

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 20th DAY OF APRIL 2010
AT THE COURTHOUSE, FILLMORE, UTAH

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

Richard Waddingham County Attorney
Norma Brunson County Clerk
Marki Rowley. Deputy County Clerk

ALSO PRESENT: Robert Dekker. Sheriff's Office
Bryan Stevens. Steve's Tire
Steve Frampton. Steve's Tire
Dean Draper..... Chronicle Progress
Lindsay Mitchell. Sheriff's Office
John Andrews.. SITLA
Sheryl Dekker Planning Commission

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 Walker read a quote from Margaret Thatcher, "Standing in the middle of the road is very dangerous, you get knocked down by traffic from both sides." Commissioner Smith also read a quote by Margaret Thatcher, "Being powerful is like being a lady, if you have to tell people you are, you aren't." Commissioner Whatcott said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

DISCUSSION ON MILLARD COUNTY'S PURCHASING POLICY - STEVE FRAMPTON

Steve Frampton said that he appreciates the opportunity to come and visit with the

commission. He stated some concerns that he had regarding the tire bids accepted recently and in the past.

Mr. Frampton said he understood that the recent tire bid contract was awarded to Quality Tire Co. He wanted to know how the bid was awarded. Commissioner Smith explained that he visited with Thayne Henrie, Road Supervisor, and Steve Jensen, Assistant Road Supervisor. Looking for the long term best value and comparing prices determined the choice of the tire.

Mr. Frampton expressed, in his opinion, that TDS Tire, by quite a margin, would have saved the county a lot of money vs what it is going to pay by awarding the contract to Quality Tire Co..

Mr. Frampton expressed his thoughts and concerns.

Mr. Frampton also stated that in the past his company (Steve's Tire) was awarded the contract for the tires and still the county purchased tires from Quality Tire Co. during that contract term. Commissioner Smith explained that Thayne Henrie was told by Steve's Tire that they did not have the particular tires on hand and they may not be available for a while. The county had no other choice but to purchase the tires elsewhere. Mr. Frampton, as well as Bryan Stevens, explained that they never told Mr. Henrie that they did not have the tire. They simply told Mr. Henrie that they would need to order the tires in advance to ensure that they would be able to get the number of tires needed.

Mr. Frampton said that he feels that his company could save the county money the next time they bid out for tires.

The Commissioners are going to meet with the county officials and department heads to go over the county's purchasing policy and possibly make some changes.

DISCUSSION ON SCHOOL & INSTITUTIONAL TRUST LANDS ADMINISTRATION (SITLA) LAND EXCHANGE ISSUES - JOHN ANDREWS

John Andrews said that he appreciates the time to come and update issues that SITLA is working on and to answer any questions.

The SITLA board of Trustees is going to make a day trip to Millard County on May 12, 2010. They will be visiting the Graymont Western Lime Kiln, south of Delta. They will also look at the proposed site of the natural gas storage facility. He is uncertain of the exact schedule but wanted to invite the commissioners to come along.

SITLA is working on issues regarding the federal government actions on how they manage the BLM lands. SITLA is affected negatively when BLM labels its land off limits. As a result, SITLA has worked over the last 20 years to exchange SITLA lands out of BLM lands so SITLA can manage its land effectively.

SITLA's job is to make money for public schools. SITLA tries to take good care of the land. It has a development focus rather than a pure preservation focus, which is the direction BLM has been moving towards through the years.

SITLA had a large land exchange around the time the Grand Staircase-Escalante National Monument was created. It had a second large land exchange that had more of a footprint in Millard County in 2001, which was the so called “west desert land exchange”. SITLA traded lands out of the wilderness study areas in the west desert counties of Utah. SITLA acquired land that it thought could support economic development. Mr. Andrews discussed other lands that SITLA acquired and made more economical.

In the last couple of years Washington County worked with Congressmen Matheson and Senator Bennett in trying to put to rest the issue of how much wilderness would be designated on public lands in its county.

The Southern Utah Wilderness Alliance and other environmental groups have this enormous proposal for proposed wilderness and has taken a scorched litigation approach. Anytime BLM permits a particular activity on lands within the proposed wilderness footprint there has been litigation and has caused a lot of expense and controversy over the years.

Washington County undertook a whole series of negotiations. They sat down with the environmental groups and land users and came to a compromise that passed through congress at the beginning of last year. Following that, a number of other counties in the state have been looking at the idea of county land bills.

Senator Bennett is undertaking negotiations that start Wednesday April 21, in San Juan County. Emery County has been handling negotiations using a public lands council. Beaver County and Piute County have been looking at a land bill that would designate some wilderness land and release other land.

There is SITLA land in the area that would be potentially designated as wilderness areas. SITLA is looking at additional land that would be traded out of sensitive areas and proposed wilderness in Beaver County, Piute County, Iron County and possibly Washington County.

SITLA has received interest from industry, particularly Graymont Western Lime Kiln, about acquiring additional land in the area of its mine facility. SITLA tried to do a similar transaction by taking land that is subject to mining claims and essentially privatizing it through the company, with SITLA keeping a small royalty interest, but mainly having the land put into private ownership. SITLA is also looking at geo-thermal lands in Millard County.

Mr. Andrews said that it has been SITLA’s understanding that Millard County was not contemplating a county land bill. Commissioner Smith said that Millard County has visited with Congressmen Chaffetz’s office and went through a process right after Washington County and is looking at doing its own bill maybe next year.

Mr. Andrews said that SITLA is working on a map and will forward a copy to Millard County upon its completion.

DISCUSSION AND POSSIBLE APPROVAL OF AN AMBULANCE ABATEMENT - LINDSAY MITCHELL

Lindsay Mitchell presented the commissioners with an ambulance abatement application for Muriel Jacobson.

Ms. Jacobson does not have insurance or an income. She is currently living off of a \$15,000 settlement she received from Down Winders. Her total medical expenses are \$37,888. The ambulance bill is \$4,627.21. Ms. Jacobson applied for medicaid and was denied.

Commissioner Whatcott made a motion to declare Ms. Jacobson as indigent and to abate her entire ambulance bill in the amount of \$4,627.21.

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

DISCUSSION AND POSSIBLE APPROVAL OF A CELL PHONE ALLOWANCE FOR DEPUTY COUNTY ATTORNEY PAT FINLINSON

Attorney Waddingham said that Deputy County Attorney Pat Finlinson is on standby 24 hours a day and spends a lot of time dealing with county criminal matters on his cell phone. Sheriff Dekker, who was in attendance, so verified. Attorney Waddingham is requesting to increase Deputy County Attorney Finlinson's cell phone allowance to \$120.

Commissioner Walker made a motion to approve a cell phone allowance for Deputy County Attorney Pat Finlinson in the amount of \$120 a month.

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

PUBLIC INPUT

There was none.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON THE MILLARD COUNTY PLANNING COMMISSION'S RECOMMENDATION FOR APPROVAL OF A LEVEL 3 ANIMAL FEEDING OPERATION FOR A CONDITIONAL USE PERMIT FOR ALECSANDRO R. DOS SANTOS - BELLA DAIRY FOR PROPERTY LOCATED AT 555 ANDERSON LANE, OAK CITY, UTAH, AND MORE PARTICULARLY DESCRIBED AS: PARCEL 1: 2984-1 BEGINNING AT THE EAST QUARTER CORNER OF SECTION 31, T 16 S, R 4 W, SLBM, THENCE SOUTH 286.50 FEET ALONG THE SECTION LINE; THENCE NORTH 55° 52' 56" WEST 520.75 FEET, MORE OR LESS, TO THE QUARTER SECTION LINE; THENCE SOUTH 89° 15' 27" EAST 431.16 FEET, MORE OR LESS, ALONG THE SECTION LINE TO THE POINT OF BEGINNING. PARCEL 2: PART OF 2986 BEGINNING NORTH 286.60 FEET FROM THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 31, T16S, R4W, SLBM; THENCE NORTH 33° 18' WEST 1247.75 FEET TO THE QUARTER SECTION LINE; THENCE SOUTH 89° 15' 27" EAST 256.22 FEET; THENCE SOUTH 55° 45' EAST 518 FEET; THENCE SOUTH 474.5 FEET TO THE POINT OF BEGINNING. LESS: BEGINNING AT A POINT NORTH 00° 27' 44" WEST ALONG THE SECTION LINE A DISTANCE OF 289.43 FEET FROM THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 31, T16S, R4W, S:BM; THENCE NORTH 00° 27' 44" WEST CONTINUING ALONG THE

SECTION LINE A DISTANCE OF 360.13 FEET TO A POINT ON THE OLD FENCE LINE ON THE EAST SIDE OF A COUNTY ROAD; THENCE SOUTH 50°11'29" WEST ALONG SAID FENCE LINE A DISTANCE OF 48.61 FEET; THENCE SOUTH 24°40'59" WEST CONTINUING ALONG SAID FENCE LINE A DISTANCE OF 49.58 FEET; THENCE SOUTH 06°36'39" WEST CONTINUING ALONG SAID FENCE LINE A DISTANCE OF 26.24 FEET; THENCE SOUTH 00°09'05" WEST CONTINUING ALONG SAID FENCE LINE A DISTANCE OF 96.21 FEET; THENCE SOUTH 01°08'11" EAST CONTINUING ALONG SAID FENCE LINE A DISTANCE OF 56.98 FEET; THENCE SOUTH 03°36'46" EAST CONTINUING ALONG SAID FENCE LINE A DISTANCE OF 9.59 FEET; THENCE SOUTH 33°18'00" EAST A DISTANCE OF 113.82 FEET TO THE POINT OF BEGINNING. 8.18 ACRES TOTAL

Commissioner Whatcott made a motion to enter into a public hearing for the purpose of receiving public comment for consideration of a level 3 animal feeding operation conditional use permit for Alecsandro R. Dos Santos - Bella Dairy

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

Present were: Dean Draper and Sheryl Dekker

Commissioner Smith called the public hearing to order at 11:27 a.m..

Sheryl Dekker, County Planner, said that the planning Commission has given a favorable recommendation. There were no negative comments made at the planning commission meeting. However, John Nye gave a favorable comment at that meeting.

A level 3 animal feeding operation is allowed to operate 300 cows on the property.

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 11:29 a.m..

The regular meeting reconvened.

DISCUSSION AND POSSIBLE APPROVAL OF A LEVEL 3 ANIMAL FEEDING OPERATION FOR A CONDITIONAL USE PERMIT FOR ALECSANDRO R. DOS SANTOS - BELLA DAIRY

Commissioner Walker made a motion to approve the conditional use permit for Alecsandro R. Dos Santos - Bella Dairy with the same conditions as recommended by the Planning and Zoning Board under a level 3 animal feeding operation.

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

CONSIDERATION AND POSSIBLE APPROVAL OF RESOLUTION 10-4-20, A RESOLUTION

TO ADOPT AN INTERLOCAL AGREEMENT BETWEEN MILLARD COUNTY AND THE UTAH HIGHWAY PATROL (UHP), THROUGH THE DEPARTMENT OF PUBLIC SAFETY, FOR THE PURPOSE OF INCREASING TRAFFIC ENFORCEMENT IN MILLARD COUNTY, UTAH

Sheriff Dekker said that this is the MOU that was talked about last year during the budget process. An added item that was not discussed was a \$.50 per mile fee. Sheriff Dekker said that even with the additional fee, the revenue that will come out of this will be a positive thing. The roads will be made safer. The few shifts that have been put out have already seen a difference by the fewer number of calls and serious accidents.

The Sheriff's Office has a good working relationship with UHP and the Sheriff gets along very well with Commissioner Davenport of Public Safety and UHP Colonel Danny Ferels. The deputies and the troopers work hand in hand and have a great working relationship.

Commissioner Smith said that \$100,000 was budgeted for this project. Sheriff Dekker said that they want to increase some shifts to catch up on some of the patrol work, especially during the summer when there are construction zones.

Commissioner Whatcott asked what outcome the Sheriff sees on the test of the 80 mile an hour stretch on the freeway. Sheriff Dekker said anytime a person increases his/her speed 5 or 10 miles per hour the possibility of having a fatal accident increases. He thinks that 80 miles per hour is too fast. Studies on the 80 mile an hour freeway stretch show that it hasn't increased dramatically. However, accident studies show that the faster you go the more likely you are to sustain serious bodily injuries or death.

Commissioner Whatcott said that he appreciates the reports the Sheriff has been sending to the commission. Sheriff Dekker said that he will start sending the UHP reports when he receives them.

Commissioner Walker made a motion to approve Resolution 10-4-20, a resolution to adopt an interlocal agreement between Millard County and the Utah Highway Patrol, through The Department of Public Safety, for the purpose of increasing traffic enforcement in Millard County, Utah.

Commissioner Whatcott SECONDED the motion. Clerk Brunson called for a roll call vote. Commissioner Walker voted YES. Commissioner Whatcott voted YES. Commissioner Smith voted YES. The voting was unanimous and the motion carried.

OTHER BUSINESS

Sheriff Dekker wished Commissioner Walker good luck in her future endeavors and said it has been a pleasure to work with her.

Commissioner Whatcott said last week he spoke with Sheriff Dekker about the group of people who were hosting an equestrian event who had taken it upon themselves to block off the road by the fairgrounds and charge a \$5 fee for access to the Millard County fairgrounds, arena and stables to feed their horses. This is a big issue and will not be taken lightly.

There are continuing problems regarding the race track area, which needs to be fixed. Commissioner Whatcott proposed that a part-time seasonal position be created to oversee the rental facilities for a 6 month trial period to help ensure that what happened last week will not happen again.

Commissioner Smith said that he would be in favor of looking at the possibility of creating the position.

Commissioner Walker said that she agrees that there is a definite problem there, which comes from the lack of maintenance. East Millard Maintenance crew has all of the work they could possibly handle taking care of the current buildings and grounds. They do not have the time or the resources to care for the fairgrounds and its facilities.

Commissioner Walker recommends creating a temporary part-time maintenance person, who will be responsible for the Fillmore fairgrounds and its facilities, making sure that whoever uses the facilities goes through the proper procedures. Commissioner Whatcott will draft up a job description to discuss at the next commission meeting.

Commissioner Walker said that she received the amended MOU with the Central Nevada Regional Water Authority (NRWA) which now includes two extra counties. This will be discussed at the next commission meeting.

Commissioner Smith signed the contract for the jury room exit door which was approved at an earlier commission meeting.

Commissioner Smith told Commissioner Walker that he has enjoyed working with her through the years. He presented her with a plaque that reads, "Our expression of gratitude to you for your dedicated service for 6 years on the Board of Millard County Commissioners. Your service to the citizens of Millard County, as well as the county workforce is greatly appreciated. You deserve this plaque because you are the "Queen B" who loves to give out plaques."

Commissioner Smith said that Commissioner Walker has spent her heart, mind and soul the last six years trying to serve the citizens of our county and making it a better place for them. He can personally say that she has given it her all. The Commissioners have worked through some difficult situations and haven't always agreed, but Commissioner Smith appreciates Commissioner Walker's professionalism, friendship, dedication and service to the county. He wishes her luck and says it is sad to see her go.

Commissioner Whatcott said that it has been an honor to have worked with Commissioner Walker. She always made sure he followed policy. He appreciates her help in educating him on how things are done in the political world. Commissioner Whatcott said that it has been a fun 14 months and Commissioner Walker will be missed.

Commissioner Walker said, "Six years ago, I sat here wondering if I had what it took to hang on. Now, I find it extremely difficult to let go.

Serving the residents of Millard County has been a privilege and an unforgettable experience. I was given an opportunity to represent the county on a local, regional, state and national level.

I have worked hard to do so for the betterment of the entire county. I sincerely hope I have

made a difference.

Working as part of the commission, provided me with firsthand knowledge of working with loyal and faithful public servants.

I made mistakes, but always tried to correct them. Some worthwhile accomplishments have been completed and I'm thankful I was involved.

Thanks to everyone for their support and it has been an honor to work with you, especially thanks to the department heads, employees and volunteers who I've worked so closely with. I will especially miss Commissioner Smith and Commissioner Whatcott.

It has been a learning experience - whether we were working on projects, celebrating successes, or sharing tragedies we have been a close team. Our disagreements, our agreements, and our laughter won't be forgotten. I have loved being a commissioner and will always be thankful for that opportunity.

I wish everyone continued success and the very best. Thank You."

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

Commissioner Whatcott attended a leadership summit hosted by Six Counties at Snow College South in Richfield, Utah.

Commissioner Whatcott also attended a Utah Association of Counties (UAC) conference in Ogden. While there he attended some classes on parliamentary procedures, public land issues, house and senate bills, centrally assessed tax issues, new assistance for assessing county properties, and issues other counties are having.

Commissioner Walker had nothing to report.

Commissioner Smith attended the UAC management conference last week along with Commissioner Whatcott.

Attorney Waddingham said that he appreciates Commissioner Walker and has enjoyed working with her. She has always been assessable to the public, as evident from comments he has received from people. Assessability is an important trait when serving the public and Commissioner Walker has been a great example. We are going to miss her.

APPROVAL OF APRIL 6, 2010 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held April 6, 2010 were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Whatcott made a motion to approve the minutes of April 6, 2010, as corrected.

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

Commissioner Walker made a motion to recess for lunch.

Commissioner Whatcott SECONDED the motion. The voting was unanimous and the motion carried. The meeting recessed at 11:59 a.m..

FAREWELL LUNCHEON FOR COMMISSIONER KATHY Y. WALKER

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 1:52 p.m..

AUDITOR'S REPORT

Auditor Grace presented the check edit of Monday, April 19, 2010 for the commissioners to review and sign.

Commissioner Smith received the protest filing receipts on the Southern Nevada Water Authority (SNWA) change applications and gave them to Auditor Grace to file in her office.

POSSIBLE APPROVAL OF HARDSHIP ABATEMENT APPLICATIONS

Treasurer Hansen said that he received a request from Jason Park requesting consideration for a tax credit on his property located in Lynndyl, parcel # X2817.

Mr. Park did not provide all the necessary information needed to determine whether or not he qualifies for the request.

Commissioner Walker made a motion to deny the application based upon lack of information.

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

POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND OR ACTION

Commissioner Walker made a motion to enter into a BOE

Commissioner Whatcott SECONDED the motion. The voting was unanimous and the motion carried. The BOE began at 2:33 p.m..

Auditor Grace said that she sent out letters regarding exempt properties and requesting a new application be filled out for continued exemption. She did not get a response from the following entities: Delta Utah Congregation of Jehovah Witness parcel # D850-3; Fillmore Baptist Church parcel # F316-1; and Topaz Museum for several parcels. The county will make one final attempt to contact those who did not return the application. If there is still no response, the properties will be removed from the exempt status.

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 2:45 p.m..

TREASURER'S REPORT

Treasurer Hansen said that a representative from Magnum Gas Storage contacted him regarding the storage tanks located by IPP. They asked how the value they provide to Millard County would be assessed. They thought it would be assessed locally. Magnum Gas Storage wanted to break up the pipes and assess each pipe line separately. Treasurer Hansen said that he is unsure if this would be allowed, and doing it that way could cause an assessment nightmare.

It was thought that it would need to be centrally assessed, since the pipes run through more than one county. This will be looked into to determine the correct way to assess the property value.

REVIEW OF THE DRAINAGE DISTRICT ASSESSMENTS

Treasurer Hansen brought up the question regarding properties within the boundaries of the drainage districts that were exempt from drainage district taxes. He asked if every property within its boundaries should be assessed a tax and sent a tax notice.

The issue primarily revolves around whether the charge by the drainage district is a tax or a fee. If the charge is a fee it seems reasonable that every parcel within the district should pay the fee even if the parcels are exempt from paying property taxes. If the charge is a tax then all parcels within the district that are exempt from paying property taxes should also be exempt from paying drainage district taxes.

This matter has previously been discussed at length, as well as with people from the Utah Special Districts and there does not appear to be a definite answer.

It appears that the county and the drainage districts could make the decision and follow it, but unless something different is determined, the county will just continue doing it the way it has done in the past.

Attorney Waddingham suggested that the county make a decision and then send out a letter notifying those property owners who would be affected by the change.

It was later decided that Attorney Waddingham would review some recent information he received, then he and Treasurer Hansen will get together and come up with a recommendation they would bring back to the county commissioners.

There are several questions that could affect the decision that is made, such as the number of parcels that would be affected, how it would affect the ability to sell the property if the "assessments" were not paid, and possibly how the assessment would be charged and collected.

OTHER

Commissioner Smith reported that the county has been approved by the Multi County Appraisal Trust (MCAT) board to move forward with the Computer Assisted Mass Appraisal system (CAMA) which is a statewide system used for appraising real property.

The state will require all counties to be set up on the CAMA statewide system. Millard County requested to the MCAT board that it is ready to move forward as soon as it is allowed.

The MCAT board made a schedule for all the counties to adopt the CAMA over the next few

years and has moved Millard County up to this year's schedule.

Millard County met with CCI which is the contract software provider. CCI will contact the county when the resources will be available to proceed with the set up of Millard County and Iron County. There is a requirement of purchasing a software license and some hardware.

Millard County is currently proceeding in that direction.

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

There was none.

WHERE UPON THE MEETING ADJOURNED

Commissioner Walker made a motion to adjourn the meeting.

Commissioner Whatcott SECONDED the motion. The voting was unanimous and the meeting adjourned at 3:17 p.m..

Attest: _____

Approved: _____