere. This also meant that he immediately filled up the bins that were supposed to be available for the rest of the citizens. The county was then required to haul those bins immediately, but we could never get the bins full enough to justify a trip.

After consulting with the County Commission, Mayor, City Council, and the contractor, a decision was made that it would be more cost effective and less of a hassle for everyone, if we were to convert one of the pads at the transfer site and install a compactor with design features that would better accommodate the dumping out of the compactor truck and allow the county more flexibility and cost savings of hauling compacted garbage in a bin designed for that purpose. This would leave the other bins at the site to service the rest of the patrons in the unincorporated area and those from Fillmore that had bulky waste that could not fit in the compactor truck. It would meet the needs of the contractor to more efficiently and effectively dump without mess and save the County funds by allowing for fewer trips to the landfill. The key to operate the compactor was given exclusively to the contractor so that there would not be any safety issues.

Another reason that the County needed to be accommodating to Fillmore was that they allowed the County to use their existing landfill site as a bulky waste site (i.e. concrete, large trees, car bodies, etc.) which saved the County from having to buy a bulky waste site on the east side of the County. It also meant that all bulky waste did not have to be transported to the Delta Landfill which also saved the County a lot of money. I hope this has been helpful. If I can be of further service, please don't hesitate to ask.


Robyn Pearson