

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 5th DAY OF OCTOBER 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: Brett Hadley Stanley Consultants - UDOT
W.Scott Jones UDOT
Travis Jensen. UDOT
Dean Draper Chronicle Progress
Cindy Gubler UNEV
Jerrell Bryon UNEV
Kevin Morris Millard County Maintenance
Sheryl Dekker Millard County
Joe Flynn Chamber President
Steve Frampton Steve's Tier & Oil Inc.
Wayne Jackson American Legion
Tony Fuller ADF Holding
Robert Dekker County Sheriff
Nathan, Kara, and Kristine Camp 4-H Extension
Darlene Scott and Sharol Young. 4-H Extension
Citizens Raymon G. Prows,
Ray Whitaker, Chad Imlay, Brandon Bartholomew, Craig Bartholomew, Dallas
Griffith, Jer'E Brinkerhoff, Melanie Slavens, Tony Dearden, Steve Maxfield,
Elwin Johnson, Bob Chevaller, Todd Macfarlane, Ferrell Hatch

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, Ronald Reagan. "Freedom is never more than one generation away from extinction. We didn't pass it to our children in the bloodstream. It must be fought for, protected, and handed on for them to do the same, or one day we will spend our sunset years telling our children and our children's children what it was once like in the United States where men were free." Commissioner Whatcott said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

RATIFY RESOLUTION 10-09-21 AS A ROLL CALL VOTE

Deputy Clerk Marki Rowley called for a roll call vote. Commissioner Whatcott voted YES. Commissioner Greathouse voted YES. Commissioner Smith voted YES. The voting was unanimous and the motion carried.

FILING OF DISCLOSURE STATEMENTS

Patrick Finlinson

RENEWAL OF THE RURAL PUBLIC LAND COUNTY COUNCIL (RPLCC) CONTRACT FOR THE SERVICES OF MR. BOB WEIDNER

Commissioner Smith explained the RPLCC contract is for the work being done on behalf of the county by Robert K. Weidner. Mr. Weidner lobbies for the county to receive PILT money and SRS money. Mr. Weidner does a good job and the commissioners feel like it is well worth the money spent. This contract is for a one year period in the amount of \$15,000.

Commissioner Greathouse made a motion to renew the RPLCC contract for the services of Mr. Robert K. Weidner.

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

HIGH RISK RURAL ROADS PROGRAM (HRRRP) - TRAVIS JENSEN, UDOT

Scott Jones, UDOT Safety Programs Engineer, Brett Hadley, Stanley Consultants, former UDOT employee, and Travis Jensen, UDOT Consultant Project Manager came before the commission to discuss the HRRRP.

The HRRRP started as a federal aid program in 2006. The purpose of the program was to specifically target rural roads and to reduce serious injury and fatal crashes on rural roads. Statistically over half of all fatal crashes in the United States occur in rural road environments. The goal of congress in creating this program was to push this finding down to and address the needs at a local rural level, opposed to the urban environment that often gets attention when it comes to crashes.

The way UDOT has chosen to administer the HRRRP involves addressing low cost safety improvement ie: warning signing, delineator post and other messages to the drivers indicating that they may run off the road. The program is eligible for any local county road paved or unpaved.

Mr. Jones gave examples of roads that need the safety warning signs as well as scenarios as to why the county would benefit from this program. Improvement types are construction and operation improvements on rural public roads.

Millard County is right in the middle of the counties being eligible for the program. Sanpete County and Wasatch County along with Millard County are not involved with the program yet.

Brett Hadley explained how the county will get involved with the program. Federal aid will cover 93.23% of the program the other 6.77% will be required as a funding match from the applying county.

The typical size of a safety improvement is around \$200,000 to \$300,000 with that amount the county match would be around \$15,000 to \$20,000. The county cannot use any other federal aid funding to pay its funding match.

If Millard County chooses to participate there will be field visits of the roads of Millard County's choosing. Millard County would control the scope of the program not UDOT. The projects are intended to be completed within a one year period. A second round of this program would later come in and help the county identify places where bearer and guard rails might make the roads safer.

Design review will consist of signing the co - operative agreement, funding match, field visits (identified by the county), design review, construction inspection assistance and ownership of improvements.

The county would own and have the responsibility to maintain the improvements when the project is all done. UDOT has hired WCEC as the consultant project manager over this project and will help shepherd project throughout the process and Stanley Consultants will provide design and construction oversight duties.

Process and timeline:

- County submits the HRRRP application (1mo)
- UDOT and the county sign a cooperative agreement (1-2 mo)
- The County identifies corridors/roads for inclusion in the program (1 mo)
- The Project team field visits to identify safety improvements (1mo)
- Design (3-4 mo)
- Contractor selected through UDOT advertising process (2-3 mo)
- Construction (1-2 mo)

Once the county applies for the program Travis Jensen will be the point person. UDOT has someone who will make sure that all the federal guidelines are being followed so the county will not lose its federal aid. UDOT will also be in control of the billing and construction process for the projects. Once the county has made the commitment the process goes very smoothly and UDOT will bill the county for the 6.77% funding match. The commissioners were assured that any county that

has participated in this program will report a positive experience.

The commission will discuss this issue further and will let Mr. Jensen know of its decision.

UPDATE ON SURVEY ISSUES - CONNIE HANSEN

Recorder Connie Hansen reported that Kerri Monroe, Jones and Demile, has been doing surveys by Cove Fort. The survey he is coming up with is not matching the corners that were set in 2006 or the corners that were set in 2009 by the BLM.

Recorder Hansen called Dale Robinson, Sunrise Engineering. He told her that he will go down with a crew to check out the differences in the surveys. He reported back that he is working with Mr. Monroe on this issue and he will also be getting with Jim Edwards to see how Mr. Edwards did the survey to see if the survey was up to code. Mr. Robinson will report back to Recorder Hansen by the end of today. Mr. Robinson did find that the corners were off by about 70' and that some of the county records were off as well. Mr. Robinson wants to find out why the figures are off by so much.

Recorder Hansen said that she has some extra funds in her budget to pay for this research.

PROPOSAL FOR THE FOLLOWING JANITORIAL CONTRACTS TO GO OUT FOR BID: FILLMORE AND DELTA SHERIFF'S POSSE BUILDINGS, THE DELTA COUNTY BUILDING AND THE COUNTY ROAD DEPARTMENT BUILDING

This item was tabled.

UNEV UPDATE - CINDY GUBLER

Gerald Brian and Cindy Gubler, UNEV, reported the following:

- Everything is going well. There are 5 different spreads working on the project.
- The origin station is pretty much completely built.
- The terminal site in Iron County is 98% built and North Las Vegas terminal site is right behind it.
- Dust control has been an issue in Juab County. They brought in a number of water tankers to try and control the dust.
- They have brought in some experts including the director of the Division of Air Quality from the State of Nevada who wrote the dust control laws.
- Gerald Brian is working on the construction process to reduce dust.
- The RV parks are full. Some of the guys from the crews have been renting rooms from some of the landowners.
- They will work with Derrel Owens to get him out on the right-of-way to take care of the building inspection.

Gerald Brian reported:

- The right-of-way clearing is too far ahead of the back end construction, so they shut the right-of-way clearing down until the back end can get caught up. This will help

eliminate some of the dust problem.

- They ordered some chemicals which have been approved by the BLM to put in with the water; one of them being magnesium chloride which is a form of salt.
- They are doing alright when it comes to the Schedule.
- They are investigating every avenue with dust control. They found that manure pumped through a machine to eliminate the odor and then put on the ground will help with dust control. Another idea is to inject water about 8 inches into the ground and then run a compactor over it. This too will help control the dust.

Trevor Townsend reported the following:

- They have been working with the land owners.
- There are eight land owners, two are on the North end and six are on the South end.
- Two sets of letters have been sent to each land owner.
- They have called the two land owners on the North end and as they get closer to the South they will call those land owners.
- They are working with BLM, State Lands, making sure their grazees and permittees are aware of what is going on.
- They are watching the water they are buying from Delta and Lynndyl. Everything seems to be going good with getting water to the right-of-way. It's just keeping it on the right-of-way that they are having a problem with.

- They want to keep a good relationship with the landowners and the county.
- Construction crews will be moving into Millard County by the end of next week.
- There are about 150 employees on each spread and that number will increase.
- UNEV will update the commission on the progress each meeting until they are finished in Millard County.

4-H TEEN COUNCIL - THANK YOU

Members from the 4-H brought a plate of goodies for the commission to thank them for the support they have given to the 4-H program.

TODD MACFARLANE TO DISCUSS COUNTY ORDINANCES

Mr. Macfarlane said that a couple of weeks ago he became aware of the claim that was filed against the county. He wanted to talk about principal and ask some questions.

He heard that the county was taking the position that the situation with the county attorney's office was subject to some kind of exemption. He looked at the county purchasing policy several times to see if anything in the county purchasing policy would exempt this situation from the policy. He could not find anything to explain this, so he asked the commission to explain the basis for any claimed exemption.

He said in light of everything he knows that there are two sides to every story. He feels like he and all the voters, tax payers and constituents of Millard County deserve to hear the other side of that story before the elections next month.

Mr. Macfarlane's question was, what is the basis for exemption for that contract from the purchasing policy.

Commissioner Smith tried to explain the commissions' side of the story but he was interrupted several time with the same question that he was trying to answer.

After much argument Commissioner Smith finally was able to say that because there has been a notice of claim and there may be some litigation that may be pending they want to answer the questions and respond to the claim. They will be responsible and will explain those things and if there is pending litigation they will answer those claims in that litigation.

Commissioner Smith said that the county commission meets every year to look at the budget and the services provided to the county. The commission sat down in 2007, as they do every year, and evaluated positions, service value and everything they do in the county.

In regards to the county attorney's office they always look at personnel and determine the best benefit at the lowest cost to the citizens. This is done every year on every department and line item.

In 2007 they talked about if the county really needed another county deputy attorney. Practice in the past was that there were always two deputy attorneys. The county attorney decided that his office would try to operate with only one deputy attorney.

Later, they decided that the need was there to have another deputy attorney. They discussed as a county commission that they did not want to hire a full-time deputy county attorney. After going through the policy they decided to contract out for a part-time deputy attorney and budgeted some money for the following year for the hiring of that contract.

The discussion came up every year with past and present commissioners as to what is the best value for the citizens. It keeps the integrity that is needed for certain services in the legal department of the county. They evaluate and look at building offices and hiring full time county employees.

Mr. Macfarlane questioned that every year the commission has done this process and he could go to the commission minutes and find where they have discussed specifically the \$5,000 for the attorney's office.

Commissioner Smith said that every departments budget is discussed in the budget process and every line item is available to the public for review. The commission gets together with the departments and discuss the budget several times before the tentative budget is presented.

Mr. Macfarlane said that he came here today with the understanding that the county was claiming that the situation was exempt from the purchasing policy. What he is hearing now is that the county is not claiming any exemption but that it is the county's position that the purchasing policy does apply to the policy and that the county has followed the policy in respect to that position.

Commissioner Smith said that they read the policy and feel that they did follow the policy and by the actions that they took they were covered.

After much more discussion Commissioner Smith said that he would visit with Mr. Macfarlane when the commissioners had more time.

FOLLOW UP WITH ADF HOLDINGS, LLC - TONY FULLER

Sheryl Dekker said that she read through the planning and zoning minutes and could see that in the Carling case Fillmore City was concerned with 24 hour a day crushing and came up with an

agreement to only allow crushing during regular business hours.

This was discussed with Mr. Fuller but he did not want to be restricted by this. He also did not want to have to go through the process of a zone change because his property was zoned as light industrial and didn't allow for a gravel pit at that time.

There were some strong oppositions to that gravel pit operation because it was planned for a period of time to be an industrial park for selling industrial lots. The concession with the planning commission at the time in lieu of going through a zone change, was for the county to ask for a bond.

Mr. Fuller thinks that they went through a process to re-zone the property. Ms. Dekker said that she thinks that all this was going on during the process when the zoning ordinances were being re-codified.

The Fullers could not get a surety bond at that time and still cannot get a surity bond so that is why they were required to pay the \$35,000 cash bond to the county. The current policy requires all gravel pits to put up a bond.

The Commission decided that since the new policy was not in place at the time the Fullers established their gravel pit the county would release the \$35,000 to the Fullers.

The CUP was issued by the Planning Commission, not the County Commission. This matter was sent back to the Planning Commission for reconsideration.

PUBLIC INPUT

Dean Draper, Chronicle Progress, discussed the water applications on the Sevier Lake dry bed. He said that Emerald Peak Mining has put in applications for possibly up to 400,000 acre feet of water. He expressed that if they are going to take that much water out of the aquifer it will become problematic. He is wondering if the county is poised to take action to object to this. Commissioner Greathouse explained that they will not actually have wells but will have drainage canals to get the drainage from the sub-service that they will pump into the solar ponds.

Ferrel Hatch said that his father's (Mark Hatch) property was taken off green belt which made his property taxes go considerably higher. Mr. Hatch didn't receive any notice that his father's property was off of green belt until the tax notice came out. His father is in the care center and by the time Mr. Hatch received the tax notices it was too late to appeal the amount.

Mr. Hatch spoke to Kathy Walker, the Commission Chair at that time, and she told him that they would not be able to make an adjustment because it was already appropriated, but maybe a tax credit would be possible the next year. He is asking the commission to consider a tax credit for his father's property since it was taken off green belt when it should not of been.

The commissioners will address his situation at the Board of Equalization. They will go through the process with the assessor's office and get back to Mr. Hatch.

OTHER BUSINESS

Clerk Norma Brunson informed the commission that the next commission meeting falls on November 2, 2010 which is the General Election, therefore, the commission will need to make

arrangements to have someone record the meeting.

Clerk Brunson presented the Delta City Law Enforcement Contract for the commission to sign. This contract was approved at a prior meeting. ****Need copy****

Kevin Morris, East Millard Recreation, said that he was approached by Rob Wingfield with Intermountain Sprint Car Series, LLC about possibly putting in a sprint race track at the fair grounds in Delta. His company is willing to put about \$1,000,000 in that facility with Millard County participating with some of the cost.

Mr. Wingfield is wanting to hold approximately 10-15 races a year at the Delta facilities, a couple being national races. They are willing to pay the county \$2,000 to \$3,000 per race. The company will groom the track from start to finish and will bring all the people to work the races, so when they are on site the county will not have to be there.

The estimated cost to the county for the concession and restrooms would be around \$30,000. Musical Lighting will donate all the lights and the polls. After 5 years the county will own all the property upgrades to the facility.

Mr. Morris said that there is an opportunity to bring barrel racing into the indoor arena. They looked at moving some bleachers to open up the area to make it more spacious for the races. Bob Maxwell who is Commissioner Greathouse's nephew is the one who is trying to promote the barrel races.

Commissioner Smith received a letter from Julie Peterson requesting an ambulance abatement for a portion of her father's life support bill. Commissioner Smith will research the bill and will bring it back to the next commission meeting.

APPROVAL OF SEPTEMBER 21, 2010 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held September 21, 2010, were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Whatcott made a motion to approve the minutes of September 21, 2010 as corrected.

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

AUDITOR'S REPORT

Auditor Grace presented the check edit of October 4, 2010 for the commissioners to review and sign. Commissioner Greathouse and Auditor Grace explained the check edit, which is the list of all the payables that are pending release until approved by the commission.

Auditor Grace received the invoice for the National Association of Counties (NACo) membership dues in the amount of \$400. Commissioner Whatcott explained what NACo does.

Auditor Grace said that Linda Gillmor contacted her regarding the grant that will fund the new ambulance building. Auditor Grace previously discussed with the commissioners not to budget anything new in 2010 and that all new funding will begin in 2011.

Ms. Gillmor would like to move forward with advertising for engineering services and wanted to amend the current budget to allow for that to take place this year.

Commissioner Smith said that they were waiting for the CDBG grant to be approved so the commissioners did not budget for the project to happen in 2010. The county has now been approved for the grant.

The county's commitment originally was about \$67,000 which would include the engineering. The commissioners will open the budget to amend the Capital Fund at the end of the year to proceed with the building of the ambulance building.

Auditor Grace said that there was an advertisement in the newspaper soliciting bids for the project associated with the Energy Efficiency Conservation Block Grant (EECBG) which is the project the East Maintenance is involved in for the heat pumps and electrical. The bid announcement stated that the opening would be today.

Auditor Grace opened the following bids:

Heat Pumps - Activity B		Electrical - Activity A
<u>ADC Plumbing Company</u>	<u>Anderson Heating & AC</u>	<u>Enterprise Electric</u>
\$24,153 - Activity B.	\$16,995 - Activity B	\$44,500 Electrical - Activity A

Commissioner Greathouse made a motion to accept the bids as opened and to submit the opened bids to the East Millard Maintenance Director Klint Penney for review before reporting the decision of who the bid was awarded to at the next commission meeting.

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

POSSIBLE APPROVAL OF HARDSHIP ABATEMENT APPLICATIONS

Auditor Grace presented a hardship abatement application for Stephanie Fredrickson for property account number 0123118 in the name of Astara May Properties, LLC. Ms. Fredrickson attached a letter documenting the hardship.

Auditor Grace will write a letter stating that the commission is requesting more information regarding this property before a decision will be made.

TREASURER'S REPORT

Treasurer Hansen presented the Treasurer's Report of finances received from property taxes collected for the month of September.

The treasurer's office issued the checks for the September collections. The Fire District and the Mosquito Abatement District did not receive funding because of the letter from the Utah State Auditor's office instructing the treasurer's office to hold funds pending the receipt of missing reports.

At the last commission meeting the commission made an agreement with Darla Haws to pay \$3,000 down and \$325 a month toward her delinquent property taxes and to have it paid off before the property tax notice comes out in 2011 and they would waive the penalties and interest. Ms. Haws made a payment of \$2,500 instead of the \$3,000 so Treasurer Hansen asked if she could continue with the same payment agreement. The commission said that as long as she pays off the amount due before the 2011 tax notice comes due she will not have to pay the penalties and interest.

Treasurer Hansen received a letter from Todd Wayne Turner regarding his claim that he should be removed from the tax rolls. Treasurer Hansen prepared a response and requested the attorney's approval. Pending the approval he will send the letter.

Treasurer Hansen said that in a previous meeting he discussed the possibility of using a positive pay program through Wells Fargo for accounts payable. The additional cost for this program for the accounts payable will be approximately \$85 to \$100 in addition to what the county is already paying. Wells Fargo agreed to offset that amount if the county would agree to increase its peg balance, which is the balance that the county cannot go below.

Zions Bank sent him a letter regarding the payroll account which states new regulations in which the county must comply. Treasurer Hansen feels like the county is being forced into the positive pay.

OTHER

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 12:56 p.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 2:15 p.m..

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

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

Present in the closed session were; Commissioners Bart Whatcott, Daron Smith, and Craig Greathouse, Attorney Richard Waddingham, Sheriff Robert Dekker, Clerk Norma Brunson and Deputy Clerk Marki Rowley

After the closed executive session the regular meeting reconvened at 2:30 p.m..

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

Commissioner Whatcott met with Marv Turner from the Division of Natural Resources (DNR) and Howard Allred, The State Fire Representative for Millard County and discussed the Twitchell Canyon Fire. Commissioner Whatcott reported:

- As of October 4, the fire has consumed 45,126 acres.
- The fire is 65% contained.
- It has a total of 579 firefighters, 11 - twenty person hand crews, 3 - heavy-lift, 1 - medium lift and 2 - light-lift helicopters helping with the firefighting efforts.
- Some forest service roads in that area still remain closed.
- There have been 31 injuries reported as a result of the firefighting efforts.
- An estimated containment date is yet to be determined.

Commissioner Whatcott attended a recreation meeting regarding the upcoming basketball season and discussed the availability of basketball courts and how to manage time and resources.

He has also been working with Deputy Teeple and the work crew on getting the concession stand painted at the baseball fields.

Commissioner Whatcott attended a meeting on September 29, with the Fillmore BLM Field Office regarding Magnum and the natural gas storage facility North of Delta.

Commissioner Whatcott, members of the Sand Rock Ridge Riders ATV club and Millard County Tourism hosted a hamburger Bar-B-Q for riders attending the Rocky Mountain ATV Jamboree. They served about 80 hamburgers.

The lunch was designed to promote the ATV Jamboree in Fillmore, UT. Information and brochures were handed out to each rider.

Commissioner Whatcott said that there was a horse race held in Fillmore, UT this past weekend and it was a very good event. People from other states come to participate. It was so well attended that the food vendors ran out of food.

Jer'E Brinkerhoff is working with the little britches rodeo folks who are looking at a holding a Little Britches Rodeo in Fillmore, UT next spring.

Commissioner Whatcott is meeting with Economic Development Corporation Utah (EDCU) tomorrow. They are coming down for a business opportunity and wanted to sit down with the commissioners. Commissioner Whatcott explained to them that the other commissioners have prior engagements. He will report back to the commissioners what he learns.

Commissioner Smith reported that the commission convened as a board of equalization from 8:30 a.m. to 2:30 p.m. on September 28, 2010.

Commissioner Smith attended the Central Utah Counseling Authority Board meeting in Richfield, Utah on September 29, 2010.

Commissioner Greathouse had nothing to report.

POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND OR ACTION

Commissioner Greathouse 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 2:46 p.m..

Assessor Pat Manis and Auditor Grace discussed the following properties with the commissioners:

- Mike Van's Motel
- Great Basin Historical Society
- Robert Frampton
- Oak Creek Investments
- Reid and Kristi Penney
- Ferrell Hatch and Mark Hatch

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 3:14 p.m..

Attorney Waddingham stated that he completely disagrees with what Mr. Macfarlane said earlier in the meeting.

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 3:15 p.m..

Attest: _____

Approved: _____