

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 21st DAY OF JULY 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
Paul Drecksel UNEV Pipeline
Shelly Teuscher First Wind
Mel Bolling US Forest Service
Steve Rodriguez US Forest Service
Dale Roper Panoramaland RC&D
James Huggard NRCS Panoramaland RC&D
Steve Pratt Citizen

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

There was none.

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 gave a statement that was attributed to Thomas Jefferson, “My confidence in my countrymen, generally leave me without much fear for the future.” 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 construction manager, reported the following information:

- C The progress is going extremely well
- C They currently have pulled 60 miles of transmission wire
- C They should get released on the last two rapture areas and will be able to finish the last 6 structures that need to be put up once it is determined that the Rapture nests are empty
- C They are currently on schedule and plan to start back filling by mid August. This will complete the construction in Millard County
- C They have all of the cable for the collection system in the ground
- C About 260,000 ft of electrical cable is buried at the wind farm site
- C They have 50% of the transformers wired
- C 47 towers are in the process of being erected. 26 towers will be 100% erected by the end of the day.
- C They are right on schedule. They will actually energize around mid November or first of December
- C They will virtually be finished with the structure in Millard County by the end of the month on Phase I
- C They are wanting to start Phase II this fall
- C They currently have 14 water trucks working on site to help control the dust

RATIFY THE MOTION TO DENY THE REQUEST FOR WAIVER FOR THE HINCKLEY LIONS CLUB DEMOLITION DERBY

Commissioner Smith made a motion to approve the decision to deny the request for waiver for the Hinckley Lions Club demolition derby. Commissioner Whatcott SECONDED the motion. The voting was unanimous and the motion carried.

CONSIDERATION OF POSSIBLE EXTENSION OF CONDITIONAL USE PERMIT, APPLICATION # Z-2008-014 – UNEV PIPELINE, LLC

Paul Drecksel came to the Commissioners on behalf of UNEV Pipeline, LLC to explain why they are requesting an extension. Their pipeline project is regulated by the federal government. They are unable to commence construction until they have received the “record of decision” with respect to federal environmental reviews that have to occur. They had anticipated that they would have received the record of decision by this time. They are now told by the Bureau of Land Management (BLM), who is their environmental lead agent, that the record of decision will likely be issued in the fall. This means that construction cannot be commenced until then.

Both Richard Waddingham, Millard County Attorney, and Sheryl Dekker, Millard County Planning and Zoning, have given their recommendation for the extension.

Commissioner Smith made a motion to approve the extension of Conditional Use Permit, application # Z-2008-014 for UNEV Pipeline, LLC until February 1, 2010.

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

CONSIDERATION OF POSSIBLE EXTENSION OF CONDITIONAL USE PERMIT, APPLICATION # Z-2008-008 – MILFORD WIND CORRIDOR, LLC – PHASE II

Shelly Tuescher, Milford Wind, stated that they are still evaluating turbine technology and site layout options. Milford Wind intends to submit an application for a building permit for the construction as soon as possible following completion of the evaluation.

Attorney Waddingham and Sheryl Dekker have both given their recommendation for the extension.

Commissioner Smith made a motion to approve the extension of Conditional Use Permit, application # Z-2008-008 for Milford Wind Corridor, LLC on Phase II until February 1, 2010.

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

Ms. Tuescher was asked why First Wind protested their tax value. She stated that when First Wind received the questionnaire from the Tax Commission, they had accidentally included a \$7,200,000 item on the balance sheet, which is a contingent liability fund that was not an expenditure for construction and it may not ever be used. When the tax valuation came in they realized what they had done. That is the amount that they are protesting.

First Wind is using Rural 62 which was amended by the Utah State tax Commission to protest their tax valuation.

If First Wind prevails, this would result in a tax reduction of \$60,000. This reduction would be divided between Beaver County 70(%) and Millard County 30(%). \$44,200,000 was the total value assessment for the construction project in progress in January 2009.

FOLLOW UP WITH MEL BOLLING AND STEVE RODRIGUEZ REGARDING ROAD MILLING CONTRACT

Mr. Bolling, US Forest Service, and Mr. Rodriguez, Forest Engineer, came to the Commissioners to give an update of the request for contract with the US Forest Service and the County.

C The US Forest Service will reimburse the county 100% of the cost incurred for work done on Fish Lake National Forest property. The cost includes milling process, etc.

C The US Forest Service will cover any overage cost or overruns that may occur. The county will not be held responsible for any of the costs above the contract amount for each project.

C The contract with CA Trucking will take care of all maintenance of the road after the project is completed.

C Attorney Waddingham wants to have an interlocal agreement in place for the protection of the County.

C Attorney Waddingham asked if the Commissioners are comfortable with the schedule and the criteria that governs it. After asking a few questions, the Commissioners said that they were comfortable with the project.

C Attorney Waddingham wanted to add Millard County as a non responsible party to any default by a permittee or other authorized road user, pursuant to paragraph 8.a. of the contract.

C Attorney Waddingham stated that he wanted to add the US Forest Service as an authorized representative to act in it's respective areas for matters related to the agreement pursuant to paragraph 10.

C Commissioner Walker stated that all Millard County parties are in favor of the project

C CA Trenching is a single source provider, therefore, this project will not require a bid

DISCUSSION: PANORAMALAND REGARDING PROJECTS

SCHEDULED FOR MILLARD COUNTY-JAMES HUGGARD

James Huggard, NRCS, Panoramaland RC&D, reported the following:

C There are about 375 RC&D areas throughout the nation. Panoramaland services the six-county area.

C There are 7 RC&D throughout the state of Utah.

C This is a non profit organization.

C The RC&D look for projects that they can help out to supplement their mission. They can help with technical assistants, serve as a financial agent for projects and can help look for grants for projects that will fit within their mission.

C If individuals in the county have a project that they want the RC&D council to work on, they need to fill out an application and come to one of the council meetings and present their project. If it is approved then the council will work on the project.

C They work on various projects.

C They served as a fiscal agent and helped to get the needed grant for the bio-diesel project in conjunction with Utah State University.

C They are currently working on a cooperative re-management area in Millard County down by Cove Fort.

C Robert Probert, BLM, submitted an application to get a grip grant for a grazing improvement project through the department of Agriculture. They applied for and received this grant. The grant started July 1, 2009 and they have one year to get the project done.

Dale Roper, Panorama RC&D board member, reported the following information:

C In 2006-2007 they received a grant to plant oil seed throughout the panoramaland area for six-counties.

C The grant allowed them to buy the seed. Ken Skeem took advantage of this and started to raise camalina.

C They are currently working on trying to get a grant for the current project with Ken Skeem to purchase a press to squeeze more of the oil out of the seeds.

POSSIBLE APPROVAL FOR A HOME TO BE BUILT ON 20 ACRES FOR STEVE PRATT

Steve Pratt met with Sheryl Dekker, County Planner, on April 15. He and his wife want to build a home on a half acre of their 60.728 acre property. He is requesting a building permit to get started on the process. Sheryl Dekker

reviewed the history of the things that he had done in the past. She told him that when they built their home in 1997 they didn't meet the legal requirements. Mr. Pratt would have to resolve those issues and apply for a separate tax ID number for the second and third homes on the property. He originally had two homes on one tax ID number.

He hired a surveyor who wrote up a legal description. He took the description to the title company where they drew up a new deed. He took the new deed to have it recorded but was told that there was a problem getting a separate tax ID number for the property. At this point Sheryl Dekker suggested that he see the County Commissioners.

In conclusion he has done everything that was asked of him and now he is here to ask the Commissioners if he can go forward with receiving the building permit to build a third home on his property.

After much discussion regarding this issue, Attorney Waddingham said that he will talk to Connie Hansen, Millard County Recorder, to see what happened.

Later, Attorney Waddingham stated that this issue has been resolved and Mr. Pratt will only need to obtain the appropriate signatures to apply for the building permit. Commissioner Smith signed on behalf of the County Planner, Sheryl Dekker.

OTHER BUSINESS

Commissioner Whatcott stated that he and Commissioner Smith would get together later to further discuss the signing of a new street sign. This will help with the 911 response that leads to the road of an individual whose house has been hard to find in an emergency.

Norma Brunson, County Clerk, asked the Commissioners about getting a new sound system. The one being used now is outdated. Commissioner Walker asked if Norma would research the amount it will cost and bring that information back to the commissioners for review.

Commissioner Walker presented a Request for Commission Waiver for the West Millard Rodeo Club. Commissioner Walker proposed to table this item until they receive more information of what has been done in the past.

Commissioner Walker reported that there has been a change in commission responsibilities. Commissioner Smith is now over the weed board. Commissioner Whatcott is now over the County Soil Conservation District.

FOLLOW UP ACTION ITEMS FROM MINUTES OF JULY 7, 2009

There were none.

POSSIBLE RECONSIDERATION AND AMENDMENT OF A PORTION OF THE MINUTES FROM THE JUNE 30, 2009 COUNTY COMMISSIONS MEETING

After discussion it was requested that this item be tabled until the next meeting.

APPROVAL OF JULY 7, 2009 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held July 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 July 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 Whatcott reported that he has been working on establishing a committee on reviewing the Agriculture Protection Plan for the Nye Dairy in the Delta area. The committee is now formed and should be meeting on the Nye Dairy issue shortly. Members of the committee are Randy Coats, Chairman, Doyal Mitchell, and Kelby Swallow.

He spoke at Snow College to a leadership group on July 16, regarding Patriotism and the successes the military was having in Iraq. He spoke to a group of about 100 individuals.

He attended the GIS meeting at the County Courthouse. They discussed the 911 phone system and a new program that will be coming to the county to help with emergency response time to accidents and ambulance calls to residences. The system will initially cost approximately \$25,000.

Commissioner Smith reported that on Thursday July 16, he attended the Utah Association of Counties (UAC) executive committee meeting in Heber City. They discussed the contract renewal of the executive director and possibly a

new contract for Adam Trump, UAC Attorney, and his responsibility of Utah Behavioral Health Care.

On Friday July 17, he attended the Utah Association of County Commissioners and Council members meeting. They discussed proposing a change to Utah's retirement system for public employees, at the next legislative session. There will need to be an increase to the current system to be able to change that.

They also discussed law enforcement of public lands pertaining to the BLM land, as far as public safety issues and who has the right to enforce. The underlying point was that all the agencies should correlate and at least pass on the information of what is going on.

They also discussed the reimbursement of medical expenses for county inmates.

Commissioner Smith also reported that he will be attending the National Association of Counties officers (NACO) in Nashville Tennessee July 23, through July 28.

Commissioner Walker reported that she attended the same meetings as Commissioner Smith.

She also reported that the Council of Government meeting will be held Wednesday July 22, in the County office building in Delta.

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

There was none.

PUBLIC INPUT

There was none.

AUDITOR'S REPORT

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

She also reported that she spoke with Michael Sharp. He wanted to remind the Commissioners that it is time to start looking into the renewal of insurance for

next year. He still thinks that self funding for dental insurance would be a good idea. He is willing to do a presentation on this and he also wanted to know if there is any opportunity for him on the county's health insurance. The decision was to have him come to a work meeting to discuss this. Auditor Grace said that she would inform Mr. Sharp of this.

Auditor Grace stated that she received an application for indigent burial. Commissioner Walker has already approved this. Auditor Grace explained the circumstances of the situation as well as what the policy states.

Commissioner Smith made a motion to approve the burial expenses for Ray Edwin Carpenter of Fillmore, Utah in the amount of \$995. Commissioner Whatcott **SECONDED** the motion. The voting was unanimous and the motion carried.

Auditor Grace also stated that she has noticed that the purchasing policy guidelines that were put in place for the \$5,000 to \$25,000 limit are not being followed. Policy requires the submission of three sealed bids and documentation for the bids be submitted with the invoice for payment. She said that they have gone back to this policy and she feels that a memo or a meeting needs to be set up to help inform each department of this policy. Commissioner Smith stated that a meeting would be the thing to do. Commissioner Walker stated that she will talk with Attorney Waddingham and potentially set up a work meeting to discuss the matter.

The Board of Equalization (BOE) is scheduled for September 16, in Delta and September 17, in Fillmore. If more time is needed an additional day will be held September 18, in the town that is most affected.

TREASURER'S REPORT

Treasurer Hansen presented the Commissioners with the report of collection of tax money for June and the June financial report from the auditor/treasurer.

Treasurer Hansen and Commissioner Walker set up a time to discuss transient room taxes.

Treasurer Hansen stated that he and Commissioner Whatcott had a discussion regarding state assessment appeals, specifically the Milford Wind Corridor. In order for the county to have standing in any of the appeals, the county will need to appeal them when they send out initial notice. This was not done in the Milford Wind Corridor case, therefore, the County could not be allowed to be a

party to that appeal. They did say that because they were on the telephone they would allow them to be a listening participant.

Treasurer Hansen spent some time looking up information on wind farms. The only one in Utah that is functioning at this time is Wasatch Wind in Spanish Fork Canyon which is locally assessed.

He contacted the State Tax Commission. They indicated that because Milford Wind is in Beaver and Millard County it will be state assessed, otherwise, it would have been locally assessed. The hearing is set for February 8, 2010. The State Tax Commission and Milford Wind are the only legal participant parties. As a process in dealing with these issues the County needs to have a process to make sure to respond in a timely manner so that the County will be able to be a legal participant in future matters.

Commissioner Smith said that he received a response phone call from Jim Jullet, IPA, regarding the agreement that the county needs to enter into this year. His response was that the agreement wouldn't need to be renewed until May of next year.

Treasurer Hansen said the May time period is the date that they set value for the year that they have to deliver to the county for processing.

The County first needs to decide if it wants to renew the agreement. If so, it should let the state know to start the value process before the end of the year.

OTHER

There was none.

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 meeting adjourned at 12:55 p.m..

Attest: _____

Approved: _____

