

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 19th DAY OF AUGUST 2008
AT THE COURTHOUSE, FILLMORE, UTAH

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

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

ALSO PRESENT: Bart Whatcott Citizen
Brandy Grace Millard County Auditor
Dan Hoffman, Ann Jones, Paul Drecksel UNEV
Sean Kelly Division Utah Division of Wildlife
John & Marilou Heath Citizens
Bruce Parker Millard County Consultant
Robert Dekker Millard County Sheriff
Terri Cummings East Millard Swimming Pool
Forrest Roper Millard County Sheriff's Office
Klint Penney East Millard Maintenance Supervisor

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 August and September
2008.

PUBLIC WAS WELCOMED

The meeting began at 10:05 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. Everyone stood and said the Pledge of Allegiance to the Flag.

FOLLOW UP ACTION ITEMS FROM MINUTES OF AUGUST 5, 2008

Commissioner Cooper said that Morgan Christensen and Daniel Cummings were improving after the kidney transplant surgery.

APPROVAL OF AUGUST 5, 2008 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held August 5, 2008 were presented for consideration and approval. Following review and consideration of minor corrections

Commissioner Smith made a motion to approve the minutes of August 5, 2008, as corrected.

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

AUDITORS REPORT

Auditor Grace gave the Commissioners the Check Edit Report of August 15, 2008 to review and sign. The Payroll Reports from August 1, 2008 and August 8, 2008 were given to the Commissioners to review.

Auditor Brandy Grace said the PEHP executive reports from June 2007 to June 2008 have been received and will be on file in the Auditor's Office for the Commissioners to review.

Auditor Grace was authorized to issue a 75 percent refund for a building permit for Jake and Pam Smith because their project was cancelled.

The meeting with Mike Swallow to discuss the salary study was rescheduled for Monday, August 25 from 9:00 a.m. to 5:00 p.m.. The schedule will be set with by the Auditor for each elected official and department head.

Commissioner Walker asked for some clarification on the low income guidelines that the County uses. (Auditor Grace said the state guidelines are used for circuit breakers but the federal guidelines could be used for other County abatements if the Commissioners desire to use federal guidelines.)

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

Commissioner Smith made a motion to approve the renewal of the State Predator Control Contract with Millard County. The State will match up to \$5,000 for predator control in the County.

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

DIVISION OF WILDLIFE RESOURCES (“DWR”)-PRESENTATION OF PAYMENT IN LIEU OF TAX (“PILT FUNDS”)

Sean Kelly, DWR, thanked Millard County for its help and support. DWR is grateful for the use of the lands for winter range and upland game. He presented a \$9,266.74 PILT check to Commissioner Cooper. The check was then given to Auditor Grace to process. Mr. Kelly then discussed the following items with the Commissioners:

The dates for the Snow Goose Festival and the Snow Goose hunt should not overlap.

He reported an elk count is done every three years. Commissioner Cooper participated in the latest count. The estimated elk head count in the Canyon Range, Pahvant Range and West of Cove Fort is 2,000 and is enough to increase the number of hunting permits.

Part of the work the DWR does is to help control the deer within the city boundaries. Farrell Quarnberg is the tech that helps move the deer as high as possible to get them out of town. The deer that are born in town do not want to leave. The deer that are migratory and come into town will go back into the hills. Occasionally troublesome deer have to be done away with. This is done with a three-man crew, two men to serve as spotters and one man to serve as the shooter. Shooting within the city boundaries must be done very carefully and only when necessary.

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

Attorney Waddingham asked to have several items on the Arthritis Foundation contract checked out before approval is given.

Proof of insurance and liability

Written emergency procedure

One other lifeguard with knowledge of CPR must be present during training

The instructor can't be an employee or a volunteer of the Arthritis Foundation or the Arthritis Foundation Chapter

Commissioner Walker made a motion to have Commissioner Cooper sign the contract as soon as the information can be verified.

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

(Later in the meeting Terri Cummings, East Millard Swimming Pool supervisor was able to confirm that the first three items are all right and she will check with Mickey Robison, a county employee, to find out her status with the Arthritis Foundation.)

Commissioner Walker made a motion to approve the contract between the Arthritis Foundation and Millard County.

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

REVIEW AND POSSIBLE APPROVAL OF A PROPOSAL FOR A WAGE INCREASE FOR LIFE GUARDS

Commissioner Walker said that in an effort to attract and retain life guards some adjustments to their wages will need to be considered. Temporary part time employees are not effected by the salary structure currently underway by the Commissioners. The proposed salary increase for temporary part time employees is as follows:

Lifeguards \$6.60 to \$7.35

Water Safety Instructors \$7.98 to \$8.73

Shift Supervisors \$7.15 to \$7.75

Water Safety Instructors/Trainers \$8.53 to \$9.25

After one year a \$.25 per hour raise will be given. It costs one hundred twenty dollars (\$120) for lifeguard certification in order for a life guard to get a job. By comparison the average hourly wage for the other jobs in the area is \$6.55 and \$7.00 after one month of employment.

After discussing the issue, Commissioner Walker made a motion to increase the salary of the lifeguards, water safety instructors, shift supervisors, water safety instructors/trainers to the proposed increase. The funds are available within the budgets for both pools. The increase will be effective on the next payroll.

Commissioner Smith SECONDED the motion with a question if this was for 2008 and 2009? Two amounts were submitted but only the increase for 2008 was accepted by the Commissioners. The voting was unanimous and the motion carried.

REVIEW AND POSSIBLE APPROVAL OF A SALARY INCREASE FOR

EMPLOYEE IN THE SHERIFF'S OFFICE

Sheriff Robert Dekker had the paperwork signed for an employee whose raise was approved at a previous meeting. The Commissioners approved increases for an employee in dispatch and one employee on the task force. Sheriff Dekker said they have two people who are being considered for the positions at the jail. One is already POST trained and the other one will need the training. Sheriff Dekker said the office has several vehicles that need to be disposed of and asked how the Commissioners would like him to take care of them. (The surplus sale is scheduled to be held in October where they could be sold.) FYI-the Cricket Mountain fire is now under control with the help of airplanes.

REVIEW AND POSSIBLE ADOPTION OF THE CORRECTED CONTRACT WITH CENTRAL UTAH PUBLIC HEALTH DEPARTMENT AND CONNIE J. TOLBERT

Attorney Waddingham recommended that the contract be signed by the Central Utah Public Health Department.

Commissioner Walker made a motion to approve the corrected contract between Central Utah Public Health Department and Connie J. Tolbert. Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. (The paint for the interior of the office will be furnished by Mrs. Tolbert and the painting will be done by the jail crew.) Commissioner Cooper will take the contracts to Bruce Costa. A copy will be given to the Clerk Office after signing.

RATIFY THE APPROVAL OF DON GAVIN TO THE MILLARD COUNTY SPECIAL SERVICE DISTRICT NO. 8

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

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

POSSIBLE EXTENSION OF STAN ROBISON EMPLOYEE STATUS AT THE MILLARD COUNTY ROAD DEPARTMENT

Commissioner Smith made a motion to extend the employment of Stan Robison for one more month.

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

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

Bruce Parker, Millard County Consultant, referred to the Conditional Use Application UNEV Pipeline L.L.C. "(UNEV") Petroleum Pipeline Right-of-Way (Major) Application #Z-2008-014 that had been recommended by the Planning Commission and reviewed by both the County and UNEV. He said UNEV had a few modifications to the conditions;

(P) 2 # 8 UNEV will provide portable "pipeline locators" to the Millard County Road Department and the Millard County Fire District and capable of identifying the vertical and horizontal location of the UNEV petroleum pipeline. (UNEV believes that the Planning Commission recommended that UNEV be required to provide one (1) pipeline locator to the County. The Consultant Report to the Planning Commission recommended; "That UNEV provide a portable "pipeline locator" to the Millard County Road Department and the Millard County Fire District and capable of identifying the vertical and horizontal location of the UNEV petroleum pipeline." The draft minutes of the Planning Commission do not indicate how this Item was decided and recommended by the Planning Commission.)

(P) 3 #12 A Site Reclamation Plan for facilities located on private land be provided and reviewed and revised, as necessary, by the County Attorney and approved by the BOCC prior to the issuance of a Building Permit. This Plan shall include an estimate of the cost of site reclamation necessary to return the site as reasonably practical to the condition existing prior to any construction activities. UNEV shall post a bond, or other acceptable surety, with a value equal to the costs of site reclamation of the Petroleum Pipeline Right-of-Way (Major) running to the County, and all other performance guarantees, as determined necessary by the County Attorney, and approved by the BOCC for the entire life of the Petroleum Pipeline Right-of-Way (Major). UNEV shall provide evidence to Millard County of any site reclamation bonding or other surety and guarantees required by any Federal or State agency prior to the issuance of a Building Permit.

(P) 4 # 18 Recognizing the volatility and nature of the petroleum products being transported, UNEV shall coordinate with the Millard County Fire District and provide [annual] funding of [\$5,000.00] to the Fire District personnel. The

type, nature, and location of the training provided shall be typical for the training required for Fire District personnel for wildland fire and environmental incidents and shall be at the sole discretion of the Fire District. UNEV shall provide [such] [the necessary] funding to allow this training to occur at least annually, and commencing with the issuance of a Building Permit and continuing until the UNEV Petroleum Pipeline Right-of-Way (Major) is abandoned. (UNEV has proposed that their obligation under this condition be clarified. UNEV is proposing that their obligation to provide funding for necessary training for fire personnel be \$5,000 annually. The material with [] identifies UNEV's proposed revised condition language.)

(P) 5 # 21 A UNEV Voluntary Assistance Agreement is prepared for acceptance by the BOCC, upon the recommendation of the County Attorney. Such Agreement shall identify the agreed upon voluntary contributions being provided by UNEV in favor of the County and the contribution schedule. The Voluntary Assistance Agreement shall be authorized by the notarized signature of the UNEV Senior Vice President, with the authority to sign on behalf of UNEV. (By way of verbal communication with Millard County, UNEV has identified a possible voluntary contribution to Millard County of \$45,000.00. The voluntary contribution amount, as well as contribution timing, would be included in the provisions of a Voluntary Assistance Agreement).

(P) 6 #29 Any inconsistencies or ambiguities in the materials and information provided to the County by UNEV shall be interpreted and applied in favor of the County.

Paul Drecksel responded to some of the issues that were raised on the conditions just read by Mr. Parker: In regards to (P) 2 #8 Mr. Drecksel said he was to the planning meeting and the issue was brought up about a locator and it is UNEV's understanding that would mean that one locator would be provided and that will be enough.

The decision after discussing the issue was that the County will put the one locator provided by UNEV at the Sheriff's Office in Delta.

(P)3 # 12 He would like to have the second sentence to read; The Plan shall include an estimate of the cost of site reclamation necessary to return the site to a condition that is as comparable to and as reasonably practical to the condition existing prior to any construction activities.

(P) 4 #18 In lieu of the \$5,000 annually for fire training, and in an effort to be able to respond to an emergency in the pipeline area, Mr. Drecksel agreed that UNEV would make a one time payment of \$40,000 to help improve the communications at the Notch Peak site.

(P) 5 # 21 Mr. Drecksel said that UNEV is in agreement to pay a voluntary contribution of (\$45,000.00) to Millard County. (Mr. Drecksel said UNEV commits to a one time payment of \$5,000 for initial funding for the fire district's training.)

(P) 5 #22 Attorney Waddingham suggested striking Pipeline LLC after UNEV in the second sentence because it has already been defined.

(P) 5 #23 Attorney Waddingham suggested in the first sentence should read; A Building Permit shall be required.....

(P) 6 #29 This sentence would read "Any inconsistencies or ambiguities contained in the CUP itself would be interpreted and applied in favor of the County.

The Commissioners, County Attorney, Bruce Parker and UNEV representatives met and discussed the proposed changes and new conditions. Bruce Parker provided the involved parties with a copy of the thirty conditions that were discussed and agreed upon by the group. See Exhibit A. One small change was later suggested but no change was made.

Commissioner Smith made a motion to approve and issue a Conditional Use Permit for Application #Z-2008-014 for UNEV for a Major 12" refined petroleum products underground pipeline to be located in Millard County, based on the thirty conditions and the following findings recommended by the Planning Commission and the County Consultant:

The proposed use at the proposed location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the County.

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.

The proposed use will comply with the regulations and conditions specified in the Millard County Code for such use.

The proposed use conforms to the goals, policies and governing principles of the Millard County General Plan.

The accessory uses associated with the Petroleum Pipeline Right-of-Way (Major) will support and further the principal use of the property.

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

Commissioner Smith expressed appreciation to UNEV for its involvement and willingness to work with Millard County. Special thanks was given to Bruce Parker, Gary Walker, Sheryl Dekker, and Attorney Waddingham.

REVIEW AND POSSIBLE ADOPTION OF RESOLUTION NO. 08-08-19, A RESOLUTION AMENDING THE MILLARD COUNTY POLICIES AND PROCEDURES MANUAL FOR MILLARD COUNTY, UTAH FOR THE PURPOSE OF AMENDING AND CLARIFYING THE LANGUAGE 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

Attorney Waddingham said that UCIP had suggested the County insert some additional language into its current policy. The annual refresher course requirements may be satisfied by a UCIP-approved self study process and test; such as video or computerized training, or by publishing an auto-safety newsletter or safety bulletin at least quarterly which employees are required to read and sign. Records will be kept by the County Personnel Department. He said the Resolution is the first step in dealing with volunteers.

Commissioner Walker made a motion to approve Resolution No. 08-08-19, A Resolution Amending the Millard County Policies and Procedures Manual for Millard County, Utah for the Purpose of Amending and Clarifying the Language 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 to Approval of Volunteer Service.

Commissioner Smith SECONDED the motion. Clerk Norma Brunson called for a roll call vote. Commissioner Smith voted YES. Commissioner Walker voted YES. Commissioner Cooper voted YES. The voting was unanimous and the motion carried. The County representatives, who will approve volunteer service, will be appointed at the next meeting.

REVIEW AND POSSIBLE ADOPTION OF RESOLUTION NO. 08-08-19A, A RESOLUTION AUTHORIZING AN EMPLOYER PICK-UP OF EMPLOYEE RETIREMENT CONTRIBUTIONS

Attorney Waddingham said this resolution is fulfilling a requirement with the

State concerning the County picking up employee retirement contributions.

Commissioner Walker made a motion to adopt Resolution No. 08-08-19A, A Resolution Authorizing an Employer Pick-up of Employee Retirement Contributions.

Commissioner Smith SECONDED the motion. Clerk Norma Brunson called for a roll call vote. Commissioner Smith voted YES. Commissioner Walker voted YES. Commissioner Cooper voted YES.

DISCUSSION ON MILLARD COUNTY ELECTED OFFICIALS'S BOND

Clerk Norma Brunson said that had she was served a subpoena by an individual on a Friday, after 4:00 p.m. to be in court the following Monday. He requested a list of 14 items to be brought to court with her on an unrelated court case. She said she is able to keep on file most of the information, except for item number three, the Official Bond. Attorney Waddingham said that the coverage is under an umbrella insurance policy. Review and possible adoption of this issue by the Commissioners will be put on the September 2, 2008 meeting agenda to help solve the problem.

DISCUSSION ON MILLARD COUNTY FINANCES

This item was tabled.

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

Commissioner Walker attended all three days of the Millard County Fair, which was extremely well-attended and successful. She also attended the Friday night dinner catered by Abe Johnson of Fillmore. The amazing Lowe Family Concert followed. There were 550 seats sold. A lot of positive feedback was received from County residents thanking the County for funding the fair. The Commissioners complimented and thanked fair director Betty Jo Western and her dedicated committee. Thanks to the West Millard Maintenance crew and jail conservation corps for their work in ensuring the fair's success. Commissioner Walker toured the Sunset View Golf Course to view first-hand the grasshopper infestation. Golf pro, maintenance crew and others are exploring control options. USU Extension Agent Seth Olms provided some information to Todd Mullen, Golf Pro. The grasshoppers seem to be moving off course.

Millard County Tourism is hosting “Singing Children of Africa” on Monday, August 25, 2008. The group of twenty-four children from Kenya will search for trilobites, visit Cove Fort and have a Dutch oven dinner. Following the dinner, the choir will perform at the Delta City Park at 7:00 p.m.. Utah Tour is a fund-raising effort for a school in Mombasa on Kenya’s east coast. Several West Millard families will host the children overnight.

Commissioner Smith participated in a conference call with the Central Utah Mental Health Department to not renew the contract with the last director. The board is working on issues with the contract.

Commissioner Smith attended the County Fair and praised all those who participated.

Commissioner Smith talked to Mark Ward, UAC Attorney who represents Millard County with the Snake Valley Water issues. Mr. Ward has submitted written comments regarding some of the issues that Millard County is contending with. He expressed appreciation to Mr. Ward for his efforts in the County’s behalf.

On August 15, 2008, Commissioner Smith, Commissioner Cooper, Beaver County and Piute County Commissioners, J. J. Brown from Senator Hatch’s Office and Randy Johnson attended a meeting in Beaver County. They have been working to develop county land use plans. The three counties were encouraged to make a regional bill to address the wilderness issues and public land issues that the counties have in common. Mr. Johnson was thanked for his efforts in helping the counties. They will meet again in one month to submit a proposal toward the regional bill.

Commissioner Cooper and Economic Development Director Linda Gillmor attended the Rural Summit in Cedar City, Utah. Representatives from many different agencies attended the meeting to learn how to become more receptive to its citizens. Mike Styler, Division Natural Resources, did a presentation on the water situation in the Snake Valley. It was a good conference.

On August 16, 1998, Commissioner Cooper attended the ceremony to honor the troops from the 145th Utah National Guard Unit who recently returned from a tour in Iraq. Honored guests were Governor Huntsman, General Tabet, and James Martin, USGR. The American Legion sponsored activities throughout the day. Commissioner Cooper said there are still soldiers that Millard County would like to honor with a medallion sometime in September.

Attorney Richard Waddingham attended the UCIP conference in Cedar City, Utah.

Attorney Waddingham wanted clarification regarding the contract with Traditions Health Care (“Traditions”). Initially, Attorney Waddingham had recommended that the Commission enter into a contract directly with Traditions so that Traditions would be responsible for its own employees and all other matters dealing with the Health Care facility. He felt that this would have given Millard County the best protection from a liability standpoint. However, the Commission wanted to provide state retirement for the employees as an incentive to recruit and retain such employees. Contracting directly with Traditions would not allow this to happen. Therefore, a new entity (Millard County Care and Rehabilitation, Inc.) was created and employees would become employees of the entity. The Commission felt that this would allow employees to receive state retirement. He was concerned about negotiations between Traditions’ corporate attorney and a firm representing the state on matters involving the Utah Retirement Systems.

Commissioner Walker made a motion to recess for lunch. Commissioner Smith **SECONDED** the motion. The voting was unanimous and the motion carried. The meeting recessed at 12:03 p.m..

NOON LUNCH BREAK

Commissioner Walker made a motion to reconvene the meeting. Commissioner Smith **SECONDED** the motion. The voting was unanimous and the motion carried. The meeting reconvened at 1:25 p.m..

OTHER BUSINESS

See page 6 and 7 for the motion of approval for a Condition Use Permit for UNEV.

PUBLIC INPUT

There was none.

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.. The motion was rescinded and the meeting reconvened in order to hold a closed executive session.

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

Commissioner Smith made a motion to go into a closed executive session to discuss the character, professional competence or physical or mental health of an individual.

Commissioner Walker SECONDED the motion. The voting was unanimous and the motion carried. The closed session began at 1:46 p.m. and ended at 2:59 p.m..

Commissioner Walker made a motion to adjourn the meeting.

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The meeting adjourned at 3:00 p.m..

MEETING JIM SLAVENS, PUBLIC DEFENDER

This item was tabled.