

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 12th DAY OF FEBRUARY 2008
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: John C. Cooper Chairman
Kathy Y. Walker. Commissioner

Richard Waddingham County Attorney
Norma Brunson County Clerk
Janice Robins. Deputy County Clerk

ALSO PRESENT: Roger Young Sheriff Office
Scott Corry. Millard County Fire District
Cindy Gubler UNEV
Scott Wilson Central Iron County Water Conservancy District
Bruce Costa. Central Utah Public Health
John Hansen. Millard County Treasurer
Connie Hansen. Millard County Recorder
Brandy Grace. Millard County Auditor

EXCUSED: Daron P. Smith. Commissioner

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN PROVIDED TO each member of the governing body, the local news media and posted in three public places or on the Millard County website, as required by law, the following proceedings were had:

COORDINATION SESSION

The Commissioners scheduled events for the months of February and March 2008.

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 and then offered an opening prayer. Everyone stood and said the Pledge of Allegiance to the Flag.

FOLLOW UP ACTION ITEMS FROM MINUTES OF JANUARY 29, 2008

There were none.

APPROVAL OF JANUARY 29, 2008, COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held January 29, 2008 were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Walker made a motion to approve the minutes of January 29, 2008, as corrected.

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

Commissioner Walker made a motion to approve the minutes of the special Millard County Commission meeting held on January 31, 2008 at the Millard County Office, Delta, Utah.

Commissioner Cooper 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.

Auditor Grace gave the February 1, 2008 Payroll Report and the February 8, 2008 Check Edit Report to the Commissioners to review and sign.

Auditor Grace gave the Commissioners a copy of the filed Millard County Independent Auditors' Report dated December 31, 2006. The filing had been delayed because Millard County Special District Number 8's information was not submitted on time. Special District Number 8 should be encouraged to submit its reports in a timely fashion.

SCOTT WILSON-WATER DEVELOPMENT PRESENTATION

Scott Wilson, General Manager of the Central Iron County Water Conservancy District, ("CICWCD") in Cedar City came before the Commissioners to extend an invitation to Millard County to join into an interlocal development agreement for the joint development of the water right. Beaver County was extended the same invitation. The CICWCD is filing on 37,000 acre feet of water in the Wah Wah Pines and Hamelin Valley. CICWCD is prepared to develop the water it files on and it is the intent to not draw more than the safe and sustainable yield. Mr. Wilson feels there is some strength in a regional joint agreement. CICWCD represents the cities of Cedar City, Enoch and Iron County.

Commissioner Cooper said that Beaver County is opposed to the filing and Millard County is supportive of Beaver County's stance in this matter. Millard County believes studies need to be done and the wells monitored before any water is taken from the valleys. Millard County has been in a fight with SNWA for four years over water in the Snake Valley. They have asked the legislature for \$487,000 to do a spring study in the Snake Valley to see if withdrawals will affect the aquifer. Millard County feels the CICWCD's filing is ill timed for any withdrawals from the west desert. The Commissioners feel that once any infrastructure is built and is dependent on the water, it would be

difficult to monitor and turn off the tap.

Mr. Wilson said that there could be a broader view in Beaver County's and Millard County's current position.

Attorney Waddingham asked Mr. Wilson how the quantification of water would be set up? If Millard County identified its potential use of water, what kind of contractual and financial obligation would there be?

Mr. Wilson said that Millard County would be able participate in the process for drafting the agreement.

The Commissioners said they are not planning to join the interlocal agreement today and Mr. Wilson said he would like to revisit the issue again with the Commissioners.

POSSIBLE APPROVAL OF A LEASE AGREEMENT BETWEEN THE US FOREST SERVICE AND MILLARD COUNTY

Attorney Richard Waddingham said he had a few concerns with the agreement. Bill Wright at the Forest Service will be contacted and invited to next week's Commission meeting to discuss possible amendments to the agreement.

DISCUSSION AND POSSIBLE DECISION ON 401K PLANS FOR COUNTY EMPLOYEES

Commissioner Cooper led the discussion on whether the county should hire a new administrator for the fifty county employees whose 401K Plan is managed by the John Hancock Plan or eliminate that plan all together and roll funds to Utah Retirement Services ("URS"). At one time the county offered two choices, one with John Hancock Plan and one with URS. The majority of employees are now with URS and the John Hancock Plan is no longer offered to new hires. There are several differences between the two plans. URS fees are less than the fees charged by the John Hancock Company and URS will manage the plans after the employee retires. Millard County needs to make some changes in order to comply with the new IRS regulations whether or not they choose to abandon the John Hancock Plan. The Commissioners asked Auditor Grace to send a notice to all county employees who are participating in the John Hancock Plan to determine if they would like to: 1) Continue participation in the John Hancock Plan but pursue a new Third Parry Administrator or 2) Eliminate the John Hancock Plan and roll funds to URS.

REQUEST FOR COMMISSION WAIVER BY DELTA AREA CHAMBER OF COMMERCE FOR USE OF THE MILLARD COUNTY EXHIBIT BUILDING FOR THE SNOW GOOSE FESTIVAL QUILT SHOW BANQUET ON FEBRUARY 29 AND MARCH 1, 2008

The Commissioners reviewed the application and determined that the request fits the guidelines set by the county for use of its facilities.

Commissioner Walker made a motion to waive the fees 50 percent on the Millard County Exhibit Building for the Snow Goose Festival Quilt Show Banquet on February 29 and March 1, 2008.

Commissioner Cooper stepped from the chair and SECONDED the motion. The voting was

unanimous and the motion carried.

RATIFY THE APPOINTMENT OF GALE CHAPMAN, LON JACKSON AND WAYNE JACKSON TO THE BOARD OF DIRECTORS FOR MILLARD COUNTY CARE & REHABILITATION, INC.

Commissioner Walker made a motion to ratify the appointment of Gale Chapman, Lon Jackson and Wayne Jackson to the Board of Directors for Millard County Care & Rehabilitation, Inc.

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

RATIFY THE APPOINTMENT OF LON JACKSON, TONY DEARDEN AND REX STANWORTH AS THE INCORPORATING BOARD MEMBERS OF MILLARD COUNTY CARE & REHABILITATION, INC. WITH TONY DEARDEN SERVING AS THE CHAIRPERSON

Commissioner Walker made a motion to ratify the appointment of Lon Jackson, Tony Dearden and Rex Stanworth as the Incorporating Board Members of the Millard County Care & Rehabilitation, Inc. with Tony Dearden serving as the Chairperson of the Board of Directors.

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

RATIFY THE APPOINTMENT OF SCOTT WRIGHT TO THE MILLARD COUNTY TOURISM BOARD

Commissioner Walker made a motion to ratify the appointment of Scott Wright to the Millard County Tourism Board.

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

RATIFY THE APPOINTMENT OF STEVE KIMBALL TO THE CENTRAL UTAH PUBLIC HEALTH AUTHORITY BOARD

Commissioner Walker made a motion to ratify the appointment of Steve Kimball to the Central Utah Public Health Authority Board.

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

FILING OF DISCLOSURE STATEMENTS

Disclosure statements were filed for:

Robert L. Droubay

Clayton Jeffery
Evelyn Warnick
David W. Jackson
Ed Ingram
Rick Bublitz
Brent Spencer
Kevin Morris

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

Commissioner Walker and Commissioner Smith attended a meeting in Beaver with Beaver and Iron County Commissioners. Millard County's proposed West-Wide Utility Corridor that parallels the IPP alignment was discussed and it was supported by Beaver and Iron County Commissioners.

A discussion on 37,000 acre feet of water in three valleys that were filed on by the Central Iron County Water Conservancy District followed. Both Millard County and Beaver County have protested the filings. The decline in rates to participating counties for jail contracting was also among the topics discussed.

Commissioner Walker and Commissioner Smith talked with Rocky Mountain Power representatives regarding the addition to the substation in Delta. There were some questions regarding the property line between the Millard County Offices and the substation, which have now been resolved.

Commissioner Walker met with Rocky Mountain Power representative Tom Kovack to develop a Community Performance Plan for 2008.

Steve and Joyce Frampton of Fillmore were chosen as the Millard County Business of the Year recipients. They will be honored by the Six-County Association of Governments on March 5, 2008 at a ceremony in Wayne County.

Commissioner Cooper reported he had met with the Bureau of Land Management, ("BLM") to discuss current issues.

Commissioner Cooper met with Central Utah Public Health Department.

All three Commissioners met with the Salt Lake County Council and received an unanimous resolution from them to support Millard County, Juab County, Tooele County and the Goshute Indian Nation in support of HB170.

Commissioner Cooper met with Micheal Styler, Brad Winn, Amanda Smith from the Governor's Office, Senator Dennis Stowell, Dean Baker and Cecil Garland to discuss HB170. They were encouraged not to support the bill and said it handcuffed the Governor. They decided to hold HB170 to see what happens to HB144 because if this bill passes then HB170 won't be necessary. The Commissioners are concerned with HB51, a bill sponsored by Representative Painter

concerning municipal water rights because it affects the water in the West Desert. There are a number of bills before the legislature that are important to the county and the Commissioners will continue to monitor their progress.

Treasurer Hansen said that UAC has provided a phone number for officials to use to call and listen to the legislature's briefing meetings on Thursdays. He has been using the phone in Commission Chambers and the Commissioners gave their permission for him to continue to use their phone.

Millard County Treasurer John Hansen said that between November 7th and November 11th, the mail that did not get delivered to the Treasurer's Office. The office has received numerous phone calls from people located throughout several different states that said they had mailed their taxes, but their checks had not cleared the bank. The Commissioners agreed with Treasurer Hansen that under these circumstances the penalty and interest should not be assessed to those taxpayers.

The Commissioners agreed that the penalty and interest on a parcel of mining property for Thomas David Canada could be waived because the owners had not been billed for the taxes in 2006 and 2007; the State of Utah had sent the bill to another individual.

Attorney Waddingham wanted to discuss the Intermountain Health Care, Inc. ("IHC") amended and restated ground lease and the termination, reconciliation and release agreement. Attorney Waddingham asked questions regarding the budget for the care center, why expenditures always far exceeded the budgeted amounts and whether audits were ever conducted. His purpose in asking was to determine whether there was compliance with the operating agreement and if not, whether it may have rendered any of the documents invalid. Commissioner Walker stated that a full-blown audit was considered but that the independent auditor, county auditor and Commissioners decided against it because there were monthly invoices and documentation that supported IHC's expenditures, although they were much higher than expected. Attorney Waddingham advised the Commissioners that the termination agreement gave both parties 180 days in which to reconcile costs and that if the County wanted an audit it would need to be started soon. Attorney Waddingham felt that both the ground lease and operating agreement were extremely one-sided, and that the County was in a vulnerable position. Specifically, he was concerned with provisions addressing insurance coverage, condemnation proceedings and awards, different standards of negligence affecting the parties, indemnification provisions and liability exposure. The County has been operating under the ground lease for a few years and the proposed amended and restated ground lease incorporates most of the same terms. The County is already bound by the terms of the existing ground lease so the County is in an extremely difficult negotiating position with IHC. Accordingly, IHC is not willing to substantively amend any of those terms. IHC did amend provisions that allowed the County to contract with another health care provider to allow the health care provider to engage in therapeutic and rehabilitative services which were extremely critical provisions for the continued operation of the care center. However, given the overall terms of the agreements, Attorney Waddingham said he could not make a recommendation to go forward. Once a new ground lease is signed, the County may lose any claims or arguments it may have had as to the invalidity of the current agreements. Commissioner Walker said that it is a one-sided contract and we are not in a good negotiating position. She asked about available options. Attorney Waddingham stated that some available

options included performing an audit, continue negotiations with IHC which will probable not yield much success, attempt to terminate the lease in which case the building and improvements will revert to IHC, or sign a new ground lease containing most of the same problematic provisions as the current ground lease. The Commissioners were not comfortable with the agreement but wanted to think about it. Commissioner Walker asked the Commissioners to consider the entire package one more time. A final decision will be made next week at the Commission meeting.

Treasurer John Hansen explained that if the county does decide to do an audit, the independent auditor should have good credentials. He said that an audit would be very expensive and time consuming and the details from IHC would be necessary.

OTHER BUSINESS

Bruce Costa, Central Utah Board of Health, came before the Commissioners with a beautiful plant and a plaque that will be presented to Warren Jensen's wife in honor of Mr. Jensen's long term service to the Central Utah Health Department. Mr. Jensen had done a great job supporting public health both locally and statewide.

Scott Corry, Chairperson of the Millard County Fire District came before the Commissioners to discuss financial concerns of the fire district. He explained that since 1996 the fire district has been picking up the tab for fire suppression and since that time there has been an increase in the frequency and cost of fires. The costs are based on a formula of a five year average of suppression costs on the unincorporated acres in Millard County with a 60-40 percent ratio with the state. In the 1996 Sorensen Complex Fire, Millard County was billed \$137,000 for suppression costs. The county picked it up on a 10 year payment plan with zero interest. The last payment will be made in 2008. The State now has a State Fire Suppression Fund that the county can and does participate in to help offset the cost of the major fires. Mr. Corry said when the fire district was formed it was for fire protection and not for fire suppression. In 2006, Millard County was assessed \$1,239,772 for the Dog Valley Fire. If this pattern continues and it is not determined to be a FEMA fire, Millard County's assessment in real dollars for the Milford Flat Fire could be between \$400,000 and \$500,000. Chairperson Corry explained that the tax levy for the fire district is at the maximum and the district is falling short of funds each year. If the fire district continues to pay suppression costs it will need to go for a tax increase this year with an election. There are no known documents stating that Millard County mandates the fire district to pay for suppression costs. A decision will need to be made whether the county or the fire district will be responsible for the fire suppression fund. The issue will be discussed again at the next Commission meeting.

The decision of whether the county will mandate the fire district to pay suppression costs or whether the county accepts responsibility will be made at next week's Commission meeting.

Attorney Richard Waddingham presented a Quit Claim Deed to the Commissioners for the Chairperson's signature regarding the .11 acres of land the county sold to Troy Crosland. The Quit Claim Deed was signed by Commissioner Cooper. The document will be recorded in the Recorder's Office

PUBLIC INPUT

There was none.

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

There was none.

WHERE UPON THE MEETING ADJOURNED AT 12:38 P.M.

Attest: _____

Approved: _____