

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 16th DAY OF JUNE 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  
Marki Rowley . . . . . Deputy County  
Clerk  
ALSO PRESENT: John Pelczar . . . . .  
. First Wind  
Robert Dekker . . . . . Millard County  
Sheriffs Office  
Shelly Teuscher . . . . .  
First Wind  
Ken Brown . . . . . Western Counties  
Alliance  
Laurie Mathews . . . . . Signature  
Real Estate  
Mark Walsh . . . . . Western Counties  
Alliance  
Sheri Dearden . . . . . Millard County  
Treasurers office  
Steve Robison . . . . .  
RCF Inc.  
Raymond T. Stephenson . . . . . Post 61  
American Legion  
Wayne Jackson . . . . . District 6  
American Legion  
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 months of July 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.

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MILFORD WIND CORRIDOR, LL C PROJECT PROGRESS AND CONSTRUCTION UPDATE

John Pelczar, First Wind Construction Manager, reported the following information:

C 16 miles of cable have been pulled in place

C They are completely done with the project located by IPP

C 382 of 400 structures are up

C Turbines for 15 power sites are up

C Substations are about 65 percent complete

C The ground work is done. They are setting breakers and switches

C 84 of 97 foundations excavated.

C 50 foundations are backfilled and they are ready to put the towers up

C They are only about one week behind schedule, due to the learning curve of putting

the structures up

C They have only lost about 3 to 4 days of work due to the wind.

C By this time next month they should have propellers in the air

RATIFY THE MOTION TO GRANT SERGEANT PAUL ROBISON'S

ACCUMULATED SICK

LEAVE

Commissioner Whatcott made a motion to ratify the approval to grant Sergeant

Paul

Robison's accumulated sick leave which he would have received when he retired in August.

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

**RATIFY THE SIGNING OF THE SURVEY CONTRACT FOR SUNRISE ENGINEERING**

Commissioner Smith made a motion to ratify the signing of the survey contract for Sunrise Engineering.

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

**RATIFY THE SIGNING OF THE CONTRACT FOR PROFESSIONAL SERVICES BETWEEN**

**MILLARD COUNTY, UTAH AND DUNCAN T. PATTEN**

Commissioner Whatcott made a motion to ratify the signing of the contract for professional

services between Millard County, Utah and Duncan T. Patten.

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

**RATIFY THE SIGNING OF THE MEMORANDUM OF UNDERSTANDING, WITH CENTRAL**

**NEVADA REGIONAL WATER AUTHORITY MEMBER COUNTIES, COUNTY OF JUAB,**

**UTAH, COUNTY OF MILLARD, UTAH, COUNTY OF INYO, CALIFORNIA, AND COUNTY**

**OF MONO, CALIFORNIA**

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Commissioner Whatcott made a motion to ratify the signing of the Memorandum of

Understanding, with Central Nevada Regional Water Authority member Counties, County of Juab,

Utah, County of Millard, Utah, County of Inyo, California, and County of Mono, California.

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

**RATIFY THE SIGNING OF THE STATE COURT CONTRACTUAL**

## AGREEMENT

Commissioner Whatcott made a motion to ratify the signing of the State Court contractual agreement.

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

## POSSIBLE APPOINTMENT OF DOYLE MITCHELL TO THE AGRICULTURE PROTECTION AREA ADVISORY BOARD

Commissioner Smith made a motion to approve the appointment of Doyle Mitchell to the Agriculture Protection Area advisory board.

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

## POSSIBLE APPOINTMENT OF DON PROBERT TO THE AGRICULTURE PROTECTION AREA ADVISORY BOARD

Commissioner Smith made a motion to appoint Don Probert to the Agriculture Protection Area advisory board.

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

## POSSIBLE APPOINTMENT OF KELBY SWALLOW TO THE AGRICULTURE PROTECTION AREA ADVISORY BOARD

Commissioner Smith made a motion to appoint Kelby Swallow to the Agriculture Protection Area advisory board.

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

## POSSIBLE APPOINTMENT OF DALE HAMAKER TO THE AGRICULTURE PROTECTION AREA ADVISORY BOARD

Commissioner Smith made a motion to appoint Dale Hamaker to the Agriculture Protection Area advisory board.

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

and the  
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motion carried.

**POSSIBLE APPOINTMENT OF RICK SMITH TO THE AGRICULTURE  
PROTECTION AREA  
ADVISORY BOARD**

Commissioner Smith made a motion to appoint Rick Smith to the Agriculture  
Protection

Area advisory board.

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

Commissioner Walker stated that this advisory board would need a  
chairperson, she received  
permission from the Commissioners that she would be able to appoint a  
chairperson at a different  
time.

**POSSIBLE ADOPTION OF RESOLUTION NO. 09-06-16 OF FRINGE  
BENEFITS REGARDING  
POLICY CHANGES FOR TRAVEL AND CELL PHONE USAGE**

Attorney Waddingham stated that there were three changes that will take effect  
in the policy;

per diem for an over night stay on travel days, the use of county vehicles by  
employees and cell  
phone allowance.

Commissioner Walker said that she spent a lot of time on the phone with the  
different cell

phone companies trying to determine what would be the cheapest plan for  
county employees who  
are requiring cell phones.

Auditor Grace stated that the employees are using the cell phones for personal  
use as well

as county required use. She stated that Verizon Wireless offers all government  
employees an 18

percent discount on their cell phone bill. To get this discount contact John  
Ravage with Verizon

Wireless. AllTel Wireless also offers a discount for Millard County employees.  
After much discussion over the policy change on cell phone allowance, the  
Commissioners

decided that they would offer allowances of \$40, \$60 and \$80 a month based  
on the required usage

the employee would need. The employee would be required to purchase his/her own cell phone.

The level of service would need to be approved in advance by the department's elected official.

Commissioner Smith made a motion to adopt Resolution No. 09-06-16 of Fringe Benefits

regarding policy changes for travel and cell phone usage, as corrected.

Commissioner Whatcott SECONDED the motion. County 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.

#### DISCUSSION AND POSSIBLE APPROVAL OF THE PROCESS OF SITLA RIGHT OF WAY

Commissioner Smith stated that Utah Schools Institutional Trust Lands Administration

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(SITLA) presented the Commissioners with a map that identifies all the road segments that are not

a recorded right of way through their lands. The county maintains some of those roads. SITLA has

gone through and identified all the roads as either class B or C roads and are preparing to do a 66 ft

easement to the county. They will be using money that is designated as part of the ATV registration

fee that the state collects. They are allowed to use some of the money to give the county a road right

of way. SITLA is seeking permission to use OHV money to process and issue the county a right of

way.

Commissioner Smith made a motion to approve the process for SITLA to give the county

rights of way on the listed roads.

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

motion carried.

#### DISCUSSION WITH LAURIE MATHEWS, SIGNATURE REAL ESTATE, ON

#### RECLASSIFICATION OF A RECREATIONAL SUBDIVISION

Laurie Mathews, Signature Real Estate, came before the Commissioners

requesting an update on the water issue for recreational property. She presented the Commissioners with an overview of Reclassification on a recreational subdivision.

She stated that she has a lot of property for sale in areas that do not have water rights where people want to build cabins. She asked the Commissioners before if the property owners could haul water onto the property and would it be considered a state approved water source.

She said she has been working with Sevier County on this same issue. Sevier County has created a zoning district called (GRF-20S) Grazing, Recreation and Forestry Seasonal Zone. This covers what she is needing. She is requesting that this be looked at by Millard County.

Attorney Waddingham stated that the building code requires any structure used for residency to have a septic tank in place.

The current ordinance that is in place for Millard County states that there must be a water source and the water source must meet state requirements. As long as this ordinance is in place it will be difficult for someone to build a cabin on mountain properties.

After discussing this issue further the decision was made for Laurie Mathews to contact

Sherryl Dekker, Millard County Planner, and go from there.

**DISCUSSION WITH KEN BROWN, WESTERN COUNTIES ALLIANCE, ON LAND ISSUE**

**UPDATES**

Ken Brown, Field Director Western Counties Alliance, and Mark Walsh, Western Counties

Alliance, came before the Commissioners to have a discussion on public land issues. Mr. Brown

gave a brief background of Western Counties Alliance.

Western Counties Alliance is what he calls another arm to help bring public land issues to

a resolution. They are not a duplicator. They don't interfere with other organizations. They are just

here to help get the job done.

Mark Walsh spent a lot of time with the Nevada Commissioners and Senator

Reed's office

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on Payment in Lieu of Taxes (PILT) funding as well as re-authorization of secure rural schools. This was helpful because he received a better understanding of the funding and the value of the money that belongs to the counties, getting the information first hand. Federal law indicates that the PILT money be used for roads and county education. PILT is fully funded until 2012, secure rural schools was re-authorized under a phase out process through 2011.

Mark Walsh has given testimony to Congress that they would like to see secure rural schools made a permanent program, including roads for school buses to commute on. Commissioner Whatcott stated that he is well aware of how important PILT funding is to our community. He appreciates Mr. Brown and Western Counties Alliance's help they have put forth in getting the PILT and SRS money for our County.

#### OTHER BUSINESS

Commissioner Whatcott stated that there are a lot of people with good hearts who volunteer throughout the county that go unnoticed. He wanted to take notice and pay tribute to Steve Robison and thank him for the great work he does, especially for the very helpful cooler that he provided to the soldiers in Iraq. On behalf of the American Legion Post 61, Post 135 and Millard County in appreciation and honor to RCF Steve Robison, Quint Robison and Alan Barkdull for their time and talent in honoring our veterans by the work they have donated to the Millard County Memorial Wall in 2009.

Shelly Teuscher, First Wind, came to inform the Commissioners of Krista Kisch leaving

First Wind. Her replacement will be Peter Sullivan. The project is still on track and moving forward.

Commissioner Walker stated that she and the other Commissioners would like to see the site



and the progress of both phase 1 and phase 2.

Shelly Teucher informed the Commissioners that in conjunction with the rural summit, the

first week in August they will be conducting a number of tours on phase 1. This will give an idea

of what phase 2 will be like. She said that First Wind will be willing to give the Commissioners a

special tour at anytime. She will email the Commissioners of the actual date of the tour.

She also said that they were scheduled to have phase 1 done and operational by around

November.

Commissioner Smith asked if they have a contract in place for the power on phase 2. She

responded, not a final contract at this point but she doesn't see a problem in getting it.

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 11:56 a.m.

**NOON LUNCH BREAK**

Commissioner Whatcott made a motion to reconvene the meeting.

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

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carried. The meeting reconvened at 1:45 p.m.

**OTHER BUSINESS CONTINUED**

Commissioner Walker asked who was the Days of the Old West chairman.

Commissioner

Whatcott stated that Scott Damron was at this point, but he has asked Justin Taylor if he would step

in while Scott is in Nevada.

Commissioner Walker said that Jaime Groesbeck, Miss Millard County, left today to go

compete in the Miss Utah Scholarship Pageant. Commissioner Walker stated that the

Commissioners wish her well. They know that she will do extremely well.

Commissioner Walker said that there were some concerns regarding the fourth of July horse

races in Fillmore. Those concerns were, insurance and using tax dollars to fund the event.

Commissioner Whatcott said that he needs to discuss with Jer'E Brinkerhoff about getting insurance for that event. Attorney Waddingham said that since the event is on county property then Mr. Brinkerhoff could apply for a Tenant User Liability Insurance Program (TULIP) Policy through Utah Counties Insurance Pool (UCIP) which may be a little cheaper. Commissioner Whatcott stated that the Fillmore horse racing committee currently does not have any operating funds. Millard County does not want to sponsor the 4th of July horse races. Commissioner Walker stated that there is a planned mud bog on June 28, 2009 on the race track. The maintenance crew may require 60 hours of work time after the mud bog to get the race track back in shape for the horse race. This will cost the County some money in over time. Commissioner Whatcott said that he will talk with Mr. Brinkerhoff about the insurance issue and then move forward from there. Commissioner Smith stated that the Fullers want to sell the County 20 acres of land. This is property that the county currently has a contract on for gravel. The contract runs through the end of this year. The Fullers sent a letter asking the County if they would pay \$100,000 for the 20 acres. After Thayne Henry, Millard County Road Supervisor, inspected the property he determined that the property would only hold a \$50,000 value for the gravel. The Commissioners offered the Fullers \$50,000 for the property. The Fullers then counter offered \$75,000. Commissioner Smith will inform the Fullers that \$50,000 is the County's final offer.

#### PUBLIC INPUT

There was none.

#### AUDITOR'S REPORT

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Auditor Grace stated that she received notice that the PILT money for 2009 has come in. The

payment is \$1,234,958. She clarified that 60% would go to the general fund and 40% would go to the road fund.

Auditor Grace also said that she received a letter from the State Auditor's Office on the entities that are not in compliance with financial reporting; Special Services District No. 8, Drainage District No. 4 and the Water Conservancy District. These entities will not receive any funding until they file the proper reports.

Auditor Grace presented the Commissioners with a hardship application from Joanne Turner for the Commissioners to approve and sign. Joanne Turner submitted all of the necessary documents required for this application.

Commissioner Smith made a motion to approve the abatement based on income for 25%

hardship abatement serial no. K-1780122250 for Joanne Turner.

Commissioner Walker stepped from the chair and SECONDED the motion.

The voting was unanimous and the motion carried.

Auditor Grace also received a request for payment in the amount of \$8,000 from the Millard County Livestock show.

Last year the Commissioners changed this process. They now require that the event submit

their invoices and will only be reimbursed up to \$8,000. All other event personnel have already been informed of this process change.

She stated that she received the forms from Utah Retirement Systems (URS) that are required to be filled out this time each year, certifying the retirement and 401K rates effective July 1st.

Public safety non contributory rate has increased from 22.61% to 23.34%.

Regular non contributory rate is at 11.62% increasing to 11.66%. The URS certified the 401k contribution.

Commissioner Smith said that in the past Public Safety had increased automatically, so the

County had bumped up the rest of the County employees to be equal.

Auditor Grace said that she would run some scenarios to see what the cost

would be. She will then present that information to the Commissioners. She stated that the tax rate values are finally finished and were signed off on June 12, 2009. She has submitted the information to the Utah State Tax Commission. The Utah State Tax Commission will use the information to calculate certified tax rates. The tax rate needs to be set by June 22, 2009. The Commissioners discussed that they will meet next week to set the new tax rates, if the values are available from the Utah State Tax Commission.

Auditor Grace thanked the Commissioners for their help in getting this done.

#### TREASURER'S REPORT

Sheri Dearden, Treasurers office, stated that Auditor Grace covered all of the items that she

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had discussion on.

#### FOLLOW UP ACTION ITEMS FROM MINUTES OF JUNE 2, 2009

There were none.

#### APPROVAL OF JUNE 2, 2009 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held June 2, 2009 were

presented for consideration and approval. Following review and consideration of minor corrections

Commissioner Whatcott made a motion to approve the minutes of June 2, 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 attended a long range planning committee that was sponsored by Utah

Association of Counties (UAC) on June 8th. They discussed a wide range of topics.

He visited with Mark Ward on the United States Geological Survey agreement to do a study

and for Millard County to submit an application to Community Impact Board (CIB) for that money.

He attended the UAC general board meeting in Ogden with Commissioner Walker on June 12, 2009. Points of interest were the nominating process for UAC executive officers that would be coming up in November. The executive committee had made a recommendation to the reserve policy committee to pay off their building. He attended the Days of the Old West Rodeo on Saturday night. In his opinion the rodeo went very well.

Commissioner Whatcott said that he has been working with Utah State Extension people Jody Gale, Jim Stevens and Greg Abbot regarding grasshoppers and Mormon Crickets in the Cove Fort area, Dog Valley, Fools Creek and around the Oak City Area. Jody Gale said that the Grasshoppers around the Fools Creek area pose a threat to the farmers' crops. Efforts are being made to mitigate this problem. An extension agent from Beaver County has also stepped in to help.

Millard County currently has no Ag Agent and will not have one until around the first of August.

The Weed Board met on June 4. They decided that they didn't have enough to conduct business so the meeting was postponed. Commissioner Whatcott was later contacted that a meeting was scheduled at a later date. The weed spray day that was scheduled for June 13 was cancelled due to new state regulations regarding counties dispensing chemicals and who would be liable in case there was an incident regarding the weed spray.

He attended the Days of the Old West Rodeo on Friday and Saturday nights (June 12 and 13).

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He felt that there was a good crowd and the event was a success even though no one could stay on the bull for eight seconds. He wants to thank the sponsors for their time and money invested and especially Sahara Motors and the Delta IFA for their dedication to this event. Sponsors county wide also contributed to its success.

The Poker Trail Ride was very successful and one the rodeo committee want to schedule for next year's event.

On June 15, he met with Larry Gray, DNR's Region Manager for Southern Utah, David

Christensen, Fillmore's Mayor, Carl Camp, Territorial Statehouse Museum Curator, Judy Fergus,

DUP President and others who are part of the committee. Carl Camp discussed his desire of shifting

daily hours so the museum can stay open for six days a week. They are currently looking to have

other people from the state office come down and research the possibility of some type of welcome

arch, and additional directional signing to bring people to the Museum from the freeway. They

discussed the possibility of using the ladies from the Fillmore North Park Visitors Center to help in

the Museum and also provide tourist information. These ladies are employed by Millard County.

Monies are available through the registration of ATVs to help build a restroom facility onto

the POD. Larry Gray is researching this further. This would also help accommodate tour busses and

large groups who want to visit. The museum seasonal help is on board and being assimilated into

their program. The outlook looks good to continue the seasonal work program through the coming

years.

The National ATV Jamboree committee has reported that they currently have 262 registered

riders and have deposited back to the county \$23,582.00. The Jamboree is scheduled for June 22

through the 27. There are riders representing 16 states coming this year.

On June 3, Commissioner Walker attended the Executive Board meeting of Six County

Association of Governments (AOG) in Richfield. Commissioners from throughout the six-county

area expressed sorrow and sympathy to the family of Mt. Pleasant's Mayor Chelsey Christensen, who

just passed away. He had served on the board for several years.

Commissioner Walker also attended the economic development board meeting

for Six

County AOG. An in-depth discussion on revolving loan fund collections was presented.

She and Commissioner Smith attended (UAC) board of directors meeting at Snow Basin

Resort in Weber County on June 12.

She attended the Millard County Care and Rehabilitation meeting in Delta on June 11.

Between 2007 and 2008 they were able to save 80% on subsidizing the Care Center without

diminishing the quality of care. This was a huge savings.

She reminded everyone about the Free Community BBQ at the Care Center in Delta on

Thursday June 18, 2009 at 6:00 p.m.

Commissioner Walker made several calls and asked five Conservation District board

members to serve as the County's Agriculture Protection Zone Advisory board members. They were

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officially appointed earlier today.

She has been extremely busy working on policies and resolutions and she has also been

involved in restructuring the Miss Millard Scholarship Pageant and working with East and West

Millard maintenance on preparing for upcoming events.

Attorney Waddingham read the changes that were made to the policy on resolution 09-06-16.

**POSSIBLE CLOSED MEETING PURSUANT TO UTAH CODE**

**ANNOTATED SECTION 52-4-**

**4&5**

There was none.

**OTHER**

Auditor Grace stated that she ran some numbers for the URS increase.

Currently the

combined rate that the County is paying as a benefit is 22.61% for public safety, that combines 401k

and retirement for other contributions. The proposed rate of 23.34% would cost an additional

\$45,084 of that amount. Part of it will be discretionary and the other part would not be. The portion

of the 401k increase to the other classification of employees would be \$27,000.

Commissioner Walker stated that they did not have the funds to offer a cost of living adjustment (COLA) this year.

She feels like in good faith to the exempt employees the County now has the funds to offer the 401k increase at this point. This will run from July 2009 to June 2010. Then it will have to be looked at again.

Auditor Grace gave a few thoughts on COLA and other increases.

Commissioner Smith made a motion to increase 401k benefits to keep all Millard County employees at the same benefit rate. Commissioner Whatcott abstained from the vote.

Commissioner Walker stepped from the chair and **SECONDED** the motion. The motion was carried by majority vote.

**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 3:40 p.m.

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

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