

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 16th DAY OF MARCH 2010
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Daron P. Smith..... Chairperson
Kathy Y. Walker. Commissioner
Bart A. Whatcott. Commissioner

Norma Brunson County Clerk
Marki Rowley. Deputy County Clerk

EXCUSED: Richard Waddingham County Attorney

ALSO PRESENT: Tiffany James Magnum
Brian Pugh Magnum
Bryan Erickson Millard County Care & Rehabilitation
Jeff Christensen Millard County Care & Rehabilitation
Tony Dearden Millard County Care & Rehabilitation
Wayne Jackson Millard County Care & Rehabilitation
Shelly Teuscher First Wind
Eli Bingham Larson and Rosenberger
Reggie Bliss County Resident
Brandy Grace County Auditor
John Hansen County Treasurer
Pat Manis. County Assessor
Tom Peters 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:

PUBLIC WAS WELCOMED

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

OPENING STATEMENTS

Commissioner Smith asked if anyone had an opening statement to give. Commissioner Whatcott read a quote from, Benjamin Franklin, “Lost time is never found again. Just be productive with our time. Wasted time is lost money.” Commissioner Whatcott also said another quote, “If you

find life coming at you too fast you are in the wrong lane". Commissioner Whatcott said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

Commissioner Smith excused Attorney Richard Waddingham who had other meetings to attend.

RATIFY THE MOTION TO APPROVE A PURCHASING CARD FOR ASSESSOR PAT MANIS

Commissioner Whatcott made a motion to ratify the approval of a purchasing card for Assessor Pat Manis with a limit of \$3,000.

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

RATIFY THE OPENING OF THE MAG CHLORIDE BIDS

Bids were submitted for mag chloride as well as for tires. Commissioner Smith reported that he and Thayne Henrie went through those bids and awarded the mag chloride bid to Dust Busters Inc. and awarded the tire bid to Quality Tires. Quality Tires presented a bid that was more than 10% less than all the other bids submitted.

Commissioner Walker made a motion to ratify the opening of the Mag Chloride bids which was awarded to Dust Busters Inc. and also the tire bids which was awarded to Quality Tires.

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

It was mentioned that a standard form for submitting bids is being developed.

DISCUSSION AND POSSIBLE APPOINTMENT OF A PLANNING AND ZONING MEMBER

Commissioner Whatcott made a motion to appoint Lori Mathews to fill Paula Christensen's term as a Planning and Zoning member.

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

DISCUSSION AND POSSIBLE APPOINTMENT OF A JOHN HANCOCK PLAN TRUSTEE AND ADMINISTRATOR

Commissioner Walker made a motion to appoint Connie Hansen, County Recorder, as a John Hancock Plan Trustee and Administrator.

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

FILING OF DISCLOSURE STATEMENTS

Disclosure Statements were submitted from the following employees:

Kathy Y. Walker
Norma Brunson
Irene Scott
Marki Rowley
Sheri Stephenson
Cloyd C. Day
David W. Jackson
Frank T. Paxton
Daniel R. Rowley
Richard J. Carter
John Orullian

DISCUSSION AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR ELITE PIANO TUNING AND REPAIR - OWNER ROXANNE A. LAYTON

Elite Piano Tuning and Repair submitted a business license application for tuning and repairing pianos. After a review of the business license application and finding all the signatures in order, Commissioner Walker made a motion to approve the business license for Elite Piano Tuning and Repair.

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

DISCUSSION AND POSSIBLE DECISION REGARDING THE LONG TERM CARE CENTER REPORT

Tony Dearden, Chairman, Wayne Jackson, board member, Jeff Christensen Administrator Director, Bryan Erickson, CEO Traditions Health Care, came before the commission to report on Millard Care and Rehabilitation (MC&R) and to request its budgeted money.

Mr. Christensen expressed his appreciation to the commissioners for their support in the past. He said that there has been some good things happening. MC&R has won a lot of quality awards. It recently won in another seven areas where it was in the top 10% of the nation with Pinnacle's customer satisfaction survey.

Mr. Erickson and Mr. Christensen reviewed a variety of reports with the commissioners explaining the status of MC&R including: MC&R Census History Report, goals, and financial report. *(A recording of this discussion in it's entirety is on file at the clerk's office)*

The transition from Intermountain Health Care to Traditions Health Care has been very beneficial and has saved the county approximately \$800,000 at the Millard County Care Center while still providing quality care for its residents. The county has also saved approximately \$200,000 a

year in addition to the \$800,000 by not funding long term care bids at the Delta and Fillmore Medical Centers.

Millard County is committed to providing quality health care for the senior citizens and if for some reason MC&R goes over budget the county will do whatever it takes to still provide that kind of care.

Commissioner Walker, who is also a MC&R board member, said that after her mother was given such good care during her stay at MC&R she believes that it is one of the best facilities in the state. The awards that it has received show that this is true.

Commissioner Walker also said that she would hope that the commission would remember the commitment it made to the residents of Millard County that it would always provide quality care for the senior citizens.

MC&R is asking for \$150,000 which was budgeted for the care center knowing that at some point it may require more.

Commissioner Walker said that if the occasion arises that further funding is needed MC&R would be able to come back to the commission and request more funding.

Commissioner Smith and Mr. Christensen thanked the board members for all their commitment and involvement with the community.

Commissioner Whatcott said that he doesn't know if the community realizes the savings that the county has saved by having Traditions Health Care involved with MC&R.

Commissioner Walker made a motion to approve the \$150,000 requested by MC&R.

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

OTHER BUSINESS

Larson and Rosenberger Auditor, Eli Bingham, said that he has been with the firm for about 12 years. He provided material for the commissioners to review. He explained the financial report, and what the auditors are looking for while doing an audit. He also discussed the Millard County Management Letter of the December 31, 2008 Audit.

Mr. Bingham read a paragraph from the Independent Auditor's report: "In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of Millard County, as of December 31, 2008, and the respective changes in financial position and cash flows, where applicable, thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America."

Mr. Bingham said that there were no major concerns associated with the findings of Millard County's auditors. He also said that Auditor Grace and Treasurer Hansen were easy to work with.

(The reports discussed are on file and are available for review at the auditor's office as well as the clerk's office.)

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON THE MILLARD COUNTY PLANNING COMMISSION'S RECOMMENDATION FOR A ZONE CHANGE (MAP) APPLICATION BY MAGNUM HOLDING, LLC FOR PROPERTY LOCATED ENTIRELY ON SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION (SITLA) PROPERTY LOCATED SOUTH AND EAST OF THE INTERMOUNTAIN POWER SERVICE CORPORATION, AT THE INTERSECTION OF BRUSH WELLMAN HIGHWAY AND THE JONES ROAD, APPROXIMATELY 10 MILES NORTH OF DELTA, AND MORE PARTICULARLY DESCRIBED AS: TOWNSHIP 15 SOUTH, RANGE 6 WEST, SLB&M SECTION 19: E/2, SESW SECTION 30: ALL TOWNSHIP 15 SOUTH, RANGE 7 WEST, SLB&M SECTION 23: LOTS 2, 4, 7, 8, SW, S/2SE (COMPRISING THAT PORTION OF THE SECTION LOCATED SOUTH OF BRUSH HIGHWAY) SECTION 24: LOTS 3, 4, 6, 8, SWSW (COMPRISING THAT PORTION OF THE SECTION LOCATED SOUTH OF BRUSH HIGHWAY) SECTION 25: ALL SECTION 26: ALL 2,702.09 ACRES TOTAL. IF APPROVED THE ZONE CHANGE WILL CHANGE THE ENTIRE 2, 702 ACRES OF SITLA LAND FROM AG20 (AGRICULTURAL 20 ACRES) TO HI (HEAVY INDUSTRIAL).

Commissioner Walker made a motion to enter into a public hearing for the purpose of receiving public comment on the Millard County Planning Commission's recommendation for a zone change (map) application by Magnum Holding, LLC for property located entirely on SITLA property.

Commissioner Whatcott SECONDED the motion. The voting was unanimous and the motion carried. Commissioner Smith called the public hearing to order at 11:06 a.m.

Commissioner Smith excused Sheryl Dekker, County Planner, from today's meeting.

Tiffany James, Director of Environmental Services, said she is now over the federal, state and county permitting process and has been tasked with building out that department.

Magnum has developed a natural gas storage site about 10 miles north of Delta and has filed an application with the planning department to re-zone the parcel, as well as the portion of land that is held by SITLA. After the application was filed and they went to the hearing Brian Pugh, Magnum Gas Storage, noticed that there was no mission on the previous zone. The zone was not just AG 20 but included Range and Forest. Therefore, Ms. James and Mr. Pugh met with Sheryl Dekker, County Planner, and Richard Waddingham, County Attorney at the Millard County Office in Delta, UT. Bruce Parker, Planning Consultant, participated via telephone where they prepared an addendum to the approved application.

Ms. James posted and discussed some exhibits regarding the addendum and the Millard County Zoning Map.

There will be three conditional use permits associated with this project which was explained in detail by Ms. James. SITLA and Millard County Planning Commission have given a favorable recommendation for the conditional use permit.

There were no other comments made.

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

Commissioner Whatcott SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at 11:15 a.m.

The regular meeting reconvened.

REVIEW AND POSSIBLE ADOPTION OF ORDINANCE 10-03-16, AN ORDINANCE OF MILLARD COUNTY AMENDING THE OFFICIAL MILLARD COUNTY ZONING MAP FOR PROPERTY LOCATED ENTIRELY ON SITLA PROPERTY LOCATED SOUTH AND EAST OF THE INTERMOUNTAIN POWER SERVICE CORPORATION, AT THE INTERSECTION OF BRUSH WELLMAN HIGHWAY AND THE JONES ROAD, APPROXIMATELY 10 MILES NORTH OF DELTA, AND MORE PARTICULARLY DESCRIBED AS: TOWNSHIP 15 SOUTH, RANGE 6 WEST, SLB&M SECTION 19: E/2, SESW SECTION 30: TOWNSHIP 15 SOUTH, RANGE 7 WEST, SLB&M SECTION 23: LOTS 2, 4, 7, 8, SW, S/2SE (COMPRISING THAT PORTION OF THE SECTION LOCATED SOUTH OF BRUSH HIGHWAY) SECTION 24: LOTS 3, 4, 6, 8, SWSW (COMPRISING THAT PORTION OF THE SECTION LOCATED SOUTH OF BRUSH HIGHWAY) SECTION 25: ALL SECTION 26: ALL 2,702.09 ACRES TOTAL.

Commissioner Walker made a motion to approve Ordinance 10-03-16 upon review of the ordinance itself and to approve amending the Official Millard County Zoning Map for Property Located Entirely on SITLA Property from AG 20 or Range and Forest to Heavy Industrial.

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

PUBLIC INPUT

There was none.

APPROVAL OF MARCH 2, 2010 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held March 2, 2010 were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Whatcott made a motion to approve the minutes of March 2, 2010, as corrected.

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

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

Commissioners Walker, Whatcott and Smith attended the National Association of Counties (NACo) in Washington D.C.. Commissioner Walker is a steering committee member of the Environment, Energy and Land Use Committee and attended several sessions.

There are a number of legislative proposals before congress particularly in the senate that

would implement a mandated cap and trade program or tax to regulate greenhouse gas. A cap and trade mechanism sets up a series of winners and losers for both industry and state and local governments. The numerous economic impact studies have been contradictory and inconclusive. Some studies indicate no adverse impact, whereas a Congressional Budget Office study shows a cap and trade system would significantly drive up energy costs.

Millard County opposes a cap and trade or carbon tax, believing it will have negative impacts on local industry.

Commissioner Walker attended Days of the Old West Rodeo Committee meeting. Items of discussion included obtaining sponsorship and a decision not to hold a queen contest at the rodeo this year.

While in Washington D.C. Commissioner Whatcott attended meetings dealing with public lands issues, health care, economic issues, environment, information technology (GIS), and energy. Commissioners Smith and Whatcott presented to Congressman Chaffetz's staff issues facing farmers and ranchers who use public lands to graze their livestock. They went over some proposals of special interest groups who are trying to restrict the use of public lands.

Commissioner Whatcott attended a meeting with Mr. Richardson (Fillmore Middle School Principal) Tresa Cranney, and the basketball, baseball, volleyball and wrestling coaches on how to better optimize time and resources when dealing with the school district, LDS church and other county run sports areas.

Commissioner Whatcott said that the number of people estimated to attend the American Legion Birthday Party Celebration has doubled and will turn out good for the county's motels, restaurants and food vendors. Wayne Jackson expressed his thanks to the Commission for all the help they have given.

Commissioners Smith, Walker and Whatcott attended a National Association of Counties (NACo) meeting in Washington D.C.. Commissioner Smith said that he appreciates the commissioners and Auditor Grace for their involvement in the NACo committees representing the state of Utah. It is critical that the elected officials be involved in NACo so that the county and the state of Utah have a voice on important issues.

He also attended a Mosquito Abatement meeting last night. It has come to their attention that their board is not organized according to current state statute. They are looking into the process of organizing it according to code. The code says that each municipality inside the district would appoint a representative from the municipality to serve on the board, then the county would appoint a representative from the county.

Commissioner Whatcott made a motion to recess for lunch.

Commissioner Walker SECONDED the motion. The voting was unanimous and the motion carried. The meeting recessed at 12:05 p.m..

NOON LUNCH BREAK

Commissioner Walker made a motion to reconvene the meeting.

Commissioner Whatcott SECONDED the motion. The voting was unanimous and the motion carried. The meeting reconvened at 1:25 p.m..

AUDITOR'S REPORT

Auditor Brandy Grace presented the check edits of March 9, and March 16, for the Commissioners to review and sign.

The appeals to the State Tax Commission will be heard on March 29, 30 and 31.

Auditor Grace said that Lynette Madsen brought to her attention that the cleaning contract for the road department expires this month, but states that it can be renewed at the end of the year term. Commissioner Smith talked to them and they will be willing to renew the contract for another year at the same amount contracted before.

Commissioner Whatcott made a motion to continue the cleaning contract for the road department effective April 1, 2010 with the same company and the same amounts.

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

Auditor Grace said that in 2005 there was over \$300,000 in the 911 fund. Since taking out the salaries for the dispatch supervisors, upgrading the 911 system and having the phone bills increase significantly which are now around \$7,000 or \$8,000 a month, Auditor Grace has been watching the fund balance deplete. At the end of 2008 the fund balance was \$232,000; at the end of 2009 the fund balance was \$121,000; and at the end of February 2010 the fund balance was \$105,000. It is nearing the point that this should be reviewed to make sure that the county is receiving the revenue from those lines that it should be receiving. She sent out an email to the Sheriff making him aware of this as well. Revenue received for the 911 fund comes from the user fees charged on all cell phones and land lines.

Auditor Grace pointed out that she wrote the draft of the financials for the Management's Discussion and Analysis (MDA) that was referred to by Eli Bingham, and recommends that the Commissioners review it. She said that it is the simplest way to understand the financial report.

POSSIBLE APPROVAL OF HARDSHIP ABATEMENT APPLICATIONS

There were none.

POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND OR ACTION

Commissioner Whatcott made a motion to enter into a BOE to discuss the exempt property list.

Commissioner Walker SECONDED the motion. The voting was unanimous and the motion carried. The BOE began at 1:42 p.m..

Auditor Grace said that the standards of practice basically say that there are a couple of types of exemptions and according to those guidelines the County Assessor has the authority to exempt property based on ownership of that property. Other types of exemptions require that it be approved by the BOE.

The process requires that if a parcel is considered exempt, the property owner would need to re-file that parcel as exempt every year. If the county decides for some reason that parcel no longer meets the exempt qualifications, a notice would need to be sent to the property owner making them aware of the changes no later than April 1, of the current year.

Auditor Grace said that there has been a practice in the past that the Assessor's Office would combine the value of all parcels of one property owner to one property tax bill. Auditor Grace said that she can see why this practice was done but it is not a good practice; it causes a lot of problems in the long run. Every parcel has a minimum value on it and should be billed individually.

Assessor Manis explained the new criteria for assessing property.

Treasurer Hansen said that the process of exempt considering property should include the Assessor as well as the Treasurer, the Auditor and the Commissioners.

Auditor Grace, Treasurer Hansen, Assessor Manis and the Commissioners went through the list of properties that Auditor Grace had put together and discussed the following properties:

Delta Historical and Restoration Association, the Gathering Place, Utah Housing Cooperation, the Church of Jesus Christ of Latter Day Saints, the Roman Catholic Church in Delta at 96 S Center, the Roman Catholic Church in Fillmore at 445 S 200 E, and the personal property for Furniture Fixtures and Equipment for religious worship. Each property discussed still qualifies for property tax exemption.

Commission Walker made a motion to close the BOE.

Commissioner Whatcott **SECONDED** the motion. The voting was unanimous and the motion carried. The BOE ended at 2:13 p.m..

TREASURER'S REPORT

Treasurer Hansen said that the MDA Settlement which is the graph of the distribution of property taxes, property tax value and the portion of the tax collection is a good chart that shows where the values are within the county. If the commissioners have questions on the other pages both Treasurer Hansen and Auditor Grace would be happy to go over those figures with them.

Treasurer Hansen said that the 1400 South Industrial Development Project (cheese plant) will have met the requirement for its maximum distribution out of part of the next check they pay for personal property. At that point they will no longer receive distribution from the county back to that RDA. They will need to be made aware that they will not be getting that money back from the county and they will be distributing the county revenues through the remainder of the year.

The Commissioners will make sure a letter is sent to them making them aware of this.

Treasurer Hansen said that the State Tax Commission indicated to him that the rule making procedure will not be held on Thursday and that the legislature passed a bill that will make renewable energy credits exempt intangibles. Treasurer Hansen and Auditor Grace have some real questions on how that will affect appeals that have already been filed and values for this year.

Commissioner Smith said that Tom Peters represents the county and will be available for discussion on this issue.

OTHER

Shelly Teuscher, First Wind, said that one of the reasons for her being here today is because First Wind was one of the components of SB 125. She said that the taxes that will be paid for Phase I will be around \$1,500,000 to \$2,000,000 and will be split between Millard County and Beaver County.

Ms. Teuscher said that last year's property taxes were based on the construction value of Phase I at the end of 2008; this year at the end of 2009 the wind farm is up and running making the calculated taxes a lot different. They are planning to start construction of Phase II as soon as they get the final permits to move forward.

The exclusion of the intangibles under one method of calculating, that First Wind felt would be a reasonable method to adopt, would reduce the payment of about 3.5 dollar megawatt hours, with the average of the other projects around the country excluding Milford being 2.5 dollar megawatt hours.

Commissioner Walker said that after the Commissioners have their meeting and get a better understanding of exactly how this is going to affect the county they may contact her with some questions or comments.

Ms. Teuscher said that she would like to propose to the county a 20 year levelized payment agreement with a set amount to be paid every year. Commissioner Smith said that he has talked with Beaver County Commissioners about this option and they would like to get the values of the project assets and would then make some decisions.

Ms. Teuscher said that some of the information the Commission is interested in would be hard to determine, and would be determined by the State Tax Commission. Also, it could be considered confidential by the company. Ms. Teuscher said she will see what she can do to at least have the conversation to get the county more information. First Wind wants to preserve as good of a relationship with the county as possible.

There will be 68 towers going up in Phase II 6 of which will be in Beaver County and the other 62 will be in Millard County.

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

Commissioner Walker made a motion to go into a closed executive session to discuss reasonably imminent litigation and to include commercial information as defined by the revenue taxation code.

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

After the closed executive session the regular meeting reconvened at 12:03 p.m..

Commissioner Walker made a motion to go into a closed executive session to discuss reasonably imminent litigation and to include commercial information as defined by the revenue taxation code.

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

After the closed executive session the regular meeting reconvened at 3:06 p.m.

WHERE UPON THE MEETING ADJOURNED

Commissioner Whatcott made a motion to adjourn the meeting.

Commissioner Walker SECONDED the motion. The voting was unanimous and the meeting adjourned at 3:13 p.m..

Attest: _____

Approved: _____