

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 21st DAY OF APRIL 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
Marki Rowley Deputy County Clerk

ALSO PRESENT: Paul Adams Citizen
Larry Gray Utah State Parks
David Christensen Fillmore City Mayor
Kristine, Audrey and Kara Camp Citizens
Brandy Grace Millard County Auditor
Forrest Roper Millard County Sheriff's Office
Shawn Stringham HBI/Apple Program
Tara Meade HBI/Apple Program
John Hansen Millard County Treasurers 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:

COORDINATION SESSION

The Commissioners scheduled events for the months of April and May 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 Smith said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

UTAH STATE PARKS & RECREATION PRESENTATION - GORDON CHATLAND

Gordon Chatland was excused for Jury Duty. Larry Gray, Utah State Parks South West Region Manager from the Cedar City Office stepped in his place . The primary purpose for this meeting was to be a presentation about the condition of the parks and park issues. Mr. Gray said that budget cuts in the past were handled with minor changes, however, this was not possible with this year's budget cuts of fifteen percent amounting to \$1.8 million. The four regions met and after much deliberation, the final decision was made that making major personnel cuts were necessary. Four full time positions will be lost in the South West Region. Two positions will be lost at the Utah State Territorial Museum. Karl Camp will soon be the sole full time employee providing an opportunity for Manager Gordon Chatland and Maintenance Supervisor Terry Scottern to retire by June 30th. Seasonal Employees will still be hired. The personnel cuts were not based upon the performance of the employees or the historical value of the Museum, but because of the lack of revenues brought in from the Museum. The Museum only brings in 5 percent of the operational cost and is ranked last in the State for collecting revenues. The goal is to keep the Museum open and the following suggestions were made:

- Reduce business hours and days
- Adding a museum host and volunteers to the staff
- A meeting with the State Parks Council, Fillmore City and Millard County to try and find more positive solutions was set possibly for May 4, 2009 or May 11, 2009.

Fillmore City Mayor Christensen stated his concerns on the matter. The Commission supports the Mayors position and are willing to join in the efforts to reverse the process and try to reinstate the positions at the Museum. The Museum is a benefit to the education, tourism, and economic development in the city and the county.

POSSIBLE APPROVAL OF THE INTERLOCAL COOPERATIVE AGREEMENT FOR THE GUNNISON BEND RESERVOIR

Commissioner Smith made a motion to approve the Interlocal Cooperative Agreement with the Utah State Parks and the Gunnison Bend Reservoir. Commissioner Whatcott SECONDED the motion. The voting was unanimous and the motion carried. Attorney Waddingham reviewed the document.

POSSIBLE APPROVAL OF THE AMENDMENT OF THE AGREEMENT WITH THE WEST MILLARD MOSQUITO ABATEMENT DISTRICT (“WMMAD”)

Last year an agreement was made between Millard County and the WMMAD to borrow \$200,000.00 because it was unable to secure a tax increase for its 2009 budget. In a recent meeting the WMMAD requested an additional \$150,000.00. Millard County Commissioners decided to grant the District the first \$200,000.00 and loan the District an additional \$150,000.00 to be paid back with interest over the next five years. The reason for the loan is that it will contribute to the safety, health, moral well-being and convenience of County inhabitants.

Commissioner Smith made a motion to approve the Amendment of the Agreement with the WMMAD.

Commissioner Whatcott SECONDED the motion with discussion. He asked how long the WMMAD had been organized? (The WMMAD was organized in 1961.) The voting was unanimous and the motion carried.

REQUEST FOR COMMISSION WAIVER-KD MYERS FOUNDATION INC-KIM BUYS

Commissioner Smith made a motion to waive 50 percent of the fees for the use of the county fair building, stage and kitchen for KD Myers Foundation Inc-Kim Buys.

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

REQUEST FOR COMMISSION WAIVER-DELTA AREA CHAMBER OF COMMERCE

Commissioner Smith made a motion to waive 50 percent of the fees for the use of the County Fair building for the Delta Area Chamber of Commerce.

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

RECORDS REQUEST APPEAL FROM WILLIAM JUSTESEN

Mr. Justesen was not able to attend the meeting because of grave yard shift work. He had previously sent the Commissioners a letter, that is on file in the Millard County Clerks Office.

The Commissioners and Attorney Waddingham discussed and reviewed Mr. Justesen's letter. A decision will be made later regarding whether to submit a written response to Mr. Justesen's letter. Millard County Commissioners and the County Attorney are willing to meet with Mr. Justesen concerning questions regarding his appeal and work with him as much as possible.

POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR DESERT RAT ARMORY LLC-OWNER TYLER RAY IVERSON

The Commissioners reviewed the business license and found all the signatures in order.

Commissioner Whatcott made a motion to approve the business license for the Desert Rat Armory LLC-Owner Tyler Ray Iverson.

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

OTHER BUSINESS

Lieutenant Roper presented the Commissioners with the Utah Emergency Medical Services Grants Program Application for possible approval. The Commissioners approved the signing of the application. A copy of the document will be on file in the County Clerks Office.

Commissioner Smith proposed that for the time being the County Commissioners be given a stipend for their personal cell phone. The Commissioners then suggested adding a policy change regarding cell phone usage and meal reimbursement to the next agenda.

Commissioner Smith wrote a letter responding to the Departmental of Environmental Quality stating that Millard County is not responsible for the clean up of any underground fuel storage tanks that were removed, from the Old West Millard Co-op property in Deseret, which sat partially in the County roadway. The response was needed so the Departmental of Environmental Quality can apply for grant money for the clean up.

Commissioner Walker received a Statement of Confidentiality from the Utah

State Tax Commission that requires the Commissioners signatures, stating that any information commercial, or financial is not to be divulged to the public. Commissioner Smith made a motion to sign the Utah State Tax Commission Statement Confidentiality form.

Commissioner Whatcott SECONDED the motion. The voting was unanimous and the motion carried. A copy of the signed documents are on file in the County Clerks Office.

Attorney Waddingham said an amendment to the Milford Wind letter of credit will be coming.

RANDY JOHNSON-DISCUSSION ON LAND USE PLANS

Randy Johnson reported that the Washington County land use bill passed Congress after 4 ½ years of work. The bill was signed by the President and has now become law. Millard County stepped in shortly after Washington County began its process with a comprehensive land use plan process of its own. Millard County had a very good process with a lot of stake holders at the table. The changes that have occurred since the Washington County passage:

- Ability to get past the differences between the stake holders
 - The stake holders are willing to come to the table.
 - Everyone is now supporting the bill.
 - There is an understanding of everyone's involvement to make this process work again.
 - The language barrier issues have been resolved.
 - The language passed with the Washington County's comprehensive land use bill will be the pattern used in the future.
 - The passage of the bill makes it easier to resolve other issues.
 - The released language is now able to be discussed.
 - Other bills can now be considered as stand alone bills.
 - The County wide transportation plan was authorized as well as the high desert trail systems that will link into Beaver, Millard and access Paiute connecting a number of trails together
 - San Juan, Emery, Wayne, Beaver and Paiute Counties are interested in going forward with a bill.
 - Look at alternative ways to give comfort to the environmental community.
- Millard County would have to consider the time frame. Have something formulated by fall, possibly a hearing in the spring and ready for consideration next year.

Millard County will not have to go through the whole process again, but would have to:

- Go through transportation system process and be more accurate.
- Know exactly where the roads are and which roads and issues are important.
- Know where the minerals are located.
- Be aware of the issues to be put on the table.
- Examine the Wilderness Study Area (WSA).
- Get feedback on things that might work or help economic development.

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.

Commissioner Smith **SECONDED** the motion. The voting was unanimous and the motion carried. The meeting began at 11:44 a.m..

After the closed executive session the regular meeting reconvened at 12:10 p.m.

Commissioner Whatcott made a motion to recess for lunch.

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

NOON LUNCH BREAK

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 1:44 p.m.

PUBLIC INPUT

There was none.

AUDITOR'S REPORT

Auditor Brandy Grace presented the Commissioners with a copy of the Check Edit Report of April 17, 2009 for their review and signing.

Several invoices were presented by the Auditor and reviewed and approved for payment by the Commissioners. While reviewing invoices Commissioner

Whatcott mentioned the Sheriffs Office used \$10,600.00 of grant money to buy a new server.

The Commissioners were given the Check Edit report of April 14, 2009 to be signed. The Check Edit Report was at the request of Sherri Callister who needed a check cut for the judges of the rodeo queen contest. The Auditor's office staff had been authorized to cut the check on April 16, 2009 while the Elected Officials were at the Utah Association of Counties (UAC) conference. This practice will not be continued.

The Auditor's office discussed how Senate Bill 135 which becomes effective May 12, 2009, changes certain aspects of Special Service Districts. The Commissioners, the Auditors Office, and the Fire District will set up a meeting to further discuss the effects of the changes.

Auditor Grace said that an audit was done on the Millard Care & Rehabilitation facility. The audit reflects a need for the county to be more closely involved in the reporting of assets of the facility. It suggests the county keep and maintain the official asset list and depreciation schedule for the nursing facility.

TREASURER'S REPORT

Millard County Treasurer John Hansen stated his concerns for using grant money to hire new employees. He then read this letter to the Commissioners based on his opinion about changing the loan to a grant for the West Millard Mosquito Abatement District. A copy will be on file with the County Clerks Office.

Millard County Treasurer John Hansen said, "It is my understanding that a motion was made in this morning's county commission meeting to amend a prior agreement with the West Millard Mosquito Abatement District, and change it to a grant, wherein Millard County would be granting \$200,000.00 to the mosquito abatement district.

I would like the minutes of the meeting to reflect that as the Treasurer of Millard County I am opposed to that motion. The reasons for my opposition are as follows:

- When the agreement between Millard County and the Mosquito Abatement District was made in 2008, the county auditor and county treasurer were involved in the discussion and the decision as it involved county financial

matters. Also, the county attorney was involved in the decision regarding the legality of that action. To my recollection of that matter that is the reason the agreement called for a “loan” rather than a gift of the money requested. That agreement was made in good faith by the county and the district and the terms were properly determined at that time. The county auditor and county treasurer were not involved in any discussion regarding this decision.

- I am not sure if the decision to amend the prior agreement is legal based upon the way it was conducted.
- Even if the decision was legal, I personally feel it was inappropriate to make that kind of decision without the involvement of the elected financial officials of the county.
- The motion today would give a specific taxing entity, which has taxing authority and responsibility similar to Millard County, money from the county general fund. The money being given to this specific entity provides a benefit to only part of the citizens of Millard County and not to the citizens in general as should be provided by money used from the county general fund.
- The giving of this money today sets a precedence that I believe is improper. There are several other entities in Millard County that have previously approached the county for assistance and have been denied. There are many entities in the county who could use similar types of assistance and would have reason to expect to receive it based upon this decision, for example the Millard County Fire Service District, Hinkley-Deseret Cemetery District, Delta Sutherland-Oasis Cemetery District, not to mention the various communities.
- The county commission recently denied giving a cost of living adjustment to the county employees and primarily based that decision on the fact that we were facing difficult economic times and could not afford to provide it. You have just given away more money than the cost of living adjustment would have required. Further, has our financial position changed to the point that we have the money available?
- It seems to me this decision is much like the problems in Salt Lake County that have been such a bad spot in the public eye over the past years that ended up in lawsuits because county funds had been given to other entities without receiving commensurate benefit in return. I would ask you what the benefit is for all of the citizens of Millard County that would justify this decision.

- This is an issue that I believe all of the citizens of Millard County should be aware of and feel that the newspaper should be informed so that proper notification can be given regarding their money.

I am at this time requesting a formal written legal opinion from the Millard County Attorney as to the legal status of this action, both amending the previous agreement and the gifting of the \$200,000.00 to the Mosquito Abatement District, and request a copy be sent to the county clerk and the county commissioners.

Commissioner Smith explained that an amendment to the agreement was approved this morning. The new agreement was \$200,000 be granted and an additional \$150,000.00 be loaned and to be paid back to Millard County over a five year period with interest. The County Commissioners said that they budgeted for this amount and feel it was money well spent in the interest of Millard County citizens.

Attorney Waddingham responded to Treasurer Hansen's concerns. In summary, the County's actions in giving money to the WMMAD is allowed under statutory authority know as "revenue sharing." There is also an independent statue under Title 17, Utah Code Annotated, that allows a county to give or loan money. The action by the Commission is not commensurate with what took place in the Salt Lake County lawsuit, where money was given to private enterprise. Furthermore, the statute at issue in the Salt Lake County case has since been repealed. The amendment passed by the Commission this morning is simply an amendment to an existing agreement. Attorney Waddingham says he sees no legal problems with the action taken by the Commission. He will prepare a written opinion.

Commissioner Walker stated her and Commissioner Smith's decision to support granting funds to the Mosquito Abatement District, was based on the health and welfare of the citizens of Millard County. Mosquitoes carry diseases that afflict humans, and also transmit diseases to dogs and horses. The possibility of additional West Nile virus cases or other mosquito-borne diseases make this a county-wide concern, not one particular portion of the county. Efforts to control mosquitoes by the District directly benefits everyone in Millard County

FOLLOW UP ACTION ITEMS FROM MINUTES OF APRIL 7, 2009

Commissioner Smith announced the survey bid for section corners will be

awarded to Sunrise Engineering. As recommended by the bid evaluation committee, consisting of Recorder Connie Hansen, GIS Specialist Adam Britt, IT Richard Beckstrand, and Commissioners Smith and Whatcott.

Attorney Wadingham will provide a copy of the forms for signing up volunteers to Commissioner Walker.

APPROVAL OF APRIL 7, 2009 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held April 7, 2009 were presented for consideration and approval. Following review and consideration of minor corrections

Commissioner Whatcott made a motion to approve the minutes of April 7, 2009, as corrected.

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

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

Commissioner Smith reported that the Commission attended the UAC Management Conference in Richfield, Utah on Wednesday, Thursday and Friday. The meeting with the Commissioners and other elected officials to brainstorm and work on some issues was beneficial. They also met with the Cache County Sheriff to talk about law enforcement contracts in their communities.

Commissioner Whatcott reported that Connie Bennett would like to come to a commission meeting and discuss the No One Deserves to be Abused Program.

The county is still investigating ways to cut cost on Questar gas bills for buildings that are used infrequently.

Commissioner Whatcott said the cost to the County for the necessary spraying equipment and permits will be compared to the cost of having Mikes Custom Spraying do the job exclusively.

Fillmore City CERT is sponsoring a Mock Disaster on May 16, 2009 at the court house.

Oasis Seed has agreed to sponsor the Trail Ride Poker Run for the Days of the

Old West Rodeo.

The Millard County Geographic Information System (GIS) is on its final batch of addresses. 911 calls from the West Desert will now come directly to Millard County instead of being rerouted from White Pine County and Salt Lake. Dispatchers can now identify the location, within 10 meters, of a 911 emergency call made from a cell phone.

Commissioner Kathy Walker had the opportunity to attend the National Mental Health and Addictions Conference in San Antonio, Texas. She is the Commission representative for the Central Utah Mental Health Department who covered all her travel expenses. She attended work shops, mostly focused on chosen tracks, Good Governance, Policy and Political Power. She also attended general sessions, including Christopher Kennedy Lawford who spoke about his story of a near fatal drug and alcohol addiction.

On April 14, 2009 Commissioners Walker and Whatcott met with Jer'E Brinkeroff to discuss the racetrack and stalls in Fillmore. Rental fees for the racetrack will be determined by the commission within the next couple of weeks after the available information on usage is reviewed. All three Commissioners attended the annual spring UAC Management Conference in Richfield, Utah. They participated in numerous workshops on county government during the three day event.

Janice Robins, who is retiring from the County Clerks Office, stood and said a few nice things about all the Commissioners, and thanked them for the happy memories that she has had in the commission meetings.

THE FINANCIAL REPORT WITH TREASURER HANSEN, AUDITOR GRACE, ATTORNEY WADDINGHAM AND THE COMMISSIONERS WAS RECORDED

THE APPLE PROGRAM WORK MEETING WITH COMMISSIONERS WAS RECORDED

Commissioner Whatcott made a motion to go into a second closed session for the purpose of discussing the character, professional competence, or physical or mental health of an individual. Commissioner Smith **SECONDED** the motion, the voting was unanimous and the motion carried. The closed session began at 4:11 p.m. The closed session ended at 4:45 p.m.

WHERE UPON THE MEETING ADJOURNED

Commissioner Whatcott made a motion to adjourn the meeting.
Commissioner Smith **SECONDED** the motion. The voting was unanimous and
the motion carried. The meeting adjourned at 4:46 p.m.

Attest: _____

Approved: _____