

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 3rd DAY OF APRIL 2007  
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Kathy Y. Walker ..... Chairman  
Daron P. Smith..... Commissioner  
John C. Cooper. .... Commissioner  
  
Richard Waddingham ..... County Attorney  
Janice Robins..... Deputy County Clerk

EXCUSED: Millard County Clerk Norma Brunson was excused for court clerk duties.  
Millard County Attorney Richard Waddingham attended court for the first hour of the meeting.

ALSO PRESENT:

Dale Whipple - Millard Publishing Owner  
Ron Bean, Knox Huntsman, Paul Leatham, Vern Brunson and Robert A. Nielson - American Legion Post 61  
James Slavens and Melanie Slavens - Public Defender and Secretary  
Craig Poulsen - USU Extension Agent  
Dean Draper - Chronicle Progress Reporter  
Georgia Hare - University of Utah  
Victor Lamolimare and Larry Gehre - East Millard Lions Club  
Robert Dekker - Millard County Sheriff  
Brandy Grace - Millard County Auditor

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:

COORDINATION SESSION

The Commissioners scheduled events for the months of April and May 2007.

PUBLIC WAS WELCOMED

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

OPENING STATEMENTS

Commissioner Smith gave a quote from George Washington. Commissioner Cooper

reported that Utah National Guard Battery C 1st Battalion 145<sup>th</sup> Field Artillery has been called to active duty and several of the soldiers are employees of Millard County. Commissioner Cooper said a prayer. Everyone stood and said the Pledge of Allegiance to the Flag.

#### FOLLOW UP ACTION ITEMS FROM MINUTES OF MARCH 20, 2007

There were none.

#### APPROVAL OF THE AMENDED MINUTES OF MARCH 20, 2007

Commissioner Cooper made a motion to approve the amended minutes of March 20, 2007. Commissioner Walker 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.

Auditor Grace reported she is still holding off payment on the invoice for Howard P. Johnson for researching done through the public defender's office.

Auditor Grace said an invoice from Huntsman Investigation has been turned in by James Slavens, Public Defender.

Auditor Grace reported that each week the Commissioners sign the Check Edit Reports. The reports of March 23 and March 31, 2007 have been reviewed and signed.

Auditor Grace said that Pam Smith had called the office and is concerned about workers compensation for volunteer firemen in the unincorporated areas of Garrison and Eskdale. The firemen are covered by a life insurance plan. Mrs. Smith wondered if the county could cover them with workers compensation. Volunteer firemen in the incorporated towns and cities are covered with workers compensation insurance. The Commissioners will check with Utah Counties Insurance Pool to see how the county could cover the volunteers and report back to Mrs. Smith.

On April 5, 2007, the State Tax Commission will be in Millard County to hear the appeals from the Board of Equalization held earlier in the year. Two appeals that will be heard, one for Great Basin Museum and one for John, Mark & Aaron Herrera. Commissioner Cooper, Commissioner Smith, Auditor Grace, Treasurer Hansen and Assessor Talbot will attend the appeals.

JLENS PROJECT-DUGWAY PROVING GROUNDS-HERBERT DAVILA AND MIKE ROBINSON

This item was rescheduled for the April 17, 2007 Commission meeting.

#### AMERICAN LEGION POST 61-REQUEST FOR WAIVER OF PROPERTY TAXES FOR ALL ACTIVATED GUARD MEMBERS

A group of five American Legion Post 61 members came before the Commissioners with Knox Huntsman acting as the spokesman for the group. Mr. Huntsman said the American Legion is representing the soldiers from Battery C 1<sup>st</sup> Battalion 145<sup>th</sup> Field Artillery who have been called to active duty. The American Legion is requesting that the county waive the soldier's property taxes while they are on active duty. There are approximately twenty families in Millard County that will be affected by the activation. The tax break would be helpful as many families will suffer financially during the time their spouses are away. Commissioner Smith said that the county employees jobs will be held and their benefits will continue while they are on active duty. Mr. Huntsman said the State of Utah has stepped up and waived state taxes for the soldiers while they are on active duty and gave them a \$3,500 tax exemption on their state taxes. In the past Fillmore City hasn't charged activated soldiers for power and water. The Commissioners said they will do some research and will try to find a way to grant the request.

#### QUARTERLY REPORT BY PUBLIC DEFENDER JAMES SLAVENS

James Slavens said he has talked with the Auditor's Office and Milt Harmon about the invoice from Howard P. Johnson for research. Mr. Slavens also feels that the charges were inappropriate. He said the public defender's contract covers findings and interviewing but does not cover research. He explained that attorneys are expected to do the legal research and anything over \$500.00 is to be approved by the court. If a private investigator is hired for larger cases, then the hourly rate, the mileage rate and the monthly budget should be approved by the court. Mr. Slavens, Millard County Public Defender and Milt Harmon, Juab County Public Defender trade defendant conflict work and keep track of the number of cases. Mr. Slavens reported on some of his activities and the cases he is handling. The Commissioners asked him about some criticism they had received about being late for court and he said that he had been doing better this year. The second complaint was that he doesn't meet with his clients in a timely fashion. Mr. Slavens said that at the first court date the whole case does not need to be complete. He said he first gets the notice from court that he has been assigned the case, then he talks with the prosecuting office, and then he talks to law enforcement about the evidence before he visits with his client. His goal is to not have to look at a file during court. The Commissioners thanked him for coming in.

Attorney Richard Waddingham entered the meeting and said he is in the process of trying to get the first \$5,000 back that was paid to Mr. Johnson/Mr. Harmon.

#### CRAIG POULSEN, MILLARD COUNTY USU EXTENSION AGENT-REQUEST TO HIRE A NEW EMPLOYEE

Craig Poulsen, Millard County Extension agent announced that Deuan Bean, USU secretary will be retiring the first of June and they will need to hire her replacement. He would like to start

the hiring process for the new secretary to enable Mrs. Bean to train during her last week. The Commissioners and Mr. Poulsen discussed the merits of whether the extension secretary should be classified as a USU or a Millard County employee. The Commissioners said it is in the best interest of the county to keep the position a USU employee. Mr. Poulsen was authorized to start the hiring process to fill the position. Both Mr. Poulsen and the county are frustrated with the fact that the county has been without another USU Agent for a year and a half. The county has talked to the University to see if a local person with a bachelor degree could be hired with a condition that he/she finish a masters degree. It was not approved. Mr. Poulsen said he had checked to see how extensions in other states handle the problem and found sometimes they under fill the position. Other Utah counties are now finding themselves without agents as the positions are not being sought after.

#### DISCUSSION ON RIDE FOR LIFE-LARRY GEHRE

Larry Gehre came before the Commissioners representing the “Ride for Life” fund raiser for the Huntsman Cancer Foundation. Mr. Gehre said that Millard County Tourism had approved his request for \$750.00 for advertising and \$3,000 for tee shirts. Commissioner Walker read from the minutes of the last Millard County Tourism meeting that stated the board approved the money upon final approval of the Commissioners. Past minutes had said that the board had recommended the money be given as seed money and that the event should eventually become self sufficient and money has been requested for the past five years. Mr. Gehre said that he wouldn’t feel right about keeping out money for a startup for the following year because the people who participate in the event expect their money to be donated to the Huntsman Cancer Foundation. The Commission reviewed the county’s donations and contributions policy and found this donation did not fit all the criteria. (See Exhibit A)

Commissioner Walker made a motion, based upon the discussion and county policy, to approve \$750 for advertising for the “Ride for Life”. The request for \$3,000 for the tee shirts was denied.

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

#### SHERIFF ROBERT DEKKER-DISCUSSION ON AMBULANCE

Millard County Sheriff Robert Dekker came before the Commission to ask authorization to hire ambulance drivers in the Fillmore area. Right now the staff is low and they are not able to fill all the shifts. Currently EMTs are making \$24 for a local run and more for transfers to other facilities. He suggested that the drivers are paid beginning at \$20 a run and eventually raised up to \$22.00 for local runs. The drivers could get a feel of the routine and see if they would like further EMT training and in the meantime they could help out by driving, getting supplies and other help the EMTs may need. Sheriff Dekker said there is money in the budget to cover this expense. He also suggested that EMTs should be compensated during the times they are required to wear a pager. The Commissioners agreed to have the sheriff advertise for drivers with the starting pay at \$20 and eventually increase pay to \$22. All applicants will have a criminal background and their driving records checked. They must hold a valid driver’s license and take the defensive driving course.

Sheriff Dekker said two deputies, Rick Carter and Russell Monroe, have been called up to active duty with the guard. Their jobs will be held and their benefits will continue while they are gone. In the meantime two people will be hired as temporary full time employees to fill the vacancies.

## DISCUSSION OF MILLARD COUNTY TOURISM BOARD'S RECOMMENDATION CONCERNING DISCOVERING MILLARD COUNTY

Commissioner Walker said the tourism meeting minutes of March 14, 2007 state that the board had some questions about the reprinting of the Discovering Millard County magazine. The board had talked to Mr. Whipple who said the supply of magazines in stock was estimated at 20,000 copies, enough to last through the summer. Dale Whipple had put in a funding request for 40,000 copies at a cost of \$24,875.56 with an expected completion date of April 2007. Chairman Killpack said if approval was given at this time it would wipe out the budget allotted for magazines and publications. Mr. Whipple said if renewal did not take place at this time, it would severely impact his business especially now that up-front money for projects was no longer being allowed by the county. He had explained the benefits of Discovering Millard County to the tourism board. Commissioner Walker said the Millard County Tourism Board would like to order 40,000 more copies with the understanding that they may not do the same thing next year. The tourism board didn't have plans to print again until 2008. The board may or may not order the magazine again in 2008.

Mr. Whipple said that 45,000 copies of the magazines had been ordered the year before and 35,000 copies two years ago. There are about 20,000 copies left which is normal for this time of year and they will be gone by mid summer. Mr. Whipple said that it is important to know the plans early in order to determine how to distribute the magazines as decisions are made based on the total number ordered. Millard County Commission approved the reprinting of 40,000 magazines.

Commissioner Walker made a motion based on the recommendation of the Millard County Tourism Board to reorder 40,000 magazines and stock pile them rather than waiting until next year to order them.

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

Mr. Whipple said that he will print the magazine this year, but then may have to move onto other projects if the county doesn't plan to order again in 2008.

## PUBLIC INPUT

Georgia Hare came before the Commissioners to request money to pay half the tuition and board for four scholarships to the University of Utah School on Alcoholism and Other Drug Dependencies. The total amount needed is \$1,016.00.

Commissioner Walker made a motion to approve \$1,016.00 for half of the cost of four scholarships to the University of Utah School on Alcoholism and Other Drug Dependencies. Money has been earmarked for this type of donation through the Utah Criminal Court System.

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

Commissioner Walker made a motion to recess for lunch and to reconvene at 1:30 p.m..

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

#### LUNCH BREAK

Commissioner Walker made a motion to reconvene the meeting.

Commissioner Cooper SECONDED the motion. The voting was unanimous and the meeting reconvened at 1:48 p.m..

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

Commissioner Cooper made a motion to go into a closed executive session to discuss personnel and salary issues.

Commissioner Walker SECONDED the motion. The voting was unanimous and the motion carried. The closed session began at 1:48 p.m. and ended at 2:07 p.m..

The regular meeting reconvened at 2:07 p.m..

Commissioner Cooper made a motion to approve all the pay roll changes that were discussed in the closed session for selected employees in the Auditor's Office, Sheriff's Office, Recorder's Office and Assessor's Office.

#### RATIFY THE SIGNING OF THE FOREST SERVICE PERMIT FOR THE ATV JAMBOREE

Commissioner Walker made a motion to ratify the signing of the Forest Service Permit for the ATV Jamboree.

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

#### POSSIBLE APPOINTMENT OF TANYA QUACKENBUSH TO THE MILLARD COUNTY TOURISM BOARD

Commissioner Walker made a motion to appoint Tanya Quackenbush to the Millard County Tourism Board following the recommendation of the tourism chair.

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

#### REQUEST FOR COMMISSION WAIVER FOR USE OF EXHIBIT BUILDING FOR DELTA AREA CHAMBER OF COMMERCE

Commissioner Walker made a motion to waive 50 percent of the rental fee on the exhibit building for the Delta Area Chamber of Commerce.

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

#### DISCUSSION OF INDUSTRIAL LANDFILL FEES

Commissioner Walker led a discussion about the fees on the 40-yard industrial landfill dumpster bins only. She read the actual costs and the amount being charged now and the amount of a proposed fee increase. Other counties had discontinued this service as soon as private haulers could provide the service. The Commissioners discussed whether to leave the fees as they are and continue on with the service, increase the fees to be more in line with private haulers and not take on any more clients, or eliminate providing dumpster bins to industries altogether.

Commissioner Walker made a motion to eliminate the 40-yard industrial dumpster bins service and pursue selling the dumpster bins to an interested party. The decision will be in effect starting June 1, 2007.

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

#### REVIEW AND POSSIBLE APPROVAL OF RESOLUTION 07-04-03

The resolution was discussed and amendments were made and approved by the Commissioners. Commissioner Walker made a motion to approve Resolution 07-04-03, A Resolution Amending Millard County Facilities Use and Rental Policy Fees.

Commissioner Cooper SECONDED the motion. Deputy Clerk Janice Robins called for a roll call vote. Commissioner Walker. YES. Commissioner Smith. YES. Commissioner Cooper. YES. The voting was unanimous and the motion carried. (See Exhibit B)

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

Commissioner Cooper reported that Kane County is involved in a lawsuit with the Southern Utah Wilderness Alliance over the signing of public roads. The State of Utah is considering whether or not to enter in as a co-defendant.

Commissioner Cooper attended the meeting with the Public Lands Advisory Council and it was determined that the council was not in violation of GRAMA because the council makes no decisions.

Commissioner Walker and Commissioner Cooper attended the draft review of the BARCASS report at the Department of Natural Resources on March 26, 2007. The final draft will be released in July for public review and the final report will be released in December 2007. Commissioner Cooper said they were told that the BARCASS study fulfilled all the requirements of the Lincoln County Act which they doubted. The Commissioners talked to Mark Ward about the findings of more water in the Snake Valley than originally thought which was different from the US Geological Survey Report.

Commissioner Walker attended a Millard County Tourism work meeting on March 27 to review request forms and address policy concerns.

On Wednesday, March 28 two representatives from Rocky Mountain Power met with Commissioner Walker, Linda Gilmore from the Millard County Economic Development Association and Gary Walker, Millard County Planning and Building Inspector and gave them Power 101 within the county. Rocky Mountain Power only increases the capacity with dense growth. The lines throughout the county are a 46 KB capacity.

Commissioner Walker met with the Great Basin Museum Board to discuss requirements of moving into their new facility when it is built on Delta Main Street.

Commissioner Smith attended the Mental Health Conference in Las Vegas, Nevada on March 26 through March 28. He appreciates the Central Utah Mental Health Department for supporting the Commissioners' attendance at the meetings.

Commissioner Smith will help with the interviewing process for the position of a truck driver at the Millard County Road Department on Wednesday, April 4, 2007.

Attorney Richard Waddingham was authorized by the Commissioners to send a letter to Milt Harmon stating that he and his client should reimburse the \$5,000 paid to them by Millard County. The county may consider filing a small claims case against Howard P. Johnson to recoup the money if necessary.

## OTHER BUSINESS

Commissioner Walker said a group has made a request to rent the off road obstacle course at the fairgrounds for an event. The Commissioners discussed the pros and cons of the possibility. Attorney Richard Waddingham will research the issue to determine whether the county may have exposure to liability.

Commissioner Smith said that the Millard County Building Department in the past has had a list of residential plan and permit acceptance policies which is a list of minimum requirements. They are proposing to amend the policy. Attorney Waddingham will look into the amendments and make a recommendation at the next meeting.

Commissioner Smith received notice that the Utah Air Quality Board Meeting will be held in Salt Lake City, Utah on Wednesday, April 4, 2007 at 1:30. Disposition motions for IPSC and the Sevier Power Plant appeals will be heard.

Commissioner Cooper and Commissioner Walker reported a discussion with board members for the "Relay for Life" in Delta. They were very critical of the Commissioners' decision for the use of the chairs and tables by non profit organizations. They said they would be willing to have the county inspect the chairs after the event and would pay for any damages incurred.



Commissioner Walker said that if the county is not going to follow the county policy then it should be discussed and the policy changed. The issue will be put on the next Commission agenda.

Commissioner Cooper said that LaVae Smith would like to have Sand Rock Ridge Road paved up to his subdivision. Commissioner Smith said that it is a county road and is not scheduled to be chipped. Commissioner Cooper said he will contact Mayor Christensen about what their plans are for the road. Attorney Waddingham said if a county road is vacated public hearings will have to be held and be advertised for four weeks.

Commissioner Walker led a discussion on the distribution of Millard County's landfill keys. The Department of Environmental Quality, ("DEQ") has very strict standards, regulations and rules Millard County has always tried to abide by. The county is always updating their practices and equipment to stay within the regulations. Currently Delta Garbage and Fillmore City have landfill keys. Commissioner Walker thinks that only county landfill employees should have keys and the dumping should be done during business hours. Because the county is responsible for whatever is dumped in there, someone needs to monitor the material as it comes in to prevent the county from losing the DEQ standing and their license.

Commissioner Cooper said that the Fillmore landfill is only open three days a week and the county maintenance only works one of those three days and it is difficult for them to take care of the landfill needs during that time. They would like a key to be able to access the landfill during their work days.

Attorney Waddingham said if the county does everything possible to set up safe guards then the state may recognize the county's efforts. Suggestions were made to:

- Set up a training session to train key holders of current DEQ regulations
- Give a certificate to employees after successful completing the training
- Set up and impose penalties for violations
- Private violators use will be discontinued
- County violators will be subject to discipline if they violate the policy

The Commissioners reported they are still getting calls about the Millard County Long Term Care Center and the swing beds in Fillmore. The public has been told that the Commissioners have talked with Intermountain Health Care and are considering obtaining private management. The swing beds in Fillmore will not be affected.

Attorney Waddingham gave the Commissioners a Notice of Vacancy to review because of the resignation of Benton Mork, Trustee of Millard County Drainage District Number Four. The Commissioners set the date of June 19, 2007 at 11:00 p.m. for a public hearing on this matter. They also set May 15, 2007 as the deadline date for accepting nominees.

Commissioner Smith said that he had signed a 50 percent waiver for the use of the Millard County Exhibit Building for "Sportsmen For Fish and Wildlife". The amount was \$75.00 as they had the use of the kitchen. The event was held on Saturday, March 31, 2007.

WHERE UPON THE MEETING ADJOURNED

Commissioner Walker made a motion to adjourn the meeting.  
Commissioner Cooper SECONDED the motion. The voting was unanimous and the meeting adjourned at 4:10 p.m..

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

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

POLICY OF MILLARD COUNTY, UTAH  
ON  
DONATIONS OR CONTRIBUTIONS

Commencing January 24, 2005, and continuing thereafter until amended by formal action of the Millard County Commission, following is the policy of Millard County regarding the donation of County funds or assets to any person, organization, entity, cause or project. This policy is in accordance with legal standards and guidelines, including, but not limited to, the Utah Constitution, Article VI, Section 29; Utah Code Annotated 17-50-303; and Salt Lake County Commission v. County Attorney, 985 P. 2d 899. Any donation of public funds or assets by Millard County shall meet all of the following criteria:

1. The donation must be for a valid County public purpose.
2. The donation must be given in return for fair market value in goods or services.
3. The goods or services to be rendered or delivered to the County must be a present benefit for fair market value – not speculative nor based on a future possible happening or event.
4. The goods or services to be provided to the County must be a specific present benefit in present market value, the details of which shall be specifically provided and outlined in County Commission minutes or in a written agreement between the County and the donor or recipient.
5. After first taking formal action or holding a public hearing, the County may provide services or give other non-monetary property or assistance to or waive fees required to be paid by a non-profit entity, whether or not the County receives consideration in return.