

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 17th 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: John Pelczar First Wind
Jer'E Brinkerhoff Citizen
Rex Williams Citizen
Robert Stephenson & Stephen Jensen Millard County Road Department
Dean Draper Chronicle/ Progress
Robert Dekker Millard County Sheriff
Forrest Roper Sheriff's Office
Ronald Hare Justice Court Judge
Brandy Grace Millard County Auditor
John Hansen Millard County Treasurer
Connie Hansen Millard County Recorder
Marreen Casper Senator Orrin Hatch's Office

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

The meeting began at 10:00 a.m. after a brief welcome by Commissioner Walker to the public and Commission members.

OPENING STATEMENTS

Commissioner Walker asked if anyone had an opening statement to give.

Commissioner Whatcott said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

MILFORD WIND CORRIDOR, LLC - PROJECT PROGRESS AND CONSTRUCTION

John Pelczar, First Wind, gave the Commissioners the initial road survey report that will be used as a comparison of the road conditions before and after the construction of the project. Mr. Pelczar said 99 percent of the roads were able to be video taped and 1 percent is still covered by snow. Unless some real road damage shows up after the snow melts, they will assume that the remaining 1 percent is just an extension of the road already video taped. On March 1, 2009, plans are in place to release the transmission line contractor and by mid March the wind farm contractor will be released.

REVIEW AND POSSIBLE DECISION OF THE STALL RENTAL UNITS AT THE FAIRGROUNDS IN FILLMORE

Jer'E Brinkerhoff suggested the County change its stall rental policy by:

- Setting a monthly rental fee
- Renting out the horse stalls
- Collecting the rental fees
- Using the revenues to maintain the horse stalls

Mr. Brinkerhoff said that the County is losing a lot of revenue by leaving the stalls empty. The Fillmore Horse Racing Association is willing to handle the rental process for a percentage of the revenues and it will use the money to promote the horse races in Fillmore. Fillmore Horse Racing Association currently holds two horse races a year and the Spanish Racing Association plans two races a month starting in April. Mr. Brinkerhoff said he has been paying the bill on two water meters at the fairgrounds for more than thirty years. The County pays for the water that is used on the soccer fields.

The Commissioners suggested that Mr. Brinkerhoff register the Fillmore Horse Racing Association as a nonprofit organization with the State of Utah. He was asked to give the Commissioners a written management proposal that includes the suggested rental fees, a rental contract, an enforcement plan and the suggested contractual relationship between Fillmore Horse Racing Association and Millard County.

POSSIBLE APPROVAL OF FUNDING FOR THE COUNTY MEMORIAL WALL UPDATES

Commissioner Smith made a motion to approve funding of \$8,000 to be used to update the County Veterans Memorial. The veterans have been asked to help in the past with the updates and the maintenance.

Commissioner Whatcott **SECONDED** the motion and said that the memorial wall was built with the help of many volunteers. The voting was unanimous and the motion carried.

RATIFY THE CONDITIONAL APPROVAL OF THE TOPAZ SLOUGH WILDLIFE AREA PLAN

Commissioner Smith made a motion to ratify the approval of the Topaz Slough Wildlife Area Plan.

Commissioner Whatcott **SECONDED** the motion with comments concerning the grazing permits in the Milford Fire area. He suggested that a letter be sent to encourage DWR to allow grazing again in this area. Commissioner Smith said DWR plans to fence the area and use it for wildlife but it is willing to receive additional comments. The BLM no longer has authority to manage the range land. The voting was unanimous and the motion carried.

APPROVAL OF A QUIT CLAIM DEED FROM MILLARD COUNTY TO TRANSFER A ROAD TO DELTA CITY AS PART OF A CITY ANNEXATION IN 1996

Attorney Richard Waddingham explained that in December 1996, Delta City went through the Hollingshead annexation process. The Delta City meeting minutes of December 16, 1996, reflect that Millard County would deed the road to the City, which would enable the city to upgrade a waterline in the street. Commissioner Smith made a motion to approve a Quit Claim Deed from Millard County to transfer a road to Delta City as part of a prior city annexation in 1996.

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

POSSIBLE ADOPTION OF RESOLUTION NO. 09-02-17, A RESOLUTION OF THE MILLARD COUNTY COMMISSION TO AMEND THE MILLARD COUNTY FACILITIES USE AND RENTAL POLICY

Attorney Waddingham briefly explained that the fee schedules built into this policy had been taken out and the new fee schedules will be attachments to the policy making it easier for fee schedule updates to be made in the future. The insurance section of the policy was updated. Four classifications of events were

set up based on a suggested list from Utah Counties Insurance Pool (“UCIP”). The classifications are low minimal hazard risks, medium average hazard risks, moderate

hazard increased exposure risks and high risk activities which may be ineligible or require the insurance carrier’s approval. The higher the risk of an event the more likely insurance is warranted. Some uses require deposits. Deposits could be forfeited depending on damages, waste or if additional law enforcement is called out during an event.

Commissioner Whatcott made a motion to adopt Resolution No. 09-02-17, A Resolution of the Millard County Commission to amend the Millard County Facilities Use and Rental Policy.

Commissioner Smith 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 NO. 09-02-17A, A
RESOLUTION OF THE MILLARD COUNTY COMMISSION FOR A
RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION
ASSISTANCE PLAN AND CERTIFICATION**

Commissioner Whatcott made a motion to strike Resolution No. 09-02-17A, A Resolution of the Millard County Commission for a Residential Anti-displacement and Relocation Assistance Plan and Certification.

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

**POSSIBLE ADOPTION OF RESOLUTION NO. 09-02-17B, A
RESOLUTION OF THE MILLARD COUNTY COMMISSION TO REPEAL
RESOLUTION NO. 09-02-03 AND TO ADOPT A SUBSTITUTE
RESOLUTION TO AMEND SECTION VII OF THE MILLARD COUNTY
PERSONNEL POLICIES AND PROCEDURES MANUAL BY PROVIDING
FOR VACATION AND SICK LEAVE FOR EXEMPT EMPLOYEES WITH
THE EXCEPTION OF CERTAIN CLASSES**

Attorney Waddingham said that this resolution is to clarify exempted positions in regards to earning vacation time and sick leave.

Commissioner Whatcott made a motion to adopt Resolution No. 09-02-17B, a Resolution of the Millard County Commission to Repeal Resolution No. 09-02-03 and to Adopt a Substitute Resolution to Amend Section VII of the Millard County Personnel Policies and Procedures Manual by Providing for Vacation

and Sick Leave for Exempt Employees with the Exception of Certain Classes. Commissioner Smith 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 AMENDMENT TO RESOLUTION NO.09-02-17C, A RESOLUTION OF THE MILLARD COUNTY COMMISSION TO ADOPT AN EMPLOYEE STEP AND GRADE SCALE

Commissioner Smith made a motion to adopt Resolution No. 09-02-17C, A Resolution of the Millard County Commission to Adopt the Employee Step and Grade Scale.

Commissioner Whatcott SECONDED the motion and a discussion regarding the twenty-grade plan was opened up. Commissioner Whatcott asked what the purpose of adding position Grade 1 & 2 were for because they were not in the original part of the plan submitted by Mike Swallow.

Commissioner Walker said the request to have multiple grades had been suggested by an elected official, a department head or an employee at a work meeting. A Grade 1 & 2 could be an entry level position and then the employee promoted from there.

Commissioner Smith said if a Deputy 1 & 2 is not needed then it can be deleted. The step and grade program is a living document where changes can be made now or later.

Treasurer John Hansen said the Commissioners' statement in the minutes from a prior meeting said that all the elected officials approved the step and grade program. He said that he is not in favor of the way this program stands now. Things have been changed since Mike Swallow, as an independent source, was hired to do a plan that could be adjusted to Millard County's ability to meet those schedules.

Commissioner Walker said that what the comment in the minutes and newspaper meant was that all elected officials approved of the concept of the step and grade program.

Auditor Grace said she wanted to clarify the comments about the classes for Deputy 1 & 2. She said the best part of the study that Mike Swallow's team did was the analysis of the individual employees that included the employees' input based on what they thought their position's value was to the County. The employee then met individually with a member of Swallow's team and identified what their own job responsibilities were. These two parts of the project were quite objective as there were no Commissioner and Auditor input. The numbers came in and then the County went to work. Much commitment

has been put into this plan and it was done with the intent to benefit the employees as much as possible both now and down the road. It has taken more than two years to get to this point. She wants to stand behind it, but her concern is that in certain cases, to fit certain needs, the County may have gotten a little off track. When the original study was done there were not Deputies 1 & 2 in each office. She said her office doesn't need a Deputy 1 & 2 and doesn't think the other offices really need this category, with the exception of the Sheriff's Office. Entry level employees can follow the regular step process. She asked the Commissioners to make the plan fair and consistent with each office. The step and grade program is based upon the budget. She does support the concept of the step and grade program.

Justice Court Judge Ron Hare said that one advantage of having multi levels of deputies is that proficiency in the job does not always come with time. It gives the employee incentive not to just slide along but to advance after they have learned the job and have taken on more responsibilities. A Deputy 1 & 2 level would work in his office and give him the opportunity to grade and review each year.

Auditor Grace said that employees will not automatically advance up the steps but advancements will be based on performance evaluations done by the elected officials or the department heads.

Sheriff Dekker said that he has been supportive of the concept of the step and grade program but the analyzing has gone from objective to subjective during the planning phase. This plan affects the Sheriff Office more adversely than with any other office or department in the County. He said it is hard to make everyone happy. This plan puts a little more responsibility on the heads of the offices and departments to make the advancements.

Steve Jensen, County Road Department, said that they appreciate the work the Commissioners have done on the step and grade program. They said they back the plan and acknowledged that it needs to be adjusted a little to make it work for everyone. It is a good starting point and it can be tweaked later. They need the class Truck Drivers 1 & 2.

Clerk Norma Brunson said she feels it is important that the assigned grade given to her office at the time the report came back from Mr. Swallow be reinstated instead of the grade assigned now. She had spoken to Commissioner Smith this morning and told him that the change made Monday night after five was not acceptable.

Commissioner Walker said when the report was released from Mr. Swallow it was a twenty-five-grade program and it has now been reduced to a twenty-grade program with his help and suggestion. She has talked to the maintenance and the landfill department heads and Maintenance indicated its desire for a Maintenance 1 & 2 and the Landfill wants Truck driver 1 & 2. The Delta Office is in favor of Clerk 1 & 2.

Sheriff Dekker said according to his calculations, excluding himself and the Captain Roper, thirty-two of his fifty-three employees' salaries will be frozen for an average of about seven years.

Clerk Brunson said that a Clerk 1 & 2 are not necessary in her office. If the plan is changed for the other offices, it is not a problem for her to change also.

Commissioner Smith said at one point there were Deputies 1, 2 & 3. They evaluated and reevaluated the program to try and make it fair for all the offices. They took away all No. 3 classes. Clerk Norma Brunson called for a roll call vote on the motion. Commissioner Whatcott explained that with the good comments that were given today, his YES vote was warranted. Commissioner Smith voted YES. Commissioner Walker voted YES. The voting was unanimous and the motion carried.

**POSSIBLE APPROVAL OF RESOLUTION NO. 09-02-17D A
RESOLUTION OF THE MILLARD COUNTY COMMISSION AMENDING
SECTION IX OF THE MILLARD COUNTY PERSONNEL POLICIES AND
PROCEDURES MANUAL BY INCORPORATING A STEP AND GRADE
SCALE INTO THE POLICY, DETERMINING QUALIFICATIONS FOR AN
INCREASE IN AN EMPLOYEE'S COMPENSATION, INCLUDING
COMPENSATION ASSOCIATED WITH PROMOTION TO A HIGHER
GRADE; PROVIDING FOR A TIME PERIOD AND ELIGIBILITY
REQUIREMENTS FOR CONSIDERING STEP INCREASES; AND
ELIMINATING THE SALE OF COMPENSATORY TIME BY AN
EMPLOYEE; AMENDING SECTION X OF THE MILLARD COUNTY
PERSONNEL POLICIES AND PROCEDURES MANUAL BY LIMITING
THE SALE OF VACATION TIME; ESTABLISHING EMPLOYMENT
GUIDELINES FOR RETIRED MILLARD COUNTY EMPLOYEES WHO
ARE SEEKING RE-EMPLOYMENT; AND MAKING TECHNICAL
CORRECTIONS TO THE POLICY**

Commissioner Smith made a motion to adopt Resolution No. 09-02-17D .

Commissioner Whatcott **SECONDED** the motion. The Resolution and the changes were read to the public and some additional amendments to the policy were explained. (See Exhibit A) Comments made during the reading were:

- Commissioner Smith explained that all the requests for a step increase will be done twice a year, once in January and once in July, after an evaluation and favorable recommendation from the department head/elected official and given to the Commissioners.
- Brandy Grace said that part time employees should be part of the step and grade program with six months probation. Reviews will not be done on anniversary dates as done in the past but they will be done in July and January and will not be retroactive.
- The change in the policy states that no Comp time can be sold. According to the Fair Labor Standards Act (“FLSA”) Comp time is a benefit for time off and should be worked into the schedule by a supervisor and cannot be sold by an employee.
- Sheriff Dekker said that state law allows a one year probation period for the Sheriff’s Office employees. Sheriff Dekker thinks that when an employee earns an advancement he or she should be given the raise in pay and should not have to wait until January or July because this is another freeze on someone’s salary. The accumulation of vacation time is different in the Sheriff Office’s old step and grade but has already been addressed.
- Recorder Connie Hansen said she agrees that part time employees need to be on the step and grade program and her office does not need more than one grade of Deputies.

Commissioner Whatcott asked what the current policy had been regarding pay increases for part time employees. Recorder Hansen said that a supervisor had to come before the Commissioners and fight for it and the wage was determined for the position. An employee had to work three years before they were eligible for a COLA.

- Attorney Waddingham explained that Comp time is not a use or lose principle. It is governed by federal law and employees are entitled to either over time payment or Comp time. He suggested the County hold a training session for the elected officials and department heads instructing them on how to handle Comp time and other benefits for the employees. The Auditor’s Office should continue to monitor Comp time.
- It is not the intent for Comp time to be sold, but to be used as time off. By not allowing Comp time to be sold, only minimal amounts of Comp time would be left at the end of the year. Auditor Grace said that the reason for the change is to implement the new step and grade program. The cost last year to the County for employees to sell back Comp time and vacation time was \$120,000.

Commissioner Smith made a motion to adopt Resolution No. 09-02-17D as amended.

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. Commissioner Smith said the Step and Grade Program will be implemented over the next two years and will begin with the next pay period.

Commissioner Whatcott made a motion to recess for a lunch.

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The meeting recessed at 12:40 p.m..

NOON BREAK

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 1:49 p.m..

PUBLIC INPUT

There was none.

POSSIBLE AMENDMENT TO AND APPROVAL OF THE MEMORANDUM OF UNDERSTANDING BETWEEN THE MILLARD COUNTY COMMISSION AND MILLARD SCHOOL DISTRICT ON JOINT USE OF FACILITIES

Attorney Waddingham explained that after reading the current MOU between Millard School District and Millard County on the joint use of facilities, he determined that the agreement already in place with the school district covers the County's needs. The chalk machine that was used by the County will be returned to the school district.

Commissioner Whatcott made a motion to strike the motion to amend the MOU between Millard County and Millard School District on Joint Use of Facilities and follow the guidelines in the current MOU.

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

MILLARD COUNTY AUDITOR'S REPORT

Auditor Grace presented the Check Edit Report and the Payroll Reports of February 13, 2009 to the Commissioners.

TREASURER'S REPORT-DISCUSSION ON DANIEL JACKSON'S PROPERTY TAXES

Treasurer John Hansen said he had been contacted by Daniel Jackson whose property taxes amounting to \$9,371.92 for 2004 through 2008 are past due. The property could be going to the tax sale in 2009. He is asking for some consideration in this matter. The property (Fillmore Motel) is up for sale but he doesn't know when the sale will go through.

Commissioner Whatcott made a motion to allow Daniel Jackson to pay 50 percent of the property taxes on the Fillmore Motel by March 31, 2009 and pay the balance by March 31, 2010.

Commissioner Smith **SECONDED** the motion. The voting was unanimous and the motion carried. This will be a one time offer.

Treasurer Hansen gave an update on the finance and tax issues concerning Millard County. They discussed UAC's proposal regarding the delinquent tax rate and how it affects the County. He reported that large tax appeals against Millard County have been made by Kern River and Questar and some smaller tax appeals are pending. This could result in Millard County repaying hundreds of thousands of tax dollars over the next few years. He said options for repayment will need to be found. The other taxing entities in the county will also be adversely affected by the tax appeals. Treasurer Hansen said he would like to talk with the Commissioners about the County's tax collection and all financial issues. A meeting with the Auditor, Treasurer, Attorney and Commissioners was scheduled.

Treasurer Hansen said the new step and grade program will be subject to the budget. He thinks that with all the information from the department heads and elected officials, the results of the original survey done by Mr. Swallow have been skewed.

OTHER

Marreen Casper, Senator Orrin Hatch's Office reported on many of the Senator's assignments and activities. He is still has ranking on the Financial Committee and the Judicial Committee, a member of the Health, Education, Labor, & Pension Committee, a member of the Select Committee on Intelligence, a member of the Special Aging Committee and the Joint Taxation

Committee. Senator Hatch did not vote for the stimulus package and conference report but knowing it might pass submitted 18 billion dollars of requests from the State of Utah. She said that seventy- seven oil leases on BLM land in Utah have been cut by Salazar. Mrs. Casper said that the nation is not ready to go totally solar, wind or geothermal and there are still needs for gas and oil. There are small business disaster loans now available for non farm businesses. She reported more interesting facts regarding the current economic situation of our country.

FOLLOW UP ACTION ITEMS FROM FEBRUARY 3, 2009

There was none.

APPROVAL OF FEBRUARY 3, 2009 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held February 3, 2009 were presented for consideration and approval. Following review and consideration of minor corrections

Commissioner Smith made a motion to approve the minutes of February 3, 2009, as corrected.

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

DISCUSSION BY EACH COMMISSIONER, COUNTY ATTORNEY, AND ELECTED OFFICIALS AND SECRETARY

Commissioner Whatcott reported on the Cricket/Grasshopper meeting in Salt Lake City on February 12, 2009 and picked up some good suggestions for getting rid of them in their early stages and information about regulations of spraying them near the water sites.

Commissioner Whatcott said that the janitorial contracts will expire on March 1, 2009. One of the Fillmore Swimming Pool managers will be moving into the janitorial position covering the Old Courthouse and the Public Safety Building with Klint Penney, East Millard Maintenance, as the supervisor.

Commissioner Whatcott reported killer bees have been discovered in Washington County and people are working to try to eliminate them.

Commissioner Whatcott said that Klint Penney, East Millard Maintenance Supervisor, has reported that the flat portion of the roof on the public safety

building needs to be addressed.

Commissioner Whatcott gave an update on the information he had reported on in the last meeting regarding possible future BLM land use fees. The ATV Jamboree participants will be all right for this year but effective in 2010 usage fees could be assessed at \$4.00 a rider or \$90.00 for a group.

Commissioner Whatcott said that Cindy Manning, West Millard Swimming Pool Supervisor, reported that the treadmill in the recreation room needs a new motor that will cost \$150.00. Payment of the motor was discussed.

Commissioner Smith said that Representative Brad Winn had asked him to come to the Capitol on Wednesday, February 18, 2009 and give positive comments about his bill.

Commissioner Walker and Commissioner Whatcott attended the Six-County Association of Government (“AOG”) meeting in Richfield. The Executive Committee reviewed the Community Development Block Grant (“CDBG”) applications, which included points awarded by the State. The maximum amount of \$250,000 was awarded to a proposed food bank in Richfield. Millard County’s

application of \$195,000 for a new ambulance building in Fillmore was awarded \$39,000, with \$20,000 subtracted off other funding. Based on the approximate cost of \$374,000 for an ambulance building and the fact that the CDBG grant awarded was not sufficient, Millard County withdrew its application at this time. The County may apply for a grant next year.

Commissioners Walker and Whatcott attended a Forest Service meeting involving Six-County Commissioners. The Secure Rural Schools Act authorizes the use of Resource Advisory Committees (“RACs”) as a mechanism for local community collaboration with federal land managers in recommending Title II projects on federal lands or that will benefit resources of federal lands. Members of RACs are appointed by the Secretary of Agriculture to a four-year term.

The majority of Six-County commissioners voted to form RACs in counties based on boundaries of the three national forests in central and southern Utah. Millard County will be involved in forming a Fishlake National Forest RAC. Commissioner Walker worked with Rocky Mountain Power representative Chad Ambrose to complete a 2009 Rocky Mountain Power Performance Plan. Items included: maintain and improve availability at affordable rates to existing and new customers; maintain same level of communication regarding impacts to Millard County and continue serving as a resource to Millard County

regarding economic development.

Commissioner Walker and Linda Gillmor, county economic development, attended the Six-County AOG Recognition Banquet in Junction, Utah. Liqua-Dry's owners Elend LeBaron and his wife Olivia were honored as Millard County's 2009 Business of the Year. Liqua-Dry in Abraham is a low temperature, spray drying company which has become a major producer in worldwide markets, and the second largest supplier of grass juice powders in Japan.

Millardcountytravel.com website usage in 2008 showed 14,598 visitor sessions. The top viewed pages were rock hounding and ATV activities. Despite a slow down in the economy, revenues from Transient Room Taxes paid by visitors continue to increase.

OTHER BUSINESS

Commissioner Walker said that Brent Gardner and Mark Ward from UAC are calling an emergency meeting to discuss issues relating to the Public Lands Policy Coordinating Office on Thursday, February 19 from 11:30 a.m. to 12:30 p.m. at the Capitol Building. Several of the Commissioners will attend the meeting.

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

After the closed executive session the regular meeting reconvened.

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 4:00 p.m..

Attest: _____

Approved: _____