

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 3rd DAY OF FEBRUARY 2009
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Kathy Y. Walker Chairperson
Daron P. Smith Commissioner
Bart A. Whatcott Commissioner

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

ALSO PRESENT: Robert Dekker Millard County Sheriff
Dell Smith Congressman Chaffetz's Office
Bill Justesen Millard County Sheriff's Office
Sheryl Dekker Millard County Planning & Landfill
Forrest Roper Millard County Sheriff's Office
Jim Masner, Robert Iverson & Raymond Stephenson American Legion Post 61
Knox Huntsman, Wayne Jackson & Robert A. Neilsen American Legion Post
61
Jeff Galacher Local Emergency Planning Committee
Kenneth Porter American Legion Post 135
John Peck & Frank Bringard Zoning Issue
Francisco Alcala Horse Racing Organization
Jer' E Brinkerhoff Citizen
Rex Williams Citizen
John Hansen Millard County Treasurer
Brandy Grace Millard County Auditor
Bonnie Gehre Millard County Auditor's Office
Douglas Messerly & Rhett Boswell Division of Wildlife Resources
Craig Brouccard, Dave Detton, David Babcock & Jim Carter Magnum Energy

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:

PUBLIC WAS WELCOMED

Commissioner Walker welcomed the public and Commission members to the 10:00 a.m. meeting.

OPENING STATEMENTS

Commissioner Walker asked if anyone had an opening statement to give. Commissioner Whatcott gave a quote from Abe Lincoln. Commissioner Smith said the invocation. Commissioner Whatcott introduced Dell Smith from Representative Jason Chaffetz's Office. Mr. Smith said that Representative Chaffetz will be serving on the Justice, the Oversight and the Natural Resources Committees. Everyone stood and said the Pledge of Allegiance to the Flag.

FOLLOW UP ACTION ITEMS FROM MINUTES OF JANUARY 20, 2009

There were none.

APPROVAL OF JANUARY 20, 2009 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held January 20, 2009 were presented for consideration and approval. Following review and consideration of minor corrections

Commissioner Smith made a motion to approve the minutes of January 20, 2009, as corrected.

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

WRITE OFF 2005 PROPERTY TAXES FOR 360 NETWORKS- TREASURER JOHN HANSEN

Treasurer John Hansen asked to have the 360 Networks issue heard and then return after lunch to present several other issues.

Treasurer Hansen said 360 Networks have declared bankruptcy and it owes \$6.36 for the 2005 property taxes, plus interest and penalties accruing from 2005 until February 2009. He would like the Commissioners' authority to clear this debt off the record as it cannot be collected.

Commissioner Whatcott made a motion to clear off the 2005 taxes, penalties and interest for 360 Networks.

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

the motion carried.

DISCUSSION ON COUNTY VETERANS MEMORIAL - WAYNE JACKSON

Members of the Millard County Veterans' Memorial Committee namely: Jim Masner, Knox Huntsman, Robert A. Neilson, Robert Iverson, Wayne Jackson, Kenneth Porter and Raymond Stephenson came before the Commissioners to ask for some consideration regarding the Millard County Veteran's Memorial Wall. Wayne Jackson said that the painted names on the stainless steel panels on the memorial are peeling off. Originally they were told that the work was guaranteed, but this is not the case. They were given a \$6,000.00 bid to redo the names by the original company. Another company named Williams Engravings will engrave a name for \$7.00 or \$480.00 to engrave a panel. Steve Robison could cut the pins, clean and buff the panels for less than \$75.00 to enable the use of the existing stainless steel panels. The company has the ability to laser one name at a time and is willing to demonstrate the safe way to clean the panels.

The first stage of the repairs (23 panels) would cost about \$8,000.00 which is more money than the committee has and they asked the County for some help to renovate the wall. The committee has \$1,700 dollars in its account earmarked for a Register to help people locate the veterans' names on the wall. The County was thanked for its support and help in the past by Wayne Jackson, Jim Masner, Knox Huntsman and Kenneth Porter. Compliments were given to the East Maintenance crew for keeping the memorial clean and attractive. The Commissioners said they will take the proposal under consideration and proceed as County policy allows. A possible decision on the matter will be made on February 17, 2009.

DISCUSSION ON LOCAL EMERGENCY PLANNING COMMITTEE ("LEPC") - JEFF GALACHER

Jeff Galacher from LEPC ask for the Commissioners' leadership and support for the programs that the LEPC has going. Mr. Galacher said the money for home land security has been used for equipment and supplies. They have found that in most emergencies the same equipment and the same responders can be used. The programs that have been started need to be maintained. Training and practicing to use the equipment needs to meet the requirements of the National Incident Management System ("NIMS"). The Commissioners were notified of

the upcoming training that will be available in our area for the Commissioners and Mayors. Captain Forrest Roper said that LEPC meetings are held every other month rotating the location to Fillmore or Delta. Commissioner Whatcott is the Commissioner over LEPC.

PUBLIC HEARING TO RECEIVE COMMENTS ON A ZONE CHANGE FROM AGRICULTURE (AG) TO LIGHT INDUSTRIAL (LI) #Z-2008-031, JOHN PECK AND FRANK BRINGARD, CO-APPLICANTS FOR PROPERTY LOCATED AT 98 WEST 1000 NORTH, DELTA, AND MORE PARTICULARLY DESCRIBED AS: BEGINNING AT A POINT ON A EAST-WEST CENTER SECTION LINE OF SECTION 1, T17S, R7W, SLB&M: SAID POINT BEING NORTH 89°45'45" WEST 450 FEET FROM THE EAST QUARTER CORNER OF SAID SECTION 1: THENCE NORTH 89°45'45" WEST ALONG SAID EAST-WEST CENTER SECTION LINE 134 FEET, THENCE NORTH 0°25'46" EAST 325.10 FEET, THENCE SOUTH 89°45'45" EAST 134 FEET, THENCE SOUTH 0°25'45" WEST 325.10 FEET TO POINT OF BEGINNING.

Commissioner Smith made a motion to enter into a public hearing to receive public comments on a zone change from Agriculture (AG) to Light Industrial (LI) #Z-2008-031 for John Peck and Frank Bringard.

Commissioner Whatcott **SECONDED** the motion. The voting was unanimous and the motion carried. The hearing began at 11:04 a.m.. Present were: Sheryl Dekker, John Hansen, Brandy Grace, Bill Justesen, Sheriff Dekker, Dell Smith, John Peck, Frank Bringard, Francisco Alcala, Douglas Messerly, and Rhett Boswell.

Commissioner Walker called the public hearing to order at 11:04 a.m..

John Peck said that he and Frank Bringard applied for a County business license and it was denied because of a zoning issue. They have applied for a zone change to Light Industrial which makes it the same zoning as the adjacent properties.

Commissioner Smith made a motion to close the public hearing.

Commissioner Whatcott **SECONDED** the motion. The voting was unanimous and the motion carried. The public hearing ended at 11:07 a.m..

CONSIDERATION AND POSSIBLE DECISION ON A ZONE CHANGE FROM AGRICULTURE (AG) TO LIGHT INDUSTRIAL (LI) #Z-2008-031, JOHN PECK AND FRANK BRINGARD, CO-APPLICANTS FOR PROPERTY LOCATED AT 98 WEST 1000 NORTH, DELTA, AND MORE

PARTICULARLY DESCRIBED AS: BEGINNING AT A POINT ON A EAST-WEST CENTER SECTION LINE OF SECTION 1, T17S, R7W, SLB&M: SAID POINT BEING NORTH 89°45'45" WEST 450 FEET FROM THE EAST QUARTER CORNER OF SAID SECTION 1: THENCE NORTH 89°45'45" WEST ALONG SAID EAST-WEST CENTER SECTION LINE 134 FEET, THENCE NORTH 0°25'46" EAST 325.10 FEET, THENCE SOUTH 89°45'45" EAST 134 FEET, THENCE SOUTH 0°25'45" WEST 325.10 FEET TO POINT OF BEGINNING.

Planner Sheryl Dekker showed maps of the location of the proposed zone change. She said the Planning and Zoning Committee gave a favorable recommendation for the zone change. In order for Mr. Peck and Mr. Bringard to get a business license the zone change is necessary.

Commissioner Smith made a motion to approve a zone change from AG to LI #Z-2008-031 for John Peck and Frank Bringard, co-applicants for property located at 98 West 1000 North, Delta, and more particularly described as: Beginning at a Point on a East-West Center Section Line of Section 1, T17S, R7W, SLB&M; Said Point Being North 89° 45'45" West 450 Feet From the East Quarter Corner of Said Section 1: Thence North 89° 45'45" West Along Said East-West Center Section line 134 Feet, Thence North 0° 25'46" East 325.10 Feet, Thence South 89° 45'45" East 134 Feet, Thence South 0° 25'46" West 325.10 Feet to the Point of Beginning.

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

POSSIBLE ADOPTION OF RESOLUTION 09-02-03, A RESOLUTION TO MODIFY THE EMPLOYEE EXEMPTION POLICY

The pros and cons concerning the issue of FLSA exempt employees having the option to choose or not choose sick leave and vacation time was discussed. The County Attorney's Office and the Sheriff's Office have employees that will be affected by a change in the County policy. Chief Deputy County Attorney Pat Finlinson wants to retain an exempt status with no vacation time or sick leave and Chief Deputy Sheriff Forrest Roper wants the exempt status and receive vacation time and sick leave. They agreed on the following language; " All FLSA exempt employees, except elected officials, shall accrue vacation and/or sick leave unless otherwise waived in writing and approved by the elected official/supervisor and the Board of County Commissioners." Once a choice is

selected, there will be a grace period to allow the employee to withdrawn from receiving vacation and or sick leave.

Commissioner Smith made a motion to adopt Resolution 09-02-03, A Resolution to modify the Employee Exemption Policy.

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

Attorney Waddingham asked to be excused from the rest of the meeting.

AUDITORS REPORT

Auditor Brandy Grace gave the Commissioners the Payroll Report from January 30, 2009 and the Check Edit Report of January 30, 2009 will be available to the Commissioners later today to review and sign.

Auditor Grace said some time ago a hardship abatement for Ed and Babe DeWolf had been turned in. At a previous Commissioner meeting, the application had been reviewed by the Commissioners and further information was needed. The DeWolfs' had not filed a tax return for 2007, but have now provided some additional income information.

Commissioner Smith made a motion to approve a 20 percent abatement on the 2008 property taxes for Ed and Babe DeWolf, based upon income qualifications.

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

DIVISION OF WILDLIFE RESOURCES ("DWR") - PILT PAYMENT - DOUG MESSERLY

Doug Messerly, DWR. gave the Commissioners a \$9,266.74 check for the annual PILT payment to Millard County from DWR. He asked for and received a signed receipt from the Commissioners. He said there is a new DWR officer that will be living in Holden, Utah. Lynn Zubeck was congratulated for being chosen as the Outreach Employee of the year.

Rhett Boswell briefly talked about the Topaz Slough Wildlife Management Area Plan with the Commissioners. The Topaz Slough Wildlife Management Area is a 4,412-acre parcel of land located 15 miles west of Delta in Millard County.

Commissioner Whatcott made a motion for conditional approval of the Topaz

Slough Wildlife Management Area Plan.

Commissioner Smith SECONDED the motion and confirmed that the County could continue to make comments. The voting was unanimous and the motion carried.

OTHER BUSINESS

Jer'E Brinkerhoff and Rex Williams came before the Commissioners to request that Fillmore Racing take over the management of the stall rentals at the fairgrounds in Fillmore. They would like to advertise on a national website the availability of horse stalls for over night travelers. They have ideas to help generate regular stall revenues which should help both the County and their organization. They agreed the stalls should be managed in a professional way, and house race horses only. They would collect the stall fees and deposit the money with the County. They would like a percentage of the collection to help with race meets which are great tourism events for County. The average cost around the state of renting a stall is \$50.00-\$55.00 a month. Francisco Alcala representing Spanish Racing thanked the Commissioners for their support. Their group needs and wants to rent some of the stalls. The Commissioners will discuss the offer and do an onsite review of the stalls. They will check the County policy in regards to situations like this. The issue will be addressed at the February 17 meeting.

Commissioner Whatcott made a motion to break for lunch.

Commissioner Smith SECONDED the motion. The voting was unanimous and the voting was unanimous. The meeting recessed at 12:20 p.m.

Commissioner Whatcott made a motion to reconvene the meeting.

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The meeting reconvened at 1:40 p.m..

Auditor Grace presented the Commissioners with the Six County AOG semi-annual assessment of \$43,807.50 for the period of January through June for approval of payment. The Commissioners approved the payment to be made.

Commissioner Walker read a letter from Bruce Costa, Director of Central Utah Public Health Department, ("CUPHD"), who thanked Millard County for its help and resources to make a clean and attractive facility for the CUPHD in Delta. The maintenance crew painted the facility and the landlord agreed not to raise the rent.

A letter from Noelle Cockett, Vice President for USU Extension announced that the 6th Annual Diversified Agriculture Conference will be held in Delta on February 25 through February 27. Jason Henderson, Vice President and Branch Executive of the Omaha Branch of the Federal Reserve Bank of Kansas City will be talking about changes in the economy and the effects on rural Utah and agriculture.

Pam Goodrich, CUPHD, sent notice and congratulations to Caitlin Stuckey, a Millard High School student who won first place in a contest sponsored by Zero Fatalities. The cover of their calendar and the picture for the month of January were drawn by Caitlin.

PUBLIC INPUT

Bill Justesen asked for a clarification on how counties were chosen to compare with Millard County for the step and grade plan?

The Commissioners said that all fourth class counties were used based upon population, tax base and acreage and other similar demographics.

Mr. Justesen asked how much the Commissioners' ad in the newspaper had cost and who had paid for it?

The Commissioners said that they had asked for it to be put in the editorial section and have not yet been billed for the ad. The article will be repeated in the editorial section of this week's paper. Mr. Justesen asked if there were plans to reinstate the Employees Relationship Committee?

The Commissioners said that the committee seemed to take a life of its own and there were still some problems and lack of communication within that group also. The Commissioners are considering different ways to get suggestions and comments from the employees. They agreed that visiting with the employees should be done more often.

Mr. Justesen said he did not like revealing his personal medical history to a third party such as the Apple Program and feels the personal medical profile should be optional. He read the disclaimer at the bottom of the Apple Programs documents.

"This product has been created for educational purposes only and should not be used as a substitute for professional medical advice, diagnosis, treatment, or care. Since health varies from person to person, not all recommendations and guidelines cited in this product will be appropriate for every individual. If you have a particular health concern, contact your doctor. Always follow your doctor's recommendations regarding your specific medical needs." He wondered why the Apple Program is necessary if a person is being treated by a doctor. He feels the program was forced on the employees and their spouses.

People already have set up goals with their doctor.

The Commissioners said that some of the information will be used to set up training sessions later. The Apple Program is meant to be an incentive and a reward for lower premiums.

POSSIBLE ADOPTION OF A FEE RATE FOR GOOD SAM CLUB

Commissioner Walker said that the Good Sam Club spent some time in Delta last year and may be interested in a return visit. The club was charged \$325.00 last year for use of the facilities. Kevin Morris, West Millard Maintenance, suggested the fees should be increased for the service they are getting from the County. The suggestions were discussed.

Commissioner Whatcott made a motion to charge Good Sam Club \$450.00 for the three- day stay. The status of the club will be looked at and if it is a non profit group, then a 10 percent decrease in golf fees will be offered.

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

MILFORD WIND CORRIDOR, LLC-PROJECT PROGRESS AND CONSTRUCTION UPDATE

This item was rescheduled until February 17, 2009.

REVIEW AND POSSIBLE DECISION ON BIDS ROLL-OFF REFUSE TRUCK FOR MILLARD COUNTY LANDFILL

Sheryl Dekker, Land fill, said three telephone bids had been taken on a roll-off refuse truck for the Millard County Landfill to replace a 1997 truck. The following bids were listed on the board:

Freight Liner of Utah \$139,395.00

Mack \$133,499.65

Spencer \$127,667.00

The warranty information attached to the bids were reviewed.

Commissioner Smith made a motion to approve the bid from Spencer for \$127,667.00, pending evaluation of the bids from Phil Lovell, Landfill Supervisor.

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

Commissioner Whatcott made a motion to approve the two Volvo auto trucks be used as a trade in on the new truck.

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

POSSIBLE APPROVAL OF AN INTERLOCAL AGREEMENT BETWEEN THE CENTRAL UTAH NARCOTICS TASK FORCE AND CERTAIN PUBLIC AGENCIES, INCLUDING MILLARD COUNTY, FOR THE INVESTIGATION AND PROSECUTION OF THE ILLEGAL IMPORTATION, MANUFACTURE, USE, DISTRIBUTION, AND SALE OF CONTROLLED SUBSTANCES, ON A REGIONAL BASIS AND IN COOPERATIVE AGREEMENT, PURSUANT TO THE INTERLOCAL COOPERATION ACT

This item was tabled.

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

Commissioner Smith and Commissioner Whatcott attended a meeting with the USU Extension and the Utah State Department of Agriculture. It was very interesting to hear the extension history from Kristine Saunders. Millard County supports the Extension program.

Commissioner Smith said that he enjoyed the County Officials Day at the State Legislature. He reported that the bill sponsored by Senator Stowell on the Fire Suppression Fund doesn't seem to be going anywhere. Bill No. 134 Forest Revision Payment could possibly pass. The West Desert Water bill sponsored by Representative Brad Winn was pulled to be rewritten. Mark Ward, UAC's Attorney, will be submitting some new language for that bill. Commissioner Smith thanked Representative Winn and Mr. Ward for their help and support in issues important to the County.

Commissioner Smith met with Scott Mork and Doug Murdock from Graymont to discuss its relationship with the County regarding the road right of way going through Graymont's facilities then up to the County's communication tower, and also the County road runs from the quarry up to its pit.

Commissioner Smith attended the quarterly safety meeting this morning to review all the accidents in the County. He also attended a Millard County Road Department's monthly training meeting on Monday, February 2, 2009.

Commissioner Whatcott attended the Newly Elected Officials Workshop on

January 28 and 29 and found it helpful.

Commissioner Whatcott received word from USALL that the Bureau of Land Management may start charging for use of the roads on its land: \$4.00 per person/\$90.00 per group. It is hopeful if they do start to charge, some of the money will be used to help benefit the County.

Commissioner Walker attended Central Utah Mental Health meeting in Richfield, Utah. The main focus was prioritizing services in the event that state funds are cut 7 percent as the Governor has proposed or the 15 percent the legislators are considering. Commissioner Smith was thanked for his six years of service on the board.

Commissioner Walker attended the Millard County Economic Development Association meeting in Delta. Rocky Mountain Power Representative Chad Ambrose gave an overview of services, provided future plans and discussed financial challenges faced by the utility.

All three Commissioners participated in Council of Government (“COG”) meeting held in Delta. The Mayors and the representatives for unincorporated communities were in attendance. Captain Forrest Roper presented the Regional Siren Public Notification Project. The Commissioners provided updates on County issues, and Mayors discussed the concerns they are facing.

Commissioner Walker and Commissioner Smith attended a UAC meeting in Provo for all county commissioners to discuss strategies in dealing with the eventual cuts to state services administered by county government. A priority list was developed by the commissioners for legislators.

Treasurer Hansen reported that in checking further, the person that was assumed to be the guardian of the certain citizen has Ad litem status and no longer has legal authority to act for that person. The citizen’s tax issue will be reconsidered every year.

Treasurer Hansen said that a phone request had come in from Doug Pashia who would like some consideration on the penalty and interest on his property taxes due to medical expenses. He still owes \$1,024.71 in taxes including the penalties and interest for 2006, 2007 & 2008. Whether Mr. Pashia was asking for a refund of the penalties and interest he had previously paid was unknown. Mr. Pashia will be asked for his tax return and more information before the Commissioners will make a decision.

WHERE UPON THE MEETING ADJOURNED

Commissioner Smith made a motion to adjourn the meeting.
Commissioner Whatcott SECONDED the motion. The voting was unanimous
and the meeting adjourned at 2:50 p.m..

COMMISSIONERS AND AUDITOR GRACE - QUARTERLY MEETING

Attest: _____

Approved: _____