

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 5th DAY OF AUGUST 2008
AT THE COURTHOUSE, FILLMORE, UTAH

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

Richard Waddingham (Afternoon Only)-County Attorney
Norma Brunson County Clerk
Janice Robins Deputy County Clerk

ALSO PRESENT: Cindy Gubler, Dan Hoffman, Jim Townsend, Ann Jones
UNEV

Bruce Costa & Leslie Abraham Central Utah Public Health
Eric Robins Round Valley Surveys
Ronald Baugh BLM, Salt Lake City Field Office
Ivan L. Robins Citizen
Robert Dekker Millard County Sheriff
Bealynn Taylor Miss Millard
Una Rae Taylor Citizen
Connie Hansen Millard County Recorder
John Hansen Millard County Treasurer
Brandy Grace Millard County Auditor
Bruce Parker Millard County Consultant
Derrell Owens Millard County Building Inspector
Jim Slavens Public Defender
Tate Bennett James K Slavens & Associates
John and Mari Lou Heath Citizens
Jerald Anderson Eskdale Community
Mark A. Huntsman Sunrise Engineering
Tony Dearden Citizen
David Christensen Fillmore City

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:

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 asked if anyone had an opening statement to give. Commissioner Smith said the invocation. Commissioner Cooper expressed his admiration for several local heros. Morgan Christensen who had donated a kidney to his cousin Daniel Cummings. Sheri Kay Beckstrand, Morgan's sister gave a brief update on the condition of both patients and both are doing well. Everyone stood and said the Pledge of Allegiance to the Flag.

FOLLOW UP ACTION ITEMS FROM MINUTES OF JULY 22, 2008

There were none.

APPROVAL OF JULY 22, 2008 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held July 22, 2008 were presented for consideration and approval. Following review and consideration of minor corrections

Commissioner Walker made a motion to approve the minutes of July 22, 2008, as corrected.

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

DISCUSSION ON ERROR AND REQUEST FOR CORRECTION ON THE LOCATION OF SEVERAL MILLARD COUNTY SECTION MARKERS-ERIC ROBINS-ROUND VALLEY SURVEYS

Eric Robins-Round Valley Surveys("RVS") came before the Commissioners to report a problem on several Millard County section markers.

HISTORY OF PROPERTY:

- The original General Land Owners ("G.L.O.") Survey was performed in 1871 on Section 9 and 3/4 of Section 4, Township 19 South Range, 2 West SLB&M. Notes from the surveyor state that it was too mountainous to finish Section 4. (RVS able to retrace notes in 2008.)
- Retracement and Original survey performed in 1907 on the rest of said Section 4.
- Remonumentation of the West Line of said Section 9 was done by the BLM

- Remonumentation of the North and East line of said Section 4 by Millard County in 2000.
- A remonumentation of the East and South lines of said Section 4 and the East line of said Section 9 was done in 2006.
- Ivan Robins Survey was done in the Spring of 2008.

PROBLEM FOUND:

- 2008 Survey as per proper procedures and found evidence was shown on sheet 1
 - 2008 Survey as per found 2006 monuments shown on sheet 2
- RVS found a quarter corner marker put in by Millard County between Section 4 & 5 after the original marker had been found. (1,100 feet in error)
- 76 acres of lost property for the owner on east side of section
 - Property taxes assess the property at \$1,000 an acre. Mistakes can happen but at the Southeast corner it is 300 feet off and continuing west it is 900 feet off. It appears the County monuments have been placed in the corners of the fences in the area. The fences in the area were not intended to be lines of occupation as they go around the hills and trees and were used to protect the wheat from the livestock. The adjoiner is the BLM.
 - Multiple problems with future surveys
 - County survey notes are lacking about how the monuments were placed.

POSSIBLE DAMAGES:

- Additional cost of Survey @\$150.00 an hour x 12 hours extra time spent to date =\$1,800
- Cost of lost land \$1,000.00 x 76 acres=\$76,000
- Possible holding up of sale
- Cost of dispute with neighbor if a new owner comes in =?
- Cost to County if a new owner sues for damages=?
- Cost to BLM to check monuments along their boundary

Mr. Robins said Wasatch and Tooele Counties are still paying for bad surveys since they have been hit with growth. In the past they have had similar survey practices as Millard County. As Millard County continues to grow its boundary problems will intensify. In his opinion, historically and predating the current Commissioners and Recorder, the County's practice has been to hire the lowest bidding private surveyor to go out and set the corners without any quality control whether it is in the right place or not. The risk to the County is that as soon as the County puts its name on a section corner it is saying it has done its due diligence and it has checked everything to make sure that the corner is in the exact location. Without any quality control that corner may or may not be in the exact location.

County Survey Practices per Utah State Law-17-23-16 Resurveys

In the resurvey of lands surveyed under the authority of the United States, the county surveyor or his designee shall observe the following rules:

(1) Section and quarter-section corners, and all other corners established by the government survey, shall stand as the true corner.

(2) Missing corners shall be reestablished at the point where existing evidence would indicate the original corner was located by the government survey.

(3) In all cases, missing corners must be reestablished with reference to the United States Manual of Surveying Instructions.

Mr. Robins said that number (3) applies in this case because the said property borders public lands. The original corner location has been located. The notes were able to be retraced clearly, the ravines, the groves of trees and the rocks and the evidences of the original survey were all found where they were supposed to be.

- “Once a surveyor finds a county monument, be it right or wrong, it is assumed, by that surveyor, that the county has put that monument in the correct location.”

Others who have found problems in Millard County: Bureau of Land Management (“BLM”)

Ron Baugh, Field Chief from the BLM Salt Lake Field Office, said the BLM had contacted Mr. Robins at RVS on a separate issue and became aware of the section corner error on the Ivan Robins’ property. The BLM has been in the Scipio area checking section corners in order to fence along the section lines and have found multiple corners that are in the wrong locations. In one Township alone they have found 5 or 6 in the wrong location. There have been three different surveyors in this area. Mr. Baugh said that the old corner sections from the 1800's are the original deeds and is how property was originally distributed by the federal government. He suggested that the County look very seriously at having a private surveyor look at the section corners and make sure they are in the right locations especially in the Scipio area by checking information in the Recorder’s Office and then doing a ground inspection. It would be better to nip the problem in the bud now than pay for it later. To avoid future problems with faulty surveys, different survey practices need to be implemented. When the BLM does a resurvey they give the county a copy of all plats, the justifications, and the field notes.

RVS’s CONCLUSION:

- Millard County could cause damages to Ivan Robins and possibly the adjoiningers
- It has been caused by faulty survey practices
- Other areas have potential problems
- What is the County going to do to fix the problem and to prevent it from continuing to happen? It would be better for the County not to place a

monument than to place a faulty monument and create liability to the County and to others who use the marker.

Connie Hansen, Millard County Recorder, said that when the County bids out a job, three to five bids are usually sent in. The County's surveying committee reviews and awards the bids making sure certain qualifications and criteria are met. The surveyors are to come into the Recorder's Office and review all the information on file including the BLM's notes. She said she knew one time someone would come in and contest the County's corners. The committee will need to get together and decide what can be done to solve the problem on the Robins' property. They would like Mr. Robins to get with the surveyor that did the questioned survey and try to solve the problem. If not, a third party surveyor would have to come in.

The Commissioners said that the County is willing to work with people and if mistakes are made they will try to correct them. They have a desire to make the County surveys compatible with the state and others and appreciate the information brought in to try and correct them. The County has always tried to get the best value for the money.

Mr. Robins said he would be willing to talk with the other surveyor and to the County Recorder again to get this problem resolved as soon as possible. He thinks the problem is bigger than just this one problem and the County practices should be seriously looked at. He thanked the Commissioners for their time. A copy of the handouts will be on file in the Clerk's Office.

REVIEW AND POSSIBLE RENEWAL OF THE STATE PREDATOR CONTROL CONTRACT WITH MILLARD COUNTY

This item was tabled until August 19, 2008.

REVIEW AND POSSIBLE APPROVAL OF THE ARTHRITIS FOUNDATION CONTRACT WITH MILLARD COUNTY

This item was tabled until August 19, 2008.

REVIEW AND POSSIBLE APPROVAL OF THE USDA FOREST SERVICE COMMUNICATIONS USE LEASE

Commissioner Smith made a motion to approve the USDA Forest Service Communications Use Lease.

Commissioner Walker **SECONDED** the motion. The voting was unanimous and the motion carried. The contract was sent to Bill Wright at the Forest Service and will be on file when it is returned.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON CONDITIONAL USE APPLICATION #Z-2008-014 BY UNEV FOR A MAJOR 12" REFINED PETROLEUM PRODUCTS UNDERGROUND PIPELINE TO BE LOCATED WEST OF DELTA, UTAH, ALONG THE UNDERGROUND UTILITY CORRIDOR AS INDICATED ON THE MILLARD COUNTY MAJOR UTILITY CORRIDOR PREFERRED MAP

Before the public hearing Bruce Parker, the County Consultant gave a brief report on a petroleum pipeline for UNEV that will be located in Millard County and several other counties in Utah from North Salt Lake to North Las Vegas. Planning and Zoning held their public hearing in June, 2008. There are twenty-five conditions that need to be accepted before the CUP is approved. He read Section 10-7-6

- (1) The proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the County.
- (2) Such use will not, under the circumstances and conditions imposed, be detrimental to the health, safety and general welfare of persons or injurious to property or improvements of the immediate area or the county as a whole.
- (3) The proposed use will comply with the regulations and conditions specified in this chapter (of the Millard County Code) for such use.
- (4) The proposed use conforms to the goals, policies and governing principles of the County general plan.
- (5) That, for uses designated as accessory uses, the use will support and further the principal use of the property.

The Planning Commission and Mr. Parker are recommending that a public hearing be held today. There appears to be two options for the Commissioners today.

- Move to discuss the item, consider the Planning Commission's recommendation and make a decision today: or
- Withhold any final approval today and wait for the final approved minutes from the Planning Commission.

The consultants's full report will be on file in the Clerk's Office.

Jim Townsend from UNEV thanked the Commissioners for considering its project. They are willing to answer any questions that anyone might have. UNEV has several minor changes that they would like to discuss.

Commissioner Walker made a motion to go into a public hearing to take public

comment on the Conditional Use Application #Z-2008-014 by UNEV. Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried.

Commissioner Cooper called the public hearing to order at 11:15 a.m.. Present were: Cindy Gubler, Dan Hoffman, Jim Townsend, Ann Jones, Bruce Costa, Leslie Abraham, Robert Dekker, John & Marilou Heath, Bealynn & Una Rae Taylor and Bruce Parker

There was no public comment.

Commissioner Walker said that based on the fact there were not any public comments, the hearing should close. Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The public hearing ended at 11:17 a.m..

REVIEW AND POSSIBLE DECISION FOLLOWING A PUBLIC HEARING CONDUCTED AUGUST 5, 2008, REGARDING CONDITIONAL USE APPLICATION #Z-2008-014 BY UNEV FOR A MAJOR 12" REFINED PETROLEUM PRODUCTS UNDERGROUND PIPELINE TO BE LOCATED WEST OF DELTA, UTAH ALONG THE UNDERGROUND UTILITY CORRIDOR AS INDICATED ON THE MILLARD COUNTY MAJOR UTILITY CORRIDOR PREFERRED MAP

This item was tabled until August 19, 2008.

MISS MILLARD-BEALYNN TAYLOR

Miss Millard - Bealynn Taylor said that this past year as Miss Millard has been one of the greatest experiences of her life. She thanked Millard County and the Commissioners for their help and support. Her platform for the past year has been "Strengthening the Inner You." She focused on helping the community realize the importance of self-worth. She joined with an organization called "Cowboy Ted Foundation for Children". Some of the many events she attended or helped with were a presentation at the elementary schools, made flyers for the middle schools and high schools students to help them realize their inner self-worth, Millard County Fair, Delta Festival of Trees (donated a tree), Delta Light Parade, Delta Centennial Celebration, Centennial for the Fall Festival, spoke at the Millard County Jail, helped with the American Legion fund raiser for updating the Veteran's Memorial in Fillmore, American Legion meeting(received a plaque and pin), Oak City Days, Fillmore Arts Festival and Days of

the Old West Rodeo. She said it has been a pleasure to serve as Miss Millard. She will be attending Utah Valley University. The Commissioners thanked Miss Taylor for doing a great job as Miss Millard. The Commissioners had a gift basket for her as a thank-you for doing a great job.

DISCUSSION WITH BRUCE COSTA-CENTRAL UTAH PUBLIC HEALTH DEPARTMENT

Bruce Costa-Central Utah Public Health Department (“CUPHD”), came before the Commissioners to discuss the issues regarding the changes by the Governor for a four-day work week. He has been visiting all the Commissioners in the Six County area to get their input on the four-day work week for CUPHD. There are advantages and disadvantages of going to four-ten- hour days. CUPHD gives direct service to the public so it is difficult not to be open on Fridays. Birth and death certificates, the WIC program and IT services are still wanted on Fridays. The extra hours on Monday through Friday is a positive item to some patrons. Most of the CUPHD employees are for the four-day work week. Sanpete County and Sevier County are somewhat against CUPHD closing on Fridays even though Sanpete County Offices will be closing on Fridays. CUPHD’s offices will all have to either work four-days or all work five-days, because of the variety of services provided, they cannot cover each other. Some CUPHD offices are in county buildings and that will affect their decision also. The state will offer minimal help on Fridays. The Commissioners said that Millard County has decided to wait and see the results of the four-day work week throughout the rest of the state.

REVIEW AND POSSIBLE ADOPTION OF RESOLUTION NO. 08-07-22, A RESOLUTION AMENDING THE MILLARD COUNTY POLICIES AND PROCEDURES MANUAL FOR MILLARD COUNTY, UTAH FOR THE PURPOSE OF DELETING THE REQUIREMENT UNDER SECTION XV (P) 2 OF THE MANUAL FOR DRIVERS TO COMPLETE AN ANNUAL REFRESHER COURSE; ADOPTING A NEW SUBSECTION UNDER SECTION XV (P) PERTAINING TO VOLUNTEER DRIVERS; AND ADOPTING A NEW POLICY UNDER SECTION XX PERTAINING TO APPROVAL OF VOLUNTEER SERVICE

This item was tabled until August 19, 2008.

RATIFY THE SIGNING OF A QUIT CLAIM DEED FROM MILLARD COUNTY TO HAROLD BECKSTRAND

Commissioner Walker made a motion to ratify the approval of a Quit Claim Deed from Millard County to Harold Beckstrand.

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The document will be recorded in the Recorder's Office.

RATIFY THE APPOINTMENT OF RANDY COATS TO THE MILLARD COUNTY SPECIAL SERVICE DISTRICT NO. 8

Commissioner Smith made a motion to ratify the appointment of Randy Coats to the Millard County Special Service District No. 8.

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

Commissioner Smith made a motion to appoint Don Gavin as a member of the Special Service District No. 8 board. He will replace Mike Ferrell who was thanked for his service.

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

DISCUSSION ON MILLARD COUNTY ELECTED OFFICIAL'S BOND

Millard County Clerk Norma Brunson said there is a need for copies of the bonds to be available for GRAMMA requests. The discussion was tabled until August 19, 2008.

DISCUSSION ON MILLARD COUNTY FINANCES

This item was tabled until August 19, 2008.

OTHER BUSINESS

There was none.

PUBLIC INPUT

There was none.

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

There was none.

NOON LUNCH BREAK

Commissioner Walker made a motion to recess for lunch.

Commissioner Smith SECONDED the motion. The voting was unanimous and the meeting recessed at 12:05 p.m..

Commissioner Smith made a motion to reconvene the meeting.

Commissioner Walker SECONDED the motion. The voting was unanimous and the meeting reconvened at 1:12 p.m..

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

Commissioner Smith reported he attended the Central Utah Counseling Center meeting on Friday. The board did not renew the current contract with director and Ryan Whipple was appointed as the acting director. The director position will be put out for bid.

Commissioner Smith attended the Special Service District No. 8 meeting. There are two new board members. Brent Tolbert was chosen as the Chairperson.

Commissioner Smith said Mark Ward presented the Millard County Commissioners with written comments about air quality that he will be submitting to the Nevada State Engineer on Friday.

On July 23: All three commissioners participated in a special meeting with Governor Huntsman and Department of Natural Resources (DNR) Director Mike Styler. The Governor discussed the proposed pipeline by Southern Nevada Water Authority (SNWA). He said protecting Utah's water is a priority and he expressed his support. Mr. Styler gave a presentation on Utah's water rights and usage. He discussed the negotiation process currently underway between his department and his Nevada counterpart.

On July 24: Commissioner Walker participated in Hinckley's July 24 parade, and attended the program in the town park. Thanks to economic development director Linda Gillmor for volunteering to drive, and Rob Droubay for the use of a new pickup.

On July 28: Commissioner Walker conducted a meeting to discuss a strip of

land between Delta City's Neighborhood Park and the County Care Center. The ground hasn't been landscaped and is an eyesore that Millard County initially planned to plant with grass and Delta City would maintain. The property belongs to Intermountain Health Care. Representatives from each entity were present. It was determined that parking is at a premium and may be the best option. Kevin Morris, West Millard Maintenance Supervisor, and Alan Riding, Delta City Public Works Director, will develop a site plan and estimated costs prior to the next meeting.

On July 29: Commissioner Walker and economic development director Linda Gillmor met with SITLA personnel, MEDA Chairman Rob Droubay, rancher Ray Lyman and Brent Drew of Quantum Development to discuss land development. Plans are being considered for SITLA land, which may include an industrial park.

Commissioner Walker and County Planner Sheryl Dekker met with representatives from Magna Holdings. They have applied for a permit from SITLA, as well as purchased some private property south of IPP for salt exploration. If salt deposits are found sufficient, the company plans to proceed with development.

July 31: Commissioners Walker and Cooper listened to two proposals to fill a vacancy in East Millard Maintenance following the retirement of supervisor Gary Hone. Following discussion, the commissioners decided to promote Klint Penney to the position.

That evening, Commissioner Walker attended a Miss Millard practice session to acquaint pageant contestants with county government and current issues.

Aug. 1: Commissioners Walker and Smith attended USACCC Summer Conference

presented by Utah Association of Counties (UAC). The conference was held at the Snow College Richfield Campus. Funding health programs, 2009 legislative priorities and public land issues were among the topics discussed.

On Aug. 2: Commissioner Walker attended the 2008 Miss Millard Scholarship Pageant held at the Palladium in Delta. Six contestants vied for the title, with Jamie Groesbeck of Fillmore being named 2009 Miss Millard. First attendant is Melinda Steele of Oak City, and 2nd attendant is Skylar Beckstrand of Fillmore.

Twenty contestants ages 7-10 competed for the Little Miss Millard crown. Kaybree Stephensen of Delta was selected by the judges as the Little Miss Millard.

The Millard County Fair begins on Thursday, August 7 and runs through August 9, 2008. There will be many fun events including a special dinner and concert with the Lowe Family from Branson, Missouri on Friday.

Commissioner Cooper reported the District Riding Club meet was held in Fillmore last weekend. There was good participation. The State Riding Club Meet will be held on the first week of September in Fillmore.

AUDITOR'S REPORT

Auditor Brandy Grace gave the Check Edit Report of July 31, 2008 to the Commissioners for review and approval.

Auditor Grace reported that the County had received a refund check from Intermountain Health Care for about \$80,000. There should be about \$30,000 coming in the near future. Auditor Grace said that the County will meet with Intermountain Health Care for a final accounting of the operations at the Millard County Care Center.

REVIEW AND POSSIBLE APPROVAL OF TITLING AND PURCHASING INSURANCE FOR MILLARD COUNTY CARE AND REHABILITATION'S VEHICLES

Auditor Brandy Grace said that Traditions Health Care is interested in titling and purchasing insurance for its vehicles. The Commissioners agreed to this plan.

TENTATIVE MEETING WITH JIM SLAVENS-SUBJECT TO TIME CHANGE OR CONTINUANCE

Attorney Richard Waddingham said according to the current contract there would be a preliminary meeting with the public defender to negotiate terms for a new contract and this is the purpose of today's meeting. Mr. Slavens was asked to give a brief history of the contract with him. Mr. Slavens said when he first moved here he worked with the prosecutor and Larry Hunt was the public defender with an annual contract for about \$120,000. The next year Mr. Slavens bid either \$112,000 or \$113,000 and got a four-year automatic renewal contract. The current contract is now down to \$90,000 for two to three years with a good faith negotiations clause. When comparing the case loads in Juab and Millard Counties they are similar. He trades conflict work with Milt

Harmon from Juab County. Mr. Slavens said he is very interested in a four year contract and is willing to do some concessions on the amount of the contract in order to get that time frame. A four year contract will give him some stability in order for him to plan ahead. He would also like to hire Tate Bennett from Blanding to be his assistant. The Commissioners provide the budget for the Sheriff Office, County Attorney's Office as well as the Public Defender's Office. They provide his budget, but Mr. Slavens defends the clients. Mr. Slavens said the ACLU has called him 4-5 times over the last few months and are taking a very serious look at the public defender system. Wyoming has a public defender's system similar to the Attorney General system that is being considered. ACLU representatives also say that the public defenders are not paid enough to represent the indigent clients. He had told them he never felt the Commissioners here tried to regulate him. However, it is hard for people to disassociate him from the people he represents.

Attorney Waddingham said that not having gone through the procedure before he called for this meeting. Mr. Slavens would have the right to talk with the Commissioners in private if he wants to. In comparing contracts with other jurisdictions, he feels the Commission needs to have control on how the contract is set up. Provisions need to be put in the contract that allows the Commission to do this. Attorney Waddingham thinks that procedurally things need to change and he will draft a new contract that will be presented to Mr. Slavens.

Mr. Slavens said he doesn't think a person who is the adversary in the court room should be giving advice to the Commissioners in regards to the public defender position. He will not negotiate the control part or the time element of the contract. He feels that he did what was the morally right thing by compromising to two years on the current contract, when previously he had a life long contract.

Attorney Waddingham said the County cannot be bound by a life long contract. The County

should establish its own rules for issuing a public defender contract. Attorney Waddingham also said he is not giving any advice on the public defender position; that the County Commissioners or the County Attorney's Office has absolutely no control over Mr. Slavens' Office or how Mr. Slavens represents his clients; and that the public defender can represent his clients any way he sees fit, so long as it complies with the statutory minimum requirements for representing indigent defendants.

Commissioner Cooper said that it is not a conflict of interest for the County Attorney to prepare contracts for the Commissioners.

The Commissioners will meet with Mr. Slavens on August 19, 2008 at 2:00 p.m. to discuss the terms for a new contract.

WHERE UPON THE MEETING ADJOURNED

Commissioner Walker made a motion to adjourn the meeting.
Commissioner Smith SECONDED the motion. The voting was unanimous and
the meeting adjourned at 1:45p.m..