

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 20th DAY OF FEBRUARY 2007  
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Daron P. Smith ..... Commission Chairman  
Kathy Y. Walker ..... Commissioner  
Richard Waddingham ..... Millard County Attorney  
Norma Brunson ..... Millard County Clerk  
Sheryl Dekker ..... Commission Coordinator

ALSO PRESENT:

Brandy Grace ..... Millard County Auditor  
Ed Zmitravich ..... Citizen  
Rob Greenburg ..... Hill Brothers Chemical  
Steve Frampton ..... Steve's Tire & Oil, Inc.  
Bryan Stevens ..... Steve's Tire & Oil, Inc.  
Steve Jensen ..... Millard County Road Department

EXCUSED: Janice Robins ..... Deputy County Clerk  
John C. Cooper (until 2:15 p.m.) ..... Commissioner

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

9:30 A.M. COUNTY COMMISSION COORDINATING SESSION REGARDING FUTURE SCHEDULES, MEETINGS, ETC.

10:00 A.M. THE PUBLIC IS WELCOMED

The meeting was called to order at 10:00 a.m. after a brief welcome by Commissioner Daron Smith to those present.

OPENING STATEMENTS

The prayer was offered by Commissioner Smith and the Pledge of Allegiance was recited by all present. Janice Robins and Commissioner Cooper were excused.

FOLLOW UP ACTION ITEMS FROM MINUTES OF FEBRUARY 6, 2007

There were none.

## APPROVAL OF MINUTES OF FEBRUARY 6, 2007

Commissioner Kathy Walker made a motion to approve the minutes as amended. Commissioner Smith stepped from the chair and seconded the motion. The amended minutes were approved.

### AUDITOR'S REPORT

Auditor Brandy Grace reported that the Federal Government's IRS rate for mileage reimbursement has increased to \$.485 per mile and that per diem meal reimbursement increased to \$49.00 per day. Commissioner Walker made a motion to approve the rate changes increasing meal reimbursement to \$49.00 per day with the following breakdown: \$ 12.00 for breakfast, \$12.00 for lunch, and \$ 25.00 for dinner. Commissioner Smith stepped from the chair and seconded the motion. There was further discussion about the rate of meal reimbursement with the consensus that \$49.00 per day is excessive. For the time being the IRA rate will be adhered to as per the *Millard County Policy and Procedures Manual*. The motion carried.

Auditor Grace stated that she received some new plan proposals for the County's cell phone service. She will make copies for the commissioners to review.

Auditor Grace submitted payroll reports to the Commission for the February 16, 2007, payroll.

Auditor Grace reported that Grant Nielson, representing the Great Basin Museum, has filed an appeal with the Utah State Tax Commission because of the denial by Millard County to grant them a waiver of property tax fees for the property on Delta's Main Street for the future construction of the museum. Auditor Grace reminded the Commissioners that Mr. Nielson came before the Commission last Fall after the dates for Board of Equalization had closed. Grace said the request for waiver was denied because there is currently not a permanent building structure on the property. Because of Great Basin Museum's 5013C non profit status, they will qualify for a waiver of property taxes once the museum is built. The State Tax Commission is going to hold an appeal hearing. Auditor Grace noted that the Commission should not have heard Mr. Nielson's request because the Board of Equalization deadline had passed. After the meeting with Mr. Nielson Auditor Grace issued a letter to Mr. Nielson stating that the State Tax Commissions Standards of Practice state that vacant land is not tax exempt until either construction commences or a building permit is issued for construction of improvements that are intended for exclusive use. The County took the position that, without a permanent structure on the property the request for exemption was denied. Great Basin Museum had already received their tax notice at that time. The Commission asked Grace to contact the State Tax Commission with the above information.

Auditor Grace reported that after the February 6 meeting, she contacted Mike Swallow regarding the County's desire to have a salary survey done for Millard County. Mr. Swallow submitted a proposal to the County. Auditor Grace distributed copies of the proposal to the Commissioners

for their review. Grace also noted that the State of Utah has a human services division that may be able to help with the study.

Commissioner Smith stated that anytime a department head or elected official submits a payroll change notice or has a new hire, that the commission should review each proposal in a closed session. Commissioner Walker said that she feels that is appropriate action for payroll change notices and new hires.

Auditor Grace stated that the check edit report is going to be processed each week. The commissioners will review and approve the check edit report before checks are mailed. Grace noted that the most recent Check Edit Report will be available for the Commissioners' review before their meeting adjourns this date.

#### POSSIBLE APPROVAL OF BUSINESS LICENSE FOR "ICING ON THE CAKE 2", ANDREA L. TURNER

Commissioner Walker made a motion to approve the application for a business license for "Icing on the Cake2, Andrea L. Turner, owner. Chairman Smith stepped from the chair to second the motion. The motion carried and the business license was approved.

#### RATIFY THE APPOINTMENTS OF ELAND LEBARON AND JON NILSON TO THE MILLARD ECONOMIC DEVELOPMENT ASSOCIATION ("MEDA") BOARD

Commissioner Walker made a motion to ratify the appointments of Eland LeBaron and Jon Nilson to the MEDA Board. Chairman Smith stepped from the chair and seconded the motion. The motion carried.

#### ED ZMITRIVICH - REPORT OF DEPARTMENT OF AGRICULTURE MEETING REGARDING MORMON CRICKET INFESTATIONS

Ed Zmitravich distributed information collected at the February 8<sup>th</sup> meeting of the Department of Agriculture which he attended as a substitute for Glayde Edwards. Zmitravich gave a summation of the meeting. He stated that a Dr. Roberts is conducting a research study to determine if a certain mold can be utilized to eliminate Mormon Cricket infestations. If the study proves successful, the cost for eradication will be one-fourth of what is being paid for chemical applications. The study group has hatched crickets in the laboratory, but have been unable to sustain the crickets for testing.

Mr. Zmitravich stated that the bait that is dropped from aircraft is referred to as a crumble bait, and it can also be applied from a spreader on the back of an ATV or truck. He said that crumble bait is available in the Ogden office. Spraying of the chemical Demolin is done once a year by Animal & Plant Health Inspection Service, APHIS. He reported that the County has been asked to report any cricket infestation colonies to APHIS immediately.

Zmitravich reported that funding is being withheld by Congress this year. The grant Senator Bennet obtained last year has been canceled. Mr. Zmitravich was asked to attend the Council of Governments meeting on February 27 to give a similar report to the mayors.

#### DISCUSSION OF INCREASING INDUSTRIAL LANDFILL FEES

Commissioner Walker reported that a private garbage hauler in the County has alleged that Millard County is competing with private business by providing industrial 40 yard dumpster bins for industrial disposal of solid waste, and that the fee being charged is unreasonably low. Walker noted that this item is on the agenda for this reason. However, she failed to bring the data she had prepared for discussion of this subject. She asked that this item be tabled until the next regular Commission Meeting.

This agenda item was tabled until March 20.

#### MILLARD COUNTY TREASURER JOHN HANSEN - CONSIDERATION OF TAX CREDIT FOR CLAUDENE FRANKLIN

Treasurer John Hansen stated that he has received a request for a tax credit from Claudene Franklin whose 2006 taxes have not been paid. Hansen reported that Ms. Franklin claims she has no ability to pay the taxes as she is raising a granddaughter on a limited income. Hansen stated that Ms. Franklin would qualify for an indigent abatement on the tax plus penalty and interest in the amount of \$430.24. He stated that Social Security has allowed Ms. Franklin to pick up her deceased husband's benefit. The commissioners reviewed the application submitted by Ms. Franklin. It was noted that she does not technically qualify for a circuit breaker because she and her husband were divorced and he passed away two weeks later which does not qualify her as a widow.

Commissioner Walker made a motion to make a Commission adjustment in the amount of \$430.24 for 2006 taxes in the name of Claudene Franklin, Account # 0083528. Commissioner Walker stated that because of financial hardship the motion should reflect that 100% of taxes should be abated. Commission Chairman Daron Smith stepped from the chair and seconded the motion. The motion carried.

#### 11:00 OPEN AND REVIEW BIDS FOR CHEMICALS, TIRES AND MAGNESIUM CHLORIDE FOR MILLARD COUNTY ROAD DEPARTMENT

Auditor Brandy Grace and Attorney Richard Waddingham opened and reviewed the following bids:

Chemicals -	Oasis Seed Coop	Brand name products
		Generic brand products
	Intermountain Farmers	
	Ladd Hales Farms	

Steve Reagan

Auditor Grace reported that there are varying quantities, brands and volumes submitted by the above vendors and requested that the bids be reviewed by the Road Department for determination of the best value.

Tires - Steve's Tire  
A&R Tires  
Quality Tire

Auditor Grace reported that there are varying quantities, brands and specifications submitted by the above vendors and requested that the bids be reviewed by the Road Department for determination of the best value.

Magnesium Chloride -

Redmond Minerals	No bid (asked for bid results)
Dust Busters	\$49.95 per ton delivered to Delta, Fillmore, Graymont and Eskdale
Hill Brothers Chemical	\$41.90 per ton delivered anywhere in the County
WRRR Industries	\$ 75.26 to Eskdale \$ 68.33 to Graymont \$ 64.47 to Fillmore \$ 63.80 to Delta

Commissioner Walker made a motion to accept the bid from Hill Brothers Chemical of \$41.90 delivered to anywhere in the County. She stated that the out of county vendor would be selected because of the significant savings compared to the other bids. The award of the bid is subject to approval of bids from the Road Department Supervisor. Chairman Smith stepped from the chair and seconded the motion. The motion carried.

#### PUBLIC INPUT

This agenda item was moved up to this time as Steve Frampton said that he was told he was on the agenda to discuss the bidding process at 10:30. There was an apparent lack of communication between the Clerk's office and Sheryl Dekker.

Steve Frampton stated that he has the history from last year's bidding process on tires. He asked the Commission what the purpose is of securing bids. County Attorney Waddingham said that, because we are a governmental entity, we are required to bid out supplies or equipment when the cost is at a certain limit, and to accept the lowest responsive and responsible bid (Millard County Policies and Procedures Manual Section XXI-1) which is in keeping with the State Procurement Code.

Mr. Frampton said he fully supports the bidding process, but asked how responsibility and accountability are being monitored. Mr. Waddingham said that a bid bond would normally address that issue, however, Brandy Grace informed him that the County does not usually require a bid bond.

Mr. Frampton distributed copies of documents which he obtained from the Millard County Auditor's Office which shows the purchase of tires by the Millard County Road Department from various vendors. He pointed out that even though Steve's Tire won the bid for 2006, Quality Tire sold the Road Department \$31,532.96 worth of tires, compared to \$12,831.26 purchased from Steve's Tire. Frampton also presented several situations wherein Quality Tire was given purchase opportunities where Steve's Tires would have charged a lower price.

Mr. Frampton said that Steve's Tires had five invoices for tire sales last year and two for hauling disposed tires while Quality Tire had thirteen purchases. He claimed that Steve's Tires received only 5% of the purchases from Millard County. He noted that Goodyear Tire (the brand that is sold by Steve's Tires) sells their tires to government entities at nearly the cost of production.

Mr. Frampton said that it is his perception that Quality Tires gets the bulk of the business because they will purchase junk tires at \$75.00 per tire. But, they will only pay that amount if tires are taken in trade for the purchase of new tires. Mr. Frampton said that the Road Department is willing to allow Steve's Tires to haul off all the junk tires that Quality Tires will not take, but few of those are valuable for retreads. He said that he does not feel that it is proper for Quality Tires to obtain the County's business by taking value out in trade, making it impossible for other companies to compete when most junk tires purchased by Goodyear come back with a greater value to the county.

Mr. Frampton asked the commissioners to consider the figures below and asked how he could win the bid for tires in 2006 and end up with these numbers.

Vendor:	Quality Tire	Steve's Tire & Oil Goodyear
Brand Name:	General Tires	Goodyear Tires
Sales:	\$31,532.96 (71%)	\$ 12,831.26 (29 %)

Commissioner Smith stated that, in response to Mr. Frampton's question about responsibility and monitoring, the responsibility lies with the department head, who is under the direction of the Commission. Therefore, the ultimate responsibility lies with the Commission.

Steve Jensen, Road Department Foreman, stated that trailer tires are not practical to keep in inventory at the Road Department. He said that when a tire goes out, they contact the closest or most convenient vendor to get the tire replaced as quickly as possible so they can keep their equipment operational.

Steve's Frampton pointed out that Steve's Tires delivered tires on February 6, 2006, and didn't get another order until July, 2006. He said that he believes that, because Steve's Tires won the bid last year, they ought to be called when tires are needed.

Bryan Stevens, an employee of Steve's Tires, said that when he has delivered tires to the Road Department, he had noticed there were large numbers of General tires in stock. He said that he was told by Thayne Henrie that the reason for the Quality Tires purchases was because of value of trading in casings at \$75.00 each. Mr. Frampton pointed out that he can only pay \$50-\$60 for casings compared to \$75 from General Tires. Frampton said that Steve's Tires has been in the County for many years, and that they attempt to be competitive. He said that he understands that it is the County's position to buy from local vendors whenever possible, and pointed out that Quality Tires is not in Millard County. He said that Bryan Stevens visits the Road Department once a month, picks up junk tires and asks if anything is needed. They are usually told that the Road Department does not need any tires.

Commissioner Smith expressed appreciation to Steve Frampton and Bryan Stevens for bringing their concerns to the Commission. He assured them that the Commission will followup on the County's policy on bidding and monitor the process. Commissioner Smith stated that he will meet with Thayne Henrie, Road Department Supervisor, and then will set up another meeting with Mr. Frampton as a followup.

Commissioner Smith said the bids will be reviewed and rewarded within a week.

11:30 UPC WIND MANAGEMENT, LLC, KRISTA KISCH, PETE KELL, RANDY GRIMSHAW - DISCUSS WIND FARM PROJECT IN BEAVER COUNTY

No one appeared from UPC Wind. This item was tabled.

Commissioner Walker made a motion to recess for lunch. Chairman Smith stepped from the chair and seconded the motion. Commissioner Smith stated that the Commission would reconvene after lunch.

NOON LUNCH BREAK

2:00 RECONVENE

REPORTS FROM EACH COMMISSIONER, COUNTY ATTORNEY, OTHER ELECTED OFFICIALS, AND SECRETARY

County Commissioner Kathy Walker reported that Linda Gillmor attended the Six County Association of Governments ("SCAOG") Economic Development Recognition Banquet on behalf of Millard County. Millard County's Business of the Year, Intermountain Farmers Association (IFA) received the award for 2006. Ms. Gillmor presented Jared Buhler, manager

for Delta's IFA store, with the award. Commissioner Walker reported that SCAOG also gave an award to Gary Church for his fifteen years of service as Millard County's Economic Development Director.

Commissioner Walker reported that she is continuing to meet with SCAOG Department of Aging in an effort to resolve some of the issues occurring at some of the senior centers in the Six County area.

Commissioner Smith reported that all three commissioners along with Gary Walker and Sheryl Dekker met with the local BLM on February 6 to discuss public lands issues.

Commissioner Smith reported on a meeting with the State BLM Director Selma Sierra on February 7. He said that they discussed issues facing the Fillmore BLM office, and requested that the command center for fire suppression be located in Fillmore as the majority of lightning strike fires occur on the west side of the mountain between Richfield and Fillmore.

Commissioner Smith reported that the Jones Road, MC4554, which receives the majority of Intermountain Power Service Corporation ("IPSC") traffic is coming apart due to the severely cold temperatures this winter. He said the weight limit has been reduced to a 5 Ton weight limit due to the damage, and noted that the road has several warning signs regarding the road damage. Commissioner Smith said that McCornick Road, County Road # MC4555, has also received a great deal of damage this winter and also has warning signs in place.

Commissioner Smith reported on his attendance at a meeting on February 12 at the Governor's Office along with Commissioner Cooper, Cecil Garland, Dean Baker, Mark Ward and Brent Gardner. Those in attendance discussed a Resolution that was signed by the State Legislature and participated in a press conference announcing the resolution.

Commissioner Smith reported that he met with Auditor Brandy Grace on Thursday, February 15 to discuss the project to build a step and grade policy for the County. The process is moving forward.

Commissioner Smith said that he has received a letter from the State Court Administrator's Office which states that the East Millard Justice Court and the West Millard Justice Court have both been recertified to conduct business in the County.

Commissioner Cooper arrived at 2:15 p.m. and reported on his meeting with the State Legislature. He said that HB 342 was amended to drop all the language that was included from the Lincoln County Land Act. He said the bill next will be sent to the rule's committee. Cooper said that the Legislature declined to approve the same language that was in the aforementioned resolution. The legislation would have created a new law. Cooper said he had lengthy conversation with Department of Natural Resources Director Mike Styler.



## OTHER BUSINESS

County Attorney Richard Waddingham received a call regarding a Memorandum of Understanding from the Division of Wildlife Resources regarding payment of cost to repair a critical habitat damaged in 2005 by the Millard County Road Department. The Commissioners acknowledged the department for payment.

Commissioner Cooper presented a Memorandum of Understanding ("MOU") which would have Utah State University ("USU") pay \$7,056 to Jim Stevens thru June 30, 2007 to assist with the 4-H horse programs. Cooper said that, if the county chooses to retain his services for the remainder of the year, the County will have to fund it. The MOU has been signed by USU to remain in effect from February 15 thru June 30, 2007.

Commissioner Cooper made a motion to approve and sign the MOU to employ Jim Stevens through June 30, 2007. The motion was seconded by Commissioner Walker. Attorney Waddingham asked about the responsibilities that Mr. Stevens has with the County. He asked if his duties are such that they could impose a liability on the county. Commissioner Cooper said that he doesn't believe that Mr. Steven's responsibilities would impose a liability on Millard County. Attorney Waddingham asked if Mr. Stevens is an agent of the State of Utah or Millard County? Cooper responded that the program is administered by USU. Voting was unanimous in the affirmative to sign the MOU.

Commissioner Cooper stated that Francisco Alcala has asked for a waiver of rental fees for the East Indoor Arena. Mr. Alcala and others are sponsoring a rodeo and dance. Commissioner Cooper said he did not have the form with him that he received from Mr. Alcala. Because Mr. Alcala's group is not a registered nonprofit entity, the request was declined by the Commission.

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

Commissioner Walker made a motion to go into executive session to discuss strategy on reasonable imminent litigation. The motion was seconded by Commissioner Cooper. The motion carried and the Commission went into executive session at 2:35 p.m.

The commissioners resumed regular commission meeting at 2:45 p.m.

## ADJOURNMENT

Commissioner Walker made a motion to adjourn regular commissioner meeting. The motion was seconded by Commissioner Cooper. Voting was unanimous and the meeting adjourned at 2:46 p.m.

Attest: Norma Brunson Approved: Daron P Smith