

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 18th DAY OF NOVEMBER 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: Kevin Morris Millard County Recreation  
John Pelczar Milford Wind Farm  
Sheryl Dekker Millard County Planner  
Shelly Teuscher First Wind  
Glayde Edwards & Ed Zmitravich Citizens  
Emery Polelonema Six County AOG  
John Hummel Attorney  
James K. Slavens Public Defender  
John Hansen Millard County Treasurer

EXCUSED: Auditor Brandy Grace

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN  
PROVIDED TO

each member of the governing body, posted at the principal office of the Millard County Commission, posted on the Utah Public Notice Website, and provided to the Millard County Chronicle Progress, a newspaper of general circulation within Millard County, as required by law, the following proceedings were had:

COORDINATION SESSION

The Commissioners scheduled events for the months of November and December 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 asked if anyone had an opening statement to give. Commissioner Walker read a thought. Deputy Clerk Janice Robins read a poem and dedicated it to Commissioner Cooper. Commissioner Cooper said the invocation in the Navajo language. Everyone stood and said the Pledge of Allegiance to the Flag.

## FOLLOW UP ACTION ITEMS FROM MINUTES OF OCTOBER 21 and 28, 2008

The Commissioners found out at the UAC Convention that there are other counties not in favor of hiring a Range Specialist. Millard County has written a letter to Commissioner of Agriculture Leonard Blackham stating that Millard County is not in favor of supporting the hiring of a Range Specialist. Millard County is covered by USU Extension Services in this area.

Commissioner Smith said that Mr. Feeney is not available to cover building inspections in February for Mr. Owens as reported at the last meeting. A backup inspector will need to be found to cover Mr. Owens.

Commissioner Walker said Millard County sent a letter to Jackie Nielson in answer to her letter concerning the concession stands at the ball fields. Mrs. Nielson was thanked for the past service that her group had provided and was told the County would not be able to recover the upgrades to the stand at the estimated cost of \$4,000- \$7,000.

## APPROVAL OF THE OCTOBER 21 AND OCTOBER 28, 2008 COMMISSION MINUTES

The proposed minutes of regular County Commission meetings held October 21, 2008 and October 28, 2008 were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Smith made a motion to approve the minutes of October 21, 2008, as corrected. Commissioner Walker SECONDED the motion. The voting was unanimous and the motion carried.

Commissioner Smith made a motion to approve the minutes of October 28, 2008 as corrected.

Commissioner Walker SECONDED the motion. The voting was unanimous

and the motion carried.

## AUDITORS REPORT

Auditor Brandy Grace was excused to do the 2009 insurance enrollments. Commissioner Smith gave the Commissioners various invoices to review and approve for payment through the Auditor's Office. The agreement with Dental Select for the County's dental coverage was approved by the Commissioners and signed by Commissioner Cooper.

A motion had been made, seconded and passed at the November 5, 2008 special Commission meeting regarding the County's participation in the Apple Program sponsored by Health, Behavior, Innovation, ("HBI"). The agreement includes a business associate confidentiality agreement and was signed by Commissioner Cooper. \*Need copy of the agreement.

Commissioner Walker made a motion to approve the State of Utah, Department of Community and Culture, State Library Division and Millard County to provide the bookmobile service in Millard County. Commissioner Smith **SECONDED** the motion. The voting was unanimous and the motion carried.

The Check Edit Report of November 14, 2008 was given to the Commissioners to review and sign. A copy of the Payroll Report dated November 7, 2008 was given to each of the Commissioners.

A tax abatement for Ed and Babe Dewolf and a tax abatement for ElJean Rowley were reviewed.

Commissioner Smith made a motion to grant ElJean Rowley a 50 percent hardship abatement on the property taxes on the 80 percent she owns. Commissioner Walker **SECONDED** the motion. The voting was unanimous and the motion carried.

Commissioner Walker made a motion to deny the request for a tax abatement for Ed and Babe Dewolf because insufficient information was given. Before further consideration will be given, Mr. and Mrs. Dewolf will be asked to submit additional information.

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

Invoices in the amount of \$19,792.01 and \$12,086.70 were approved for

payment to Bruce Parker for consulting services. First Wind and UNEV will reimburse the County for a portion of the invoice.

#### SIX COUNTY AOG-EMERY POLELONEMA-APPROVAL OF FINAL CIB LIST

The Commissioners and Emery Polelonema from Six County AOG discussed the final CIB List. Emery Polelonema briefly described the CDBG is a federal program by Housing and Urban Development for low to moderate households. The CIB is the impact fees paid by the coal and oil companies. The CIB funds can interact with the CDBG funds. Commissioner Walker said that the PILT funds a county receives may offset CIB funds. If this is the case then Millard County may find another sponsor for the ambulance building in Fillmore and request to have the CIB list modified. Further research will be done to find out if the County's PILT funds will be affected.

Commissioner Smith made a motion to approve the CIB List to be submitted. Six County will be notified if a different sponsor for the ambulance building needs to be put on the list.

Commissioner Walker SECONDED the motion. The voting was unanimous and the motion carried. A copy of the list will be on file in the Clerk's Office. A statement from Six County will be sent to Millard County notifying them of the status of a prior CDBG loan.

#### REVIEW AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR SPECIALTY SERVICES, JOHN PECK OWNER

Commissioner Walker made a motion to approve the business for Specialty Services, a mobile service owned by John Peck.

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

#### GLAYDE EDWARDS-DISCUSSION ON WEED SPRAYING

Gladyde Edwards came before the Commissioners to express his concern about the lack of weed spraying on the east side of the County. He would like to have more done to control the weeds along the road right of ways. Commissioner Smith said there are two employees that work on spraying the weeds seasonally. Any areas of concern could be reported to the road department. Mr. Edwards would be interested in a part time job spraying if the County opens up the position. Commissioner Cooper suggested the CWMA board be reactivated to step up the weed control program.

Mr. Edwards and Mr. Zmitravich were asked to set up a grasshopper control

meeting in conjunction with the USU Extension Agent and invite the local farmers and ranchers to attend.

**PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON AN APPLICATION FOR EXPANSION OF A LEVEL 4 ANIMAL FEEDING OPERATION (AFO) CONDITIONAL USE PERMIT APPLICATION BY BLISS DAIRY (ROBERT E. BLISS) FOR PROPERTY LOCATED SIX MILES SE OF DELTA, AND MORE PARTICULARLY DESCRIBED AS E1/2, NW1/4, NW1/4, NW1/4, SECTION 24, T17S, R6W. 119 ACRES.**

Commissioner Walker made a motion to enter into a public hearing to take public comment on an application for expansion of a Level 4 animal feeding operation Conditional Use Permit for Bliss Dairy.

Commissioner Smith **SECONDED** the motion. The voting was unanimous and the motion carried. The hearing began at 11:07 a.m..

Commissioner Cooper called the public hearing to order. Present were: Sheryl Dekker, Kevin Morris, Shelly Teuscher, and John Pelczar.

Sheryl Dekker, Millard County Planner briefly explained that Bliss Dairy would like to expand their dairy herd from 1,600 animals to 2,200 animals. Millard County Planning and Zoning gave the proposal a favorable recommendation.

There were no comments from the public.

Commissioner Smith made a motion to close the public hearing.

Commissioner Walker **SECONDED** the motion. The voting was unanimous and the motion carried. The hearing ended at 11:09 a.m..

**CONSIDERATION AND POSSIBLE APPROVAL FOR EXPANSION OF A LEVEL 4 ANIMAL FEEDING OPERATION (AFO) CONDITIONAL USE PERMIT BY REVOLUTION DAIRY (ROBERT E. BLISS) FOR PROPERTY LOCATED APPROXIMATELY SIX MILES SE OF DELTA, AND MORE PARTICULARLY DESCRIBED AS S1/2 SECTION 13, T13S, R6W (320 ACRES) AND NE1/4, E1/2, E1/4, SECTION 24, T17S, R6W. (240 ACRES.) TOTAL 560 ACRES.**

Commissioner Walker made a motion to approve a Conditional Use Permit for Bliss Dairy to expand to a Level 4 Animal Feeding Operation as recommended

by the Millard County Planning and Zoning Board with the following findings:

A. 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.

B. Such use will not, under the circumstances and conditions imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property or improvements of the immediate area or the county as a whole.

C. The proposed use will comply with the regulations and conditions specified in this chapter for such use.

D. The proposed use conforms to the goals, policies and governing principles of the county general plan.

E. That, for uses designated as accessory uses, the use will support and further the principal use of the property.

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

**PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON AN APPLICATION FOR EXPANSION OF A LEVEL 4 ANIMAL FEEDING OPERATION (AFO) CONDITIONAL USE PERMIT APPLICATION BY REVOLUTION DAIRY (ROBERT E. BLISS) FOR PROPERTY LOCATED APPROXIMATELY SIX MILES SE OF DELTA, AND MORE PARTICULARLY DESCRIBED AS S1/2 SECTION 13, T17S, R6W (320 ACRES) AND NE1/4, E1/2 E/14. SECTION 24, T17S, R6W. 119 ACRES.**

Commissioner Walker made a motion to enter into a public hearing to take public comment on an application for expansion of a Level 4 Animal Feeding Operation for a Conditional Use Permit for Revolution Dairy.

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

Commissioner Cooper called the public hearing or order at 11:13 a.m. with Sheryl Dekker, Kevin Morris, Shelly Teuscher and John Pelczar present.

Sheryl Dekker said that the original CUP was issued to Revolution Dairy for 3,000 animals. The request is to expand the dairy to 4,000 animals. The Bliss Dairy and the Revolution Dairy are adjacent to one another. Millard County Planning and Zoning gave a favorable recommendation.

There were no public comments.

Commissioner Smith made a motion to end the public hearing.

Commissioner Walker SECONDED the motion. The voting was unanimous and the motion carried. The public hearing ended at 11:15 a.m..

CONSIDERATION AND POSSIBLE APPROVAL FOR EXPANSION OF A LEVEL 4 ANIMAL FEEDING OPERATION (AFO) CONDITIONAL USE PERMIT APPLICATION BY REVOLUTION DAIRY (ROBERT E. BLISS) FOR PROPERTY LOCATED APPROXIMATELY SIX MILES SE OF DELTA, AND MORE PARTICULARLY DESCRIBED AS S1/2 SECTION 13, T17S, R6W (320 ACRES) AND NE1/4, E1/2, E1/4, SECTION 14, T17S, R6W (240 ACRES) TOTAL 560 ACRES.

Commissioner Smith made a motion to approve the Conditional Use Permit for Revolution Dairy based on the recommendation of the Millard County Planning and Zoning Board with the following findings:

A. 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.

B. Such use will not, under the circumstances and conditions imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property or improvements of the immediate area or the county as a whole.

C. The proposed use will comply with the regulations and conditions specified in this chapter for such use.

D. The proposed use conforms to the goals, policies and governing principles of the county general plan.

E. That, for uses designated as accessory uses, the use will support and further the principal use of the property.

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

AWARD CONTRACT FOR RE-PLASTERING AND REPAIRING WEST MILLARD SWIMMING POOL, KEVIN MORRIS

Kevin Morris came before the Commissioners to discuss a contract for re-plastering and repairing the West Millard Swimming Pool. He said that none of the companies that were contacted would give a bid on the project until the bottom of the pool was exposed. The specifications cannot be written up for bids until all the repairs are known. Two companies did give a rough quote on the project. Both quotes were not to exceed the total amount of the quote. The quote from CEM was a flat \$224,625. Johanson's quote was broken down into different parts of the project not to exceed \$125,000. Mr. Morris asked how they should proceed.

Attorney Waddingham said that the County policy has no provision written in it for cases like this. Attorney Waddingham suggested Mr. Morris make one more attempt to obtain bids. The performance and payment bonds will be waived by the County due to the fact no subcontractors will be hired and that Johanson's will give a two year warranty on the work.

Commissioner Walker made a motion to accept the quote from Johanson. This company has done work in the County before and has done a good job.

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The project will begin on December 15, 2008.

#### BRYANT ANDERSON-FINAL APPROVAL OF RADIO MAINTENANCE CONTRACT BETWEEN MILLARD COUNTY AND COMMERCIAL BUSINESS RADIO, LC

Commissioner Walker made a motion to approve the radio maintenance contract between Millard County and Commercial Business Radio, LC.

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. \*Need copy of the contract.

#### CONSIDERATION OF STAN ROBISON COUNTY EMPLOYMENT

Mr. Robison's temporary employment has ended.

#### POSSIBLE ADOPTION OF RESOLUTION 08-11-18, A RESOLUTION OF THE MILLARD COUNTY COMMISSION TO APPOINT A MILLARD COUNTY REPRESENTATIVE AND AN ALTERNATIVE REPRESENTATIVE FOR THE UTAH COUNTIES INSURANCE POOL ANNUAL MEMBERSHIP MEETING

Commissioner Smith made a motion to approve Resolution No. 08-11-18, A Resolution to appoint Commissioner Walker as the Millard County representative for the Utah Counties Insurance Pool annual membership meeting and to appoint County Attorney Waddingham as the alternate representative.

Commissioner Walker SECONDED the motion. Clerk Norma Brunson called for a roll call vote. Commissioner Walker voted YES. Commissioner Smith voted YES. Commissioner Cooper voted YES. The voting was unanimous and the motion carried.

#### MILFORD WIND CORRIDOR, LLC-TRANSMISSION LINE CONSTRUCTION PROGRESS



Shelly Teuscher introduced John Pelczar, Construction Manager of the Milford Wind Farm.

Mr. Pelczar reported that delivery of materials will be taken until the end of 2008. The physical construction will begin after the first of the year.

Commissioner Cooper said that local construction workers have inquired about working on the Milford Wind project. Mr. Pelczar said that several of the subcontractors will need to hire people and he will notify them to consider hiring local people/companies.

JRB Engineering has been contracted to do the video log of the road conditions prior to construction to provide a base for the evaluation of the roads.

Mr. Pelczar will give a construction update at Commission meeting every other month.

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

Commissioner Walker and Commissioner Smith attended an emergency workshop that was presented by Mark Ward of Utah Association of Counties (“UAC”). The meeting was held in regards to Secure Rural Schools, which is for roads and schools funding provided by the National Forest Service. The recent federal \$700 billion bailout included additional funding for counties that have Forest Service lands within its boundaries.

Millard County has been receiving about \$25,000 per year. Under the new funding scale it will receive \$580,000 annually for the next four years. A mandated 15 percent will be deducted for Title I and Title II projects. The remaining funds are to be divided between the Millard School District and the County.

Title I monies at 8 percent will be used to form a Forest Service Regional Advisory Council (“RAC”) committee, which may be local, regional or by National Forests. Title II at 7 percent is to be used for wildfire mitigation, prevention or firefighting on public lands. The SRS funds to the county will be offset by Payment in Lieu of Taxes (PILT) the county receives and will not be a true benefit. PILT funding is paid by the federal government for BLM land within the County. However, to help fund the School District and be a good neighbor, the County chose the additional SRS funding option, Millard County’s share of the funds will be used by the County Road Department for constructing, improving, repairing or maintaining public roads.

Commissioner Walker, Commissioner Smith and County Planner Sheryl Dekker met with representatives from Magna Holdings, which is proposing an

80-acre site in Millard County. The project may consist of salt caverns to be used as an interstate natural gas storage facility. Magna Holdings is currently conducting test sites to determine salt deposit levels, and has applied for a pre-filing review by the Federal Energy Regulatory Commission.

Commissioner Walker met with the Millard County Care Center Administrator and Traditions Health Care, CEO, Bryon Erickson to discuss the care center's current financial status and its budgetary needs for next year. The Millard Care Center has done exceptionally well financially under the management of Traditions Healthcare while continuing to provide quality care for elderly residents. A complete report will be forthcoming.

Commissioner Walker attended a Six County Association of Governments ("AOG") meeting with Commissioner Cooper and Delta City Mayor Gayle Bunker. Board meetings were held for the Aging Task Force, the executive board and the economic development. Commissioner Walker will replace Commissioner Cooper on the Six County AOG Board in January 2009.

All three Commissioners and Commissioner elect Bart Whatcott attended a three-day

UAC Convention on November 13 through November 15 in St. George.

Several legislative issues were discussed and policies passed, as well as pertinent issues explored. Commissioner John C. Cooper was selected as the Outstanding County Official of the Year for 2008 at the UAC Convention. He and his wife Janet were honored and given a gift. Commissioner Cooper was asked to give a speech.

Commissioner Smith reported that Millard County presented to the Utah State Association of Commissioners and Councils ("USACC") Committee and the UAC General Board a proposal to support a resolution that would be sent to the Department of Interior to encourage them and the Bureau of Land Management to get involved in the West Desert water grab and not to stipulate out. The resolution passed unanimously.

Commissioner Smith expressed his appreciation to everyone in the County that attended the convention.

Commissioner Smith attended the public hearing and the Mosquito Abatement meeting where the 2009 tentative budget was presented. This is part of its truth and taxation process.

The Auditor's Office was thanked for all their help in a successful surplus equipment sale held November 8, 2008 sponsored by the County. Almost

ninety thousand dollars (\$90,000) were brought in from the sale.

Millard County Planner Sheryl Dekker and Millard County Attorney Richard Waddingham attended the Milford Wind Corridor groundbreaking ceremony on November 14, 2008.

Commissioner Cooper and Commissioner Smith attended the Millard County Grazing Association meeting. Mark Ward, UAC Attorney, presented a template for Bylaws and Articles of Incorporation that could be used as a guideline for the Association to use. The Association was given \$600.00 start up funds. Memberships will be gathered and dues will be assessed to help fund the association in the future.

Commissioner Cooper thanked the other Commissioners for all their help.

Commissioner Smith is under consideration for the position of 2nd Vice President of UAC. The Millard County Commissioners support the appointment.

Commissioner Walker was appointed to the USACC Board and she was congratulated for that honor. She was also appointed to the UAC Board.

## OTHER BUSINESS

Treasurer John Hansen brought before the Commissioners a tax issue on a cell phone company that has gone out of business and has no assets. The State said the tax value was around \$300.00 and suggested the County go after the successor trustees. The matter was discussed by the Commissioners and Treasurer and they determined that it would not be worth trying to collect the money.

Commissioner Walker made a motion to close the County Offices the day after Thanksgiving and the day after Christmas. Employees may choose to work those days or they may take vacation days. A notice will be put in the newspaper and each office in the County will be notified.

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

John Hummel, an attorney from Southern Utah came before the Commissioners to express his interest in trying for the Millard County Public Defender Contract. He made the following statements:

- He has experience as a public defender in six counties, including Beaver, Kane, Wayne, Piute, Garfield and Sevier Counties.
- He has worked for nine different cities
- He has experience in criminal law both as a prosecutor and as a defense attorney
- He worked as an Assistant Attorney General
- He has experience in murder, juvenile and child abuse cases
- He has had no animosity with law enforcement
- He has visited with the Millard County Sheriff
- He invited the Commissioners to talk to any other county he has worked for
- He is willing to help save tax dollars on the contract
- He can provide a higher level of coverage for the money than the County has previously received
- When he bids a contract, he provides a comparison with other counties
- He is bilingual and speaks English and Spanish
- He is prepared when court starts
- He has never had to redo any of his cases
- He has had no ethical complaints
- He is willing to give back to the community with free legal advice, etc.
- He would appreciate the opportunity to bid on the Millard County public defender contract
- He would put an office in the community if hired
- He will e-mail his resume to the Commissioners

Millard County is currently in negotiations with the current public defender. Mr. Hummel will be notified of any decisions made in the near future in regards to the said position.

Commissioner Walker read a letter from Annette Day stating she has appreciated serving many years on the Millard County Fair Board and regrets sending in her resignation because of health issues.

Commissioner Cooper read a letter from Sylvia Wall, AYSO Regional Commissioner. She said the Fillmore soccer community had another great fall season. She thanked the County for the use of the horse race track fields. Klint Penney and his crew were acknowledged for the way the fields were kept.

Commissioner Cooper read a letter from Fillmore City Mayor David Christensen who requested the County deed three roads in the southeast area of the city to Fillmore City which is the south part of Sand Rock Ridge, 500 South

and 575 South.

Commissioner Walker made a motion for Millard County to deed to Fillmore City its interest in the three roads in the southeast part of the city. Those roads being the south part of Sand Rock Ridge, 500 South and 575 South. Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried.

The date for the Christmas Party has been set for December 16, 2008 at noon. Later that afternoon a military Honor Ceremony will be scheduled.

#### 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

Commissioner Smith made a motion to adjourn the meeting. Commissioner Walker SECONDED the motion. The voting was unanimous and the meeting adjourned at 12:22 p.m..

#### NOON LUNCH BREAK -COMMISSIONERS PARTICIPATED IN THE CANVASS OF THE 2008 GENERAL ELECTION

#### REVIEW OF PUBLIC DEFENDER CONTRACT WITH JAMES K. SLAVENS

This meeting was postponed to another date.

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

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