

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 31st DAY OF MARCH 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: David Christensen Fillmore City Mayor  
Dean Draper Chronicle Progress Reporter  
Sheryl Dekker Millard County Planner  
Georgia Hare University of Utah Scholarships  
Pam Fisher Bulloch Realty  
Serena Weeda Desert West Real Estate  
Stephen D. Cummins Great American Industrial Minerals, LLC  
Shelly Teuscher First Wind

EXCUSED: Brandy Grace Millard County Auditor

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 month of April 2009.

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.

## KLINT PENNEY, EAST MILLARD MAINTENANCE SUPERVISOR, DISCUSSION ON RENTAL FACILITIES SCHEDULE AND FILLMORE RACETRACK USE

Klint Penney, East Millard Maintenance Supervisor, came before the Commissioners to discuss some issues concerning the racetrack in Fillmore.

Concerns: More money is being put into the facilities than is received

No fee schedule has been set up for the race track

Horse racing organizations do not pay for use of race track for events

Groups using the facilities are receiving revenues

Need to monitor water usage

Need a way to enforce the no smoking, drug use or drinking alcohol policy

Need to control the loud noise at events

Millard County:

1. Maintains the lawns

1. sprinkler systems

2. soccer fields

2. General maintenance of

1. buildings and sheds

- grandstands, indoor arena & grounds

- painting

- repair and replacements of bathroom facilities

3. Uses water wagon/truck (Borrows the county road's water tender)

4. Does tractor work

5. Maintenance crew has to be present at scheduled events as well as do

preparations for an event

6. Cleans up after the events (Inmate crew helps with this duty)

7. Work at these facilities use employees' time, county fuel and equipment

Jer'E Brinkerhoff: Takes care of the race track three or more times a week in the spring and summer months using county water.

Suggested possible solutions:

Resolve the water issues

Create a fee schedule for indoor arena and race track

Set fees for race track rental per event @ \$500-\$600

Need an ordinance that addresses penalties

Increase revenues for stall rental

Millard County will reserve the right to waive fees for non-profit organizations and government entities

Fillmore City issues:

Mayor David Christensen related that events and activities held at the fairgrounds, racetrack and indoor arena impact Fillmore. The noise from some of these events is a problem.

Updates:

Beginning April 1, 2009 a gentleman will rent stalls for twelve horses for \$600.00. The first racing event begins April 11, 2009 and there are other races on the schedule. Klint Penney stated that a maintenance work crew will begin immediately to do the minor repairs to the bucket hanger and trusses. He will give the racing organizations a copy of the Millard County Policy regarding not allowing smoking, drugs or drinking alcohol on county premises.

Commissioner Walker suggested and tentatively set up a work meeting for April 14, 2009 at noon. Jer'E Brinkerhoff, Klint Penney, the Commissioners, Mayor Christensen and County Attorney will be invited. The current lease will be reviewed for possible revision, usage fees, maintenance plans and the impact to Fillmore City will be discussed along with any other concerns.

#### GEORGIA HARE - DISCUSSION ON UNIVERSITY OF UTAH SCHOLARSHIPS FOR ALCOHOLISM AND OTHER DRUG DEPENDENCIES SUMMER SCHOOL

Georgia Hare came before the Commissioners to request \$1,060.00 for four scholarships to the University of Utah ("U of U") Summer School for Alcoholism and Other Drug Dependencies. U of U will match one half and Millard County was asked to cover the other half of the registration and the rooms at Olympic Village. The date of the school is June 21 through June 26, 2009.

Commissioner Whatcott made a motion to approve \$1,060.00 for four scholarships to the U of U Summer School.

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

Georgia Hare said the certified training she has received during the past twenty-three years not only affected her career choice but is helpful to the clients she works with in overcoming their addictions. The school offers a variety of training to the participants. Mrs. Hare will be retiring from her current position, but will remain as President of the Alumni Association.

POSSIBLE APPROVAL OF RESOLUTION NO. 09-03-31, A RESOLUTION REPEALING RESOLUTION NO 09-01-06, WHICH AMENDED THE EAST MILLARD SWIMMING POOL AND WEST MILLARD SWIMMING POOL FACILITIES AND EQUIPMENT FEES SCHEDULE AND RESOLUTION NO. 09-01-06A, WHICH AMENDED THE MILLARD COUNTY SUNSET VIEW GOLF COURSE FEE SCHEDULE (CURRENTLY SET FORTH IN THE MILLARD COUNTY FACILITIES USE AND RENTAL POLICY, ADOPTED BY RESOLUTION NO. 09-02-17)

County Attorney Richard Waddingham explained that on January 6, 2009, before the comprehensive facility use policy was put together, resolutions governing a fee schedule for the swimming pools and golf course were passed. On February 17, 2009, the comprehensive facilities use and rental policy was adopted and incorporated the fee schedules. To avoid a duplication of the fee schedules he recommends that Resolutions No. 09-01-06 and 09-01-06A be repealed. (This item was moved down the agenda and later was brought for a motion.)

Commissioner Smith made a motion to approve Resolution No. 09-03-31, A Resolution Repealing Resolution No. 09-01-06, Which Amended the East Millard Swimming Pool and West Millard Swimming Pool Facilities and Equipment Fees Schedule and Resolution No. 09-01-06A, Which Amended the Millard County Sunset View Golf Course Fee Schedule (Currently Set Forth in the Millard County Facilities Use and Rental Policy, Adopted by Resolution No. 09-02-17).

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.

## OTHER BUSINESS

Commissioner Smith received a proposal from Tony Fuller regarding ADF Holding's property where the County will be purchasing gravel in the future. Copies of the proposal will be given to the other Commissioners to review and the matter will be discussed at the next Commission meeting.

Commissioner Smith gave the other two Commissioners a copy of the proposal from the Millard County Road Department to the Forest Service on the roads that could be scheduled for MagChloride spraying.

Commissioner Smith presented to the Commissioners for their review an

easement agreement from SITLA, regarding a road going through SITLA's property.

Commissioner Whatcott made a motion to authorize the approval of the easement agreement and to authorized it to be signed by the Chairperson. Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. \*Need a copy of the easement.

Commissioner Smith said no bids were submitted on time for the janitorial job for the Millard County Road Department. An individual has offered to do the job for \$300 @ month which is the same amount that was paid to the previous janitor. He recommended that the County accept the bid.

Commissioner Whatcott made motion to grant Tess Taylor the janitorial job for the Millard County Road Department at \$300.00 a month.

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

Commissioner Smith said Millard County needs to have a representative at the MCAT

Board meeting that will be held April 15, 2009 prior to UAC Management Conference meeting. Commissioner Smith made a motion to appoint Commissioner Whatcott to the serve on the MCAT Board.

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

Commissioner Walker said that Central Utah Mental Health ("CUMH") submitted a proposal for a reduction in the swimming pool fees to encourage patients who may have an obesity problem to exercise in the pool regularly. Commissioner Smith made a motion to reduce the swimming pool fees fifty percent for up to ten CUMH patients, subject to confirmation of the Millard County policy.

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

County Attorney Richard Waddingham said the Affidavit of Protest to Emerald Peaks LLC is ready to be signed. He said the protest is an administrative action that he would normally sign. However, to be consistent with prior protests filed by the county he asked the chairperson to sign the protest.

Commissioner Smith made a motion to ratify the Affidavit of Protest in regards to Emerald Peaks Minerals, LLC's application to Appropriate No. 69-104

(A78237)

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

Clerk Norma Brunson said that she is taking applications for a position that will soon be vacated in the Clerk's Office. The applications are due April 3, 2009.

**PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON A ZONE CHANGE (MAP) APPLICATION BY GREAT AMERICAN INDUSTRIAL MINERALS, LLC FOR PROPERTY LOCATED AT APPROXIMATELY 2730 WEST 4000 SOUTH, OASIS, UTAH**

Commissioner Bart Whatcott made a motion to enter into a public hearing for the purpose of receiving public comment on a zone change (map) application by Great American Industrial Minerals, LLC for property located at approximately 2730 West 4000 South, Oasis, Utah.

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

Present were: Steve Cummins, Pam Fisher, Serena Weeda, Dean Draper and Millard County Planner Sheryl Dekker.

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

Steve Cummings from Great American Industrial Minerals, LLC said he would answer any questions from the public.

There were no other comments made.

Commissioner Whatcott made a motion to go out of the public hearing.

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

The regular meeting reconvened.

Millard County Planner Sheryl Dekker said that the property of interest is the old Oasis Seed building that constitutes 3.46 acres across the railroad tracks from Oasis, Utah. A clay processing operation was not allowed in the current zoning and a zone change was requested. After its public hearing, Planning and Zoning gave a favorable recommendation for the request to change the zoning from Agricultural Industrial (AI) to Light Industrial (LI).

Stephen Cummins said 2.1 million dollars are allocated to refurbish the existing buildings into a “green facility.” The plant will be processing a specialized clay in the building so the dust will be minimal. The product can be used as a thickening agent for many products. The clay will be coming from the Topaz site located in Juab County. The truck traffic should be light with one truck every other day. Mr. Cummins was notified there are weight limits and restrictions on some of the roads leading to the plant. At capacity, the plant could employ 23 people and possibly 45 employees within five years. They plan to bring in four technical people with industry knowledge and then hire and train local people. Mr. Cummins said they are planning to purchase 7.5 acre feet of water. The water will be captured, filtered and stored for reuse on site in portable facilities. The by products will be taken back to the mine site. There was concern expressed about the availability of sufficient water for the project.

**POSSIBLE APPROVAL OF ORDINANCE NO. 09-03-31, AN ORDINANCE OF THE MILLARD COUNTY COMMISSION AMENDING THE ZONING MAP OF MILLARD COUNTY TO RECLASSIFY CERTAIN PROPERTY FROM AGRICULTURAL INDUSTRIAL (AI) TO LIGHT INDUSTRIAL (LI)**

Commissioner Whatcott made a motion to approve Ordinance No.09-03-31, an Ordinance of the Millard County Commission Amending the Zoning Map of Millard County to Reclassify Certain Property from Agricultural Industrial (AI) to Light Industrial (LI).

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.

**FOLLOW UP ACTION ITEMS FROM MINUTES OF MARCH 17, 2009**

Commissioner Smith reported the County had received the Title III SRS money (\$41,557.00) which was passed on to the Fire District for fire suppression funds.

Commissioner Smith reported that state law was amended to allow the SRS money to go directly to the Special Service District Number 8 fund. This will help the counties in that the money will not offset the PILT funds. The SRS money will be given to Special Service District Number 8 to replace money going into Fund 21 replacing that amount in its budget. The Millard School

District will receive \$258,000 of unrestricted money from Title I money.

## PUBLIC INPUT

Shelly Teuscher reported First Wind has been working on a financing deal. A letter of credit was sent to Attorney Waddingham without an evergreen clause and this has been resolved with the County. Things are in good shape and the contractor has been given full notice to proceed.

Dean Draper, Chronicle Progress reported that he had attended a meeting on Friday and had talked with Andy Ferguson at Great Basin Park. Mr. Ferguson announced there will be no stipulated agreement involving the Department of Interior (“DOI”) agencies, the Bureau of Land Management, U.S. Park Service, the Bureau of Indians Affairs and the U.S. Fish and Wildlife Service regarding the Snake Valley. On Monday, the Southern Nevada Water Authority requested a one-year extension for the Snake Valley water hearing from the Nevada State Engineer.

Protests to the hearing date can be made.

The Commissioners will talk with Mark Ward to determine its position on Southern Nevada’s request to postpone the hearing date.

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

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

Commissioner Smith **SECONDED** the motion. The voting was unanimous and the motion carried. The closed session began at 11:40 a.m..

After the closed executive session the regular meeting reconvened at 12:09 p.m..

## NOON BREAK

Commissioner Whatcott made a motion to break for lunch.

Commissioner Smith **SECONDED** the motion. The voting was unanimous and the motion carried. The meeting adjourned at 12:10 p.m..

Commissioner Smith made a motion to reconvene the meeting.

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



and the motion carried. The meeting reconvened at 1:45 p.m..

## APPROVAL OF MARCH 17, 2009 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held March 17, 2009 were presented for consideration and approval. Following review and consideration of minor corrections

Commissioner Whatcott made a motion to approve the minutes of March 17, 2009, as corrected.

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

## AUDITOR'S REPORT

Chief Deputy Auditor Bonnie Gehre gave the Commissioners the Check Edit Report of March 27, 2009 for review and approval along with the Payroll Reports of March 27, 2009.

Chief Deputy Auditor Gehre reported that the Title III distribution from the state in the amount of \$41,557.00 has been received. The Auditor receipted it to over payment reimbursement and it will be sent to the Fire District.

Chief Deputy Auditor Gehre said she had called US Bank and the elected officials' cards will expire the end of April. New cards will be generated after April 1, 2009. Commissioner Smith asked her to check to see what Millard County's current bond ability rate was.

## TREASURER'S REPORT

Treasurer John Hansen was excused.

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

Commissioner Whatcott reported that the Central Utah Public Health Department office space in Fillmore is the smallest in the Six County area. There are only 360 square feet to house two offices, a waiting room, restroom and storage room. Bruce Costa, Commissioner Whatcott and Linda Stephenson have measured the space and proposed that 1,000 square feet should be added to the existing structure. Emery Polelonema will be contacted for help with CIB funding as there may be money available that could possibly be used to expand

the office.

Commissioner Whatcott attended the recreation meeting in Delta under the direction of Recreation Director Max Wood to discuss the fees and rental of the pools and horse stalls.

The Commissioners have been told by Chuck Gay and Nicole Crockett at Utah State University that the extension agent could help with any problem the county would like. Commissioner Whatcott will contact Mr. Holmes to have him help correlate the cricket/grasshopper meetings.

Commissioner Whatcott said the weed spraying will begin on April 13, 2009 if the weather permits.

Commissioner Whatcott visited with Jim Stevens, USU Extension, about the “Dirt” presentation that he had given at the Delta North Elementary School.

On March 30, Commissioner Whatcott attended the public lands meeting at the state capitol in Salt Lake City, Utah. SUWA is suing the BLM over land issues. The Public Lands Coordinating Council has been dissolved and is being replaced by the Constitutional Defense Council (“CDC”). Gas and oil leases and keeping jobs in Uintah County were discussed. Lt. Governor Herbert said that our job is protecting the roads and right-of-ways for Utah. Commissioner Whatcott said that Red Rock originally was asking for 1.3 million acres and now it wants to increase it to 9.5 million acres.

Commissioner Whatcott reported that Phil Robison of Fillmore has been chosen as Millard County’s recipient of the “Silver Bowl Award.” He will be honored at a ceremony at the Provo Marriott Hotel on April 9, 2009. The award is sponsored by Six County Association of Governments.

Commissioner Smith gave the following UAC Legislative Committee wrap-up:  
Enrolled Bills

- HB 23 Certified Tax Rate Amendments
- HB 61 Local Government Entity Changes
- HB 67 Public Hearings on Property Tax Increases
- HB 120 Snake Valley Aquifer Research Team and Advisory Council
- HB 126 Voter Identification for Elections
- HB 149 Forest Reserve Fund Revisions
- HB 156 Subdivision Approval Amendments
- HB 157 Property Tax Assessment Amendments

- HB 169 Public Lands Policy Coordination Amendments
  - HB 241 Priority of Water Rights
  - HB 278 B & C Roads Fund Amendments
  - HB 309 County Fiscal Procedures Amendments
  - HB 371 Transportation Governance
  - HB 20 Local Public Health Emergency Funding
  - SB 21 State and Local Health Authorities Amendments
  - SB 53 Awarding of Attorney Fees
  - SB 57 Local Option Transportation Corridor Preservation Fund Amendments
  - SB 65 Amendments to Property Tax Notice, Public Hearing and Resolution Provisions
  - SB 131 Law Enforcement Service in Local Districts and Interlocal Entities
  - SB 134 Transportation Funding Amendments
  - SB 171 Municipal Annexation Amendments
  - SB 208 Utah Public Notice Website Amendments
  - SB 210 Amendments to Property Tax
  - SB 216 Revisions to Military Installation Development Authority Act
- Failed Bills
- HB 380 Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Amendments
  - Amendments to City or Town Sales and Use Tax for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities
  - Modifications to Recording Requirements-Subdivisions
  - Proof of Citizenship Required to Vote
  - Local Health Authority Funding Amendments
  - Dedication and Abandonment of a Highway
- Appropriations
- Jail Reimbursement/Contracting
  - Health and Human Services

Commissioner Smith, Commissioner Walker and Mark Ward attended a meeting on March 27 with the Southern Nevada Regional Water Authority which is a group of eight counties in Nevada. They entered into an MOU to participate and meet once a year to discuss western water issues. Two counties from California also participated in the MOU with Millard County and Juab County. The man giving the USGS presentation showed concern about the project and wants three more years to study it. The Nevada State Engineer was asked to postpone the water hearings for a year. Commissioner Smith said it was a great meeting to correlate water issues and concerns shared with the other counties. Mark Ward also attended the Great Basin Network Water

Strategy meeting in Baker, Nevada.

Commissioner Walker reported that she had spoken to Rex Stanworth and found that the date of conveyance of the “Van’s Hall” property was August 2008 and the ownership is in the name of the Greater Delta Historical Restoration Association. The request is for the taxes, interest, and penalties to be waived for 2008 and 2009.

Commissioner Walker attended the Central Utah Mental Health Meeting in Richfield, Utah. Federal stimulus monies received by the State were used to backfill most proposed cuts to Mental Health and Substance Abuse programs. The only program possibly eliminated will be DORA this year, and it will be gone by 2010. The counties pay 20 percent of the costs for mental health. The cost for a patient per day at the State Mental Hospital is \$1,996.22. Several personnel issues were discussed and resolved. Commissioner Walker will be attending the National Mental Health Conference in San Antonio, Texas from April 5 through April 9. All the expenses will be paid, and will not be a cost to Millard County. Commissioner Walker asked to be excused from the April 7 Commission meeting. Commissioner Smith will be the commission chairperson pro-tem.

Commissioner Walker and Commissioner Smith attended a Central Nevada Regional Water Authority (“CNRWA”) meeting in Ely, Nevada. CNRWA pro-actively addresses water-resources issues common to eight Nevada counties, and protects water resources so an area will have an economic future, and its quality of life and natural environment is maintained. The Authority is comprised of county commissioners from Churchill, Elko, Esmeralda, Eureka, Lander, Pershing, Nye and White Pine Counties. In rural Nevada as in rural Utah, water is essential to the sustenance of present and future economic vitality and environmental amenities. They recognize the universal division of water to Nevada’s urban areas potentially leads to a variety of negative effects. The CNRWA agreed to enter into a Memorandum of Understanding (“MOU”) following a presentation, from Commissioner Smith and Commissioner Walker and comments from the Juab County Commissioners that it has the same areas of concern and are facing similar affects. The MOU establishes a forum where important water resource issues common to the shared geographic region are discussed and studied, and if appropriate, recommendations can be made to the appropriate entities and organizations. Inyo and Mono Counties in California did not have commissioners present but may join in the MOU because of the shared geographic region with the

CNRWA, Millard and Juab Counties.

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 2:43 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 3:10 p.m..

Commissioner Smith made a motion to enter into a closed executive session.  
Commissioner Whatcott **SECONDED** the motion. The voting was unanimous and the motion carried. The closed session began at 3:11 p.m..

The meeting was reconvened and Commissioner Whatcott explained the closed session was to discuss the character, professional competence, or physical or mental health of an individual. He made a motion to adjourn the meeting.  
Commissioner Walker stepped from the chair and **SECONDED** the motion. The voting was unanimous and the motion carried. The meeting adjourned at 4:05 p.m..

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

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