

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 6th DAY OF JULY 2010
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Daron P. Smith..... Chairperson
Bart A. Whatcott. Commissioner
Craig Greathouse..... Commissioner

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

ALSO PRESENT: Cheryl Searle State Office AP&P
Bill Justesen Computers & More LLC
Mike Holt Fillmore City Council
Lisa Crosland Fillmore City
Bryan Harris..... First Wind
Deb Haveron Tourism
Dick Fones Tourism
Shelly Teuscher. First Wind
Eli Bingham..... Larsen & Rosenburger
Jim Slavens Public Defender
Melanie Slavens Citizen
Tate Bennett..... Attorney
Dallas Griffith. 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 Smith said that the 4th of July Celebration in Delta was very good and he heard a lot of good things about the Fillmore 4th of July Celebration. Both of the communities that put the celebration on do a very good job with the parades and the activities. He would like to commend both cities for the

activities and the volunteers for their effort and support.

Commissioner Greathouse said that he had a gentleman from Sun City, Arizona tell him that Delta City's 4th of July Celebration was the best he has ever been to. Commissioner Smith reported that he won the Delta City Tennis Tournament.

Commissioner Smith said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

RATIFY THE RENEWAL OF THE CONTRACT WITH THE STATE OF UTAH COMMISSION ON CRIMINAL AND JUVENILE JUSTICE FOR A DRUG TASK FORCE GRANT

Commissioner Greathouse made a motion to ratify the renewal of the contract with the State of Utah Commission on Criminal and Juvenile Justice for a Drug Task Force Grant.

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

DISCUSSION AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR LILY'S LATHERS - OWNER CINDEE ROBERTS

Lily's Lathers' - owner Cyndee Roberts, submitted a business license application for a soap, lotion and accessories business. After a review of the business license application and finding all the signatures in order, Commissioner Whatcott made a motion to approve the business license for Lily's Lathers - owner Cindee Roberts.

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

POSSIBLE APPROVAL OF AN INTERLOCAL COOPERATIVE AGREEMENT BETWEEN MILLARD COUNTY AND UTAH STATE PARKS & RECREATION

Commissioner Whatcott made a motion to table this item until the next commission meeting.

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

DISCUSSION AND POSSIBLE APPROVAL OF A BUILDING AUTHORITY BOARD

Commissioner Whatcott explained that the county is wanting to apply for some grant money to upgrade the Public Health Office in Fillmore. In order to apply for the grant money the county will need to have a Building Authority Board in place.

Commissioner Whatcott made a motion to proceed with the legal requirements necessary to organize a Building Authority Board.

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

DISCUSSION REGARDING LEASE FOR OFFICE SPACE FOR ADULT PROBATION AND

PAROLE (AP&P) AND PRE-APPROVED REMODELING - CHERYL SEARLE

Cheryl Searle, State AP&P, said that she came to the commissioners in 2008 and asked for the AP&P office room to be renovated. The commissioners approved the changes requested for the AP&P office room but the project has not yet started. She wants to see what needs to be done to get the renovations completed.

It was budgeted to make the changes in the budget year of when it was presented, but a more pressing project came up and that budgeted amount was used for that project.

The commissioners would need to look at the extent of the renovations to see what the costs would be. There is no room in this year's budget for the renovations, so it would have to be budgeted in next year's budget.

It was said that the county maintenance crew would do the renovations. Commissioner Smith will talk to Klint Penney, Maintenance Supervisor, to see if he has the plans for the approved renovations. The commission will let Ms. Searle know of the time frame for which the project will start.

DISCUSSION AND POSSIBLE APPROVAL OF FUNDING FOR THE COUNTY SIDE OF THE FIRE DEPARTMENT PARKING LOT - MIKE HOLT

Mike Holt, Fillmore City Councilman, handed the commissioners the outline of the parking lot in need of repair. The county, the fire district and the city each own a third of the parking lot.

Mr. Holt said that the parking lot needs to be repaired before winter to avoid further damage. Fillmore City is chip sealing this month and would like to chip seal the parking lot at the same time.

Commissioner Whatcott said that he looked at the parking lot and sees the need for the repair. Mr. Holt said that they do not have a cost estimate yet but when they get an estimate he will bring it back to the commission for approval.

The parking lot measures about 56 ½ ft wide and 128 ft long.

DISCUSSION AND POSSIBLE APPROVAL OF AN AMBULANCE ABATEMENT - LINDSAY MITCHELL

This item was tabled.

DISCUSSION AND POSSIBLE APPROVAL OF AN AGREEMENT BETWEEN MILLARD COUNTY AND SPORTSITE

Attorney Waddingham said that he received a copy of the agreement which was slightly changed. He explained that the contract still needs to be changed to release the county from any potential liability. Attorney Waddingham left a message with Carl Thurgood with Sportsite informing him of the requested change.

This item was tabled until the next commission meeting.

POSSIBLE FUNDING FOR PRINTING TOURISM BROCHURES - DEB HAVERON

Deb Haveron, Tourism Director, said that the Tourism Board went through its current budget and cut costs wherever it could. In doing so, it was only able to come up with \$6,900 which is about \$8,500 less than what it needs to print the needed 20,000 brochures.

Commissioner Whatcott made a motion to fund \$8,500 which will be taken out of the Transient Room Tax Fund Balance for printing tourism brochures.

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

DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE NO. 10-07-06, AN ORDINANCE TO PLACE A MORATORIUM DEVELOPMENT ON HILLSIDES AND MOUNTAINOUS AREAS FOR SIX MONTHS UNTIL A LAND USE ORDINANCE IS ENACTED TO ADDRESS WATER SOURCES, STREETS, UTILITIES AND OTHER POSSIBLE FACTORS AFFECTING SUCH AREAS

Commissioner Smith said that at the last meeting the commission invited the mayors to come share their thoughts pertaining to this ordinance. They have not heard feed back from some of the mayors. Commissioner Smith spoke with Attorney Waddingham regarding a number of exceptions in the ordinance which will allow certain things to happen within those communities.

Lisa Crosland, Fillmore City Planning & Zoning, said that Fillmore City has the potential for development in the immediate future and that is why it is pushing for this ordinance. Ms. Crosland will have Fillmore City Mayor send a letter stating the need of the moratorium for Fillmore City.

The mayors of Millard County who showed concerned at the last meeting will be contacted and asked to attend the next meeting or to submit a letter stating whether or not they want their city involved with the moratorium.

Commissioner Whatcott made a motion to table this item until the next meeting to give the commission time to refine the language of the ordinance.

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

CONSIDERATION TO APPROVE A NEW REIMBURSEMENT REQUEST FORM

Commissioner Smith explained that the IRS reimbursement rates have decreased to \$0.50 a mile and the meal reimbursements are now \$11 for breakfast and lunch and \$25 for dinner. The new form will require an agenda be attached to the form in order to be reimbursed.

Commissioner Greathouse made a motion to approve the new reimbursement request form.

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

POSSIBLE APPROVAL OF THE 401K RETIREMENT RATES FOR JULY 2010 - JUNE 2011

Auditor Grace presented the commissioners with a spreadsheet of the state increases and the 401K increases. The commissioners and Auditor Grace went over the spreadsheet.

Commissioner Smith said that the State of Utah sends the county the calculations of what the retirement rates are for public safety and non public safety. The public safety rate has increased from 23.34% to 26.13% and the non public safety has increased from 11.66 %to 13.37%. Auditor Grace said that the 26.13% is remaining with the 2.5% COLA that is in place for the public safety. There is still an option to increase the public safety retirement benefits with the 4% COLA making the rate 28.82%.

The commissioners are not in favor of increasing to the 4% COLA.

Commissioner Whatcott made a motion to keep the current 401K retirement rates and not to go with the 4% increase.

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

The non contributory rate for retirement is 13.37 % effective July 1, 2010. The 401K rate will remain the same at 11.68 % and the public safety rate will increase to 26.13 %.

Commissioner Smith said that the increases are a lot of money and it keeps compounding every year. The mandatory 3% increase equals to be around \$65,000. When you start looking at doing all the possibilities the costs get into the \$100,000's just to keep up and the county cannot keep doing that every year.

OTHER BUSINESS

Commissioner Smith presented the renewal contract for the Cooperative Road Project Agreement between Millard County and the USDA, Forest Service, FishLake National Forest. The agreement states that the county will improve and maintain certain roads in the county. The US Forest Service will pay Millard County \$20,000 for maintaining said roads which totals to be approximately 57 miles of road.

Commissioner Greathouse made a motion to approve the Cooperative Road Project Agreement between Millard County and the US Forest Service.

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

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

Commissioner Whatcott reported that he set up a meeting with IHC, Jim Beckstrand and Chris Thompson for July 12, 2010 at 9:00 a.m..

Commissioner Whatcott said that the national Guard contributed \$2,000 to the sports park to fund the score boards. Commissioner Whatcott took them on a free ATV guided tour in return for their contribution. It was a lot of fun and they want to make it a yearly tour.

Commissioner Whatcott talked with Bruce Costa about the public health building. He invited Mr. Costa to come and give a presentation to the commission on the justification of proceeding with the public health building addition.

Commissioner Whatcott had a meeting with Klint Penney, Maintenance Supervisor, and Jer'E Brinkerhoff, Equestrian Promoter. Mr. Brinkerhoff shared his ideas on ways of promoting the Equestrian Park.

Commissioner Smith said that the county received the CDBG grant for \$123,000 for upgrades and improvements to the Public Safety Building.

Commissioner Smith reported he attended the Utah Association of Counties (UAC) general board meeting on Tuesday in Cedar City. Commissioner Whatcott was appointed to serve as a member of the steering committee on the NACo Public Land Committee.

Commissioner Smith did serve on the Agriculture Affairs Committee and will now serve on the Environment Energy and Land Use Committee. Auditor Grace will be reappointed to the Finance and Inner Governmental Affairs Committee of NACo.

As the president of UAC Commissioner Smith gets to make those appointments and try to get officials from all of Utah to participate and to serve as members on those committees as part of UAC.

Commissioner Smith attended the Utah Association of County Commissioners and Council Members meeting on Wednesday. They talked about the jail funding and the TRCC tax known as the restaurant tax which Millard County currently does not charge. It was discussed that if Millard County does not charge the TRCC tax then the state will charge and recoup the tax.

Also a presentation on municipal service districts was given about some of the cities that create certain municipal service districts. Millard County is pretty good right now with the services that are provided. Some counties have established special service districts to provide law enforcement services.

They also talked about public defenders contracts. The State of Utah is getting pressure from the ACLU to see that public defender contracts provide service for indigent people who need defense. There was quite a bit of discussion on splitting out the contract the county has and moving the appeals of the contracts to an oversight committee with whom counties could contract to provide the appeal process. The state may be taking over that process. The appeals and the surveys being done show inadequacies in some of the district courts. There needs to be a focus.

APPROVAL OF JUNE 15, 2010 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held June 15, 2010 were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Greathouse made a motion to approve the minutes of June 15, 2010, as corrected.

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

PUBLIC INPUT

Bill Justesen, citizen, wanted the commissioners to clarify that the reimbursement of \$.50 a mile includes wear and tear on the person's vehicle.

CANVASS JUNE 22, 2010 PRIMARY ELECTION

The Commissioners conducted the canvass for the June 22, 2010 Primary Election.

Commissioner Whatcott made a motion to recess for lunch.

Commissioner Greathouse 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 Greathouse SECONDED the motion. The voting was unanimous and the motion carried. The meeting reconvened at 1:48 p.m..

PRESENTATION OF THE 2009 INDEPENDENT AUDIT - LARSEN & ROSENBURGER

Larsen & Rosenburger Auditor Eli Bingham handed out copies of the Independent Audit for 2009. He went over the basic financial statements and explained what was in the audit handout and the management letter.

There were no red flags found as far as the internal control. For the most part the county received a clean audit for 2009.

Auditor Grace said that in determining the excess fund balance, it is the auditor and the treasurer's understanding that the unemployment trust fund is restricted and that money is used solely for unemployment purposes.

Commissioner Smith said that he appreciates all the work that the auditor and treasurer have done with the audit, he knows it takes a lot of time and effort.

AUDITOR'S REPORT

Auditor Grace presented the check edit of July 2, 2010 for the commissioners to review and sign.

Auditor Grace said that the commission had signed for a purchasing card in the amount of \$3,000 for Commissioner Greathouse.

Commissioner Whatcott made a motion to approve a purchasing card with a credit limit of \$3,000 for Commissioner Greathouse.

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

motion carried.

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.

Commissioner Greathouse SECONDED the motion. The voting was unanimous and the motion carried. The BOE began at 2:15 p.m..

Assessor Manis and Auditor Grace presented the following parcels for discussion: 8591, HD-4710, HD-4710-1, HD-4710-2, HD-4710-3, HD-4710-4, HD-4710-5, HC-4645-6, HD-4645-5, HD-4645-4, HD-4645-3, HD-4645-2-5, HD-4645-2-4, HD-4645-2-3, HD-4645, HD-4545-2-2, HD-4545-2-1, HD-4545-1-2, HD-4643-1-1-1, HD-4645-1-1, HD-4645-1, HD-4645-2, R-1616-2, BRM-1-1, BRM-1-2, BRM-1-5, BRM-1-6, BRM-1-7, BRM-1-8, BRM-1-9.

Assessor Manis said that there is a piece of mining property that has been patented for several years which was found by Treasurer Hansen to have been improperly valued. The Assessor's office only wants to add the correct value for 2010 to avoid penalties and interests. Commissioner Whatcott said he recommends to forgo the penalties and interest for the property.

An individual bought a group of 18 parcels for a low amount and sells the lots for a greater amount which exceeds the surrounding sections causing those other sections to be factored. The assessor's office needs to go back and remove the factor. Each parcel will be assigned its own value so that this will not happen again.

Last year there was an order from the State Property Tax Division to make parcels \$1,000 an acre in certain areas. Seven parcels in the Brigham Meadow's area, outside of Fillmore, did not get changed and was discovered during the state audit. These particular parcels need to be changed to the \$1,000 an acre to be in compliance with the state.

Commissioner Greathouse made a motion to approve all of the recommended amendments presented by Assessor Pat Manis.

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

Commission Greathouse made a motion to close the BOE.

Commissioner Whatcott SECONDED the motion. The voting was unanimous and the motion carried. The BOE ended at 2:26 p.m..

The commissioners discussed other business portions of the agenda.

Commissioner Whatcott made a motion to enter into a BOE.

Commissioner Greathouse SECONDED the motion. The voting was unanimous and the motion carried. The BOE began at 4:05 p.m..

Assessor Manis said the property value of Susan Duncan was lowered somehow and they are wanting to put the value back to where it was originally.

Commissioner Greathouse made a motion to put Susan Duncan's property value back to the original value.

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

Commissioner Whatcott made a motion to close the BOE.

Commissioner Greathouse SECONDED the motion. The voting was unanimous and the motion carried. The BOE ended at 4:06 p.m..

TREASURER'S REPORT

Treasurer Hansen presented a copy of the treasurer's collection and distribution for the month of June. Only those entities who have requested their funds received the distribution at that time.

The Revenue and Expense Detail Report for June indicates that the department line item "Unemployment" is over budget. Treasure Hansen felt some of the expenses should be transferred to the "Unemployment Trust" budget and that additional expenses for this year should come from that fund rather than the "General Fund Unemployment Department". The line item "TV" under the General Fund is also over budget. Dee Hollingshead had previously contacted the treasurer's office and indicated this line item would be over in order to improve the county's TV reception and equipment as a result of being able to obtain and use federal grant funds. In order to get these grants the money has to be used and then application for reimbursement made. As reimbursement is received additional projects are being completed and then being reimbursed. It is a good way to improve the county's TV reception but creates a budget problem.

Treasurer Hansen and Auditor Grace need to discuss the restricted funds for landfill because of the final payment being made. There is a balance in excess of the final debt payment. It is suggested that this be transferred to reserve for depreciation.

Treasurer Hansen said that a few items that need to be looked at in the future are the 911 fund in relation to expenditures as well as the tourism fund balance.

OTHER

WORK MEETING TO DISCUSS INSURANCE RENEWAL FOR 2011 - MIKEL SHARP

A work meeting was held to discuss insurance renewal rates for 2011. *A recording of the meeting*

in its entirety is available for review at the Clerk's Office.

POSSIBLE CLOSED MEETING PURSUANT TO UTAH CODE ANNOTATED SECTION 52-4-205 & 206

Commissioner Greathouse made a motion to go into a closed executive session to discuss the character, professional competence or physical or mental health of an individual.

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

After the closed executive session the regular meeting reconvened at 4:04 p.m..

Commissioner Greathouse made a motion to go into a closed executive session to discuss the character, professional competence or physical or mental health of an individual.

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

After the closed executive session the regular meeting reconvened at 5:25 p.m..

DISCUSSION AND POSSIBLE ACTION REGARDING MILLARD COUNTY'S PUBLIC DEFENDER'S CONTRACT

Commissioner Greathouse made a motion to terminate the Millard County's Public Defender's Contract based on unprofessional conduct and just cause. A letter will be sent which will spell out the provisions within 90 days.

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

Attorney Jim Slavens said that he feels like proper notice had not been given to terminate the contract. Attorney Waddingham said that there is not a specific notice requirement but the contract cannot be terminated until written notice is sent out stating the reasons for the termination. Commissioner Smith explained the provisions in the contract.

Mr. Slavens questioned how anyone can reasonably address issues on a criminal charge when a person has the right to remain silent. Attorney Waddingham said that the commission has the right in an administrative investigation to do due diligence, and review reports dealing with the incidences in which he was involved and provide him with such notice.

Mr. Slavens said that he really encourages the commission to take some time to consider this decision to make sure it is the best decision for the county.

Commissioner Smith said that as mentioned in the motion the termination was based on just cause and those reasons will be explained in the letter. The commission feels like they have spent quite a bit of time to try and make the best decision for the benefit of Millard County as a whole.

WHERE UPON THE MEETING ADJOURNED

Commissioner Whatcott made a motion to adjourn the meeting.
Commissioner Greathouse SECONDED the motion. The voting was unanimous and the meeting adjourned at 5:31 p.m..

Attest: _____

Approved: _____