

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 17th DAY OF MAY 2011
AT THE COURTHOUSE, FILLMORE, UTAH

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

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

EXCUSED: James I. Withers. Commissioner

ALSO PRESENT: Cindy Gubler UNEV
Connie Hansen. Recorder
Pat Manis County Assessor
Treasurer Hansen County Treasurer
Brandy Grace County Auditor
Brian Harris First Wind
Dell Barnhurst US Forest Service

Note: Not all agenda items were followed in order.

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 Whatcott to the public and Commission members.

OPENING STATEMENTS

Commissioner Whatcott asked if anyone had an opening statement to give. Commissioner Whatcott read a quote from Thomas Jefferson: “The constitution of the United States is the result of the collected wisdom of our country”. Commissioner Smith said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

Commissioner Whatcott excused Commissioner Withers from today’s meeting. He is attending a dairymans’ convention.

DISCUSSION AND POSSIBLE APPROVAL OF A WEED BOARD MEMBER

This item was tabled

RATIFY THE APPROVAL OF THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN SMALL BUSINESS DEVELOPMENT CENTER & MILLARD COUNTY

Commissioner Smith made a motion to ratify the approval of the MOU between Small Business Development Center of Utah and Millard County.

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

MAGNUM GAS STORAGE CONSTRUCTION AND PROGRESS UPDATE

This item was tabled.

DISCUSSION AND POSSIBLE APPROVAL OF A PROPERTY TAX ABATEMENT FOR JEAN SMITH

Commissioner Whatcott said that he has talked to Auditor Grace and Assessor Manis regarding a tax abatement of Jean Smith's property. Assessor Manis reevaluated the property and based on that reevaluation he lowered the property value from \$67,000.00 to \$30,000.00.

Commissioner Whatcott talked to Ms. Smith about a possible property tax abatement. Later, he was informed by Auditor Grace that the county does not give tax abatements on property that is listed as secondary residences. Commissioner Whatcott was also informed that Ms. Smith is not the owner of the property.

At the last commission meeting, Ms. Smith requested to pay \$25.00 a month until the taxes were paid current. She stated that she is hoping to receive a settlement from her insurance company and when/if she receives that settlement she would pay the remaining balance.

Assessor Manis said the property was considered primary residential until 2008 and received a residential exemption. Assessor Manis said that Ms. Smith does not own the property but if she lived there the home could qualify as a rental property. He read a clause from the Standards of Practice, Utah Property Tax, under exemption, issued by the State Tax Commission regarding homes that are under construction.

He also said the code states that you may have an exemption if it is intended to be a primary residence during construction.

Commissioner Smith said that in the past the commission has given a few years for the completion of construction.

Commissioner Smith said that the property value has been dropped based on Assessor Manis' evaluation. Ms. Smith has indicated that she will pay \$25.00 a month until a potential settlement with her insurance is received.

Attorney Waddingham will send Ms. Smith a letter explaining that she may pay the \$25.00 a month, but if the balance is not paid in full before next year it will be put back on next year's tax

sale.

OTHER BUSINESS

Commissioner Smith said that he, Attorney Waddingham and Commissioner Withers met with the Conk Ditch Users Association (Association). There are some concerns regarding the potential of flooding down below the Conk Dam, which is below Deseret, as soon as Yuba starts letting water go. They talked with the lower Sevier River Commissioner and they decided to be proactive and go down and clear some of the tamaracks and open up a channel. At the Association's request and under its supervision, the road department went down and did some work there for about a week.

Attorney Waddingham prepared a Release, Indemnification and Hold Harmless Agreement (Agreement) between Millard County and the Association. The county has agreed to do the work at the request of the Association for the health, safety and welfare of the community because of the potential for flooding.

Commissioner Smith made a motion to sign the Agreement between Millard County and the Association.

Commissioner Whatcott stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. **need copy**

Commissioner Smith discussed a form to be used as part of the permitting process when someone gets an application that has to do with explosive material. They must have the form filled out by the legislative body stating that they approve the permit.

County Planner Sheryl Dekker created the form for the commission. Attorney Waddingham recommended some changes to the form.

UNEV CONSTRUCTION AND PROGRESS UPDATE

Cindy Gubler reported the following:

- There have been a few hiccups along the way, but overall the project is going well.
- They are shutdown in Nevada right now due to the tortoises in that area.
- They have biologists out on the right of way on a daily basis due to some issues with birds along the pipeline.
- They still have 9.4 miles of pipe to put in the ground in Millard County.
- There are crews working just off Highway 257 installing the pipe line.
- They are still doing some blasting which will continue until the middle of next week. When they are finished there, they will be moving South towards the Beaver County line.
- They are not having any dust issues even with the wind blowing. The BLM commented on how well maintained they have the dust issue.
- The cleanup and re-vegetation crews have caught up with the installation crews.
- They have been drilling the seeds in the ground about 1 to 2 inches and about 8

- inches apart. The crews are already starting to see the seeds grow.
- They are planting 11 different types of seed mixtures in the area.
 - Due to the cool weather and moisture, the BLM has extended the time frame for re-seeding this spring. If the weather becomes dry and hot they will have to come back in the fall to finish seeding.
 - They will be in the county for at least a few more weeks.
 - The projected end date is still anticipated to be Spring of 2011.

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

Commissioner Smith made a motion to go into a closed executive session to discuss pending litigation.

Commissioner Whatcott stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. Present in the closed session were: Commissioners Bart Whatcott and Daron Smith, Attorney Rich Waddingham, Clerk Norma Brunson, Deputy Clerk Marki Rowley, Auditor Brandy Grace, Treasurer John Hansen, Assessor Pat Manis and Recorder Connie Hansen.

After the closed executive session the regular meeting reconvened at 11:18 a.m..

DISCUSSION AND POSSIBLE APPROVAL OF PURCHASING BUCKING CHUTES - KEVIN MORRIS

This item was tabled.

DISCUSSION AND POSSIBLE APPROVAL OF AN AMBULANCE ABATEMENT APPLICATION - LINDSAY MITCHELL

This item was tabled.

OTHER

Russell Olsen, with the firm Larsen and Rosenburger said that they will be in Millard County working on the annual financial statement audit for the county until Thursday. He said that if the commission has any concerns or have anything that they want looked at over and above the ordinary procedures to let them know.

CONSIDERATION AND POSSIBLE ADOPTION OF RESOLUTION 11-05-17, A RESOLUTION OF THE MILLARD COUNTY COMMISSION AMENDING RESOLUTION 11-04-19, WHICH AMENDED THE MILLARD COUNTY POLICIES AND PROCEDURES MANUAL BY ADOPTING A NEW MILLARD COUNTY STEP AND GRADE PLAN TO INCLUDE PART-TIME EMPLOYEES, SEASONAL EMPLOYEES, ELECTED OFFICIALS AND THEIR CHIEF DEPUTIES

Commissioner Smith said that Commissioner Withers asked that this item be tabled until he could be present. Commissioner Smith said that there has been some discussion on what was adopted at the last commission meeting. There were questions regarding attachment C to the resolution. The proposal was not implemented or funded and the new resolution will state that it will not become effective until it is funded. They are still taking comments regarding the resolution.

Commissioner Whatcott discussed the concern regarding the fee for the lifeguard class. They also discussed the concerns with the commissioners being paid different amounts over a time period. In every other county the row officials are paid the same, with the exception of the Sheriff and the Attorney. Therefore, the commissioners should be paid the same as well.

They also discussed the effect on the filing fee if elected officials in the same office are being paid different amounts.

Commissioner Smith made a motion to table the adoption of Resolution 11-05-17, a resolution of the Millard County Commission amending Resolution 11-04-19, which amended the Millard County Policies and Procedures Manual by adopting a new Millard County Step and Grade plan to include part-time employees, seasonal employees, elected officials and their chief deputies.

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

DISCUSSION AND POSSIBLE DECISION ON THE INVOICE OF INTERMOUNTAIN HEALTH CARE (IHC)

This item was tabled.

CONSIDERATION AND POSSIBLE ADOPTION OF RESOLUTION 11-05-17A, A RESOLUTION OF THE MILLARD COUNTY COMMISSION AMENDING SCHEDULES 2A AND 2B OF THE MILLARD COUNTY FACILITIES USE AND RENTAL POLICY TO INCREASE STALL FEES AT THE MILLARD COUNTY FAIRGROUNDS AND EQUESTRIAN PARK

Commissioner Smith made a motion to adopt Resolution 11-05-17A, a resolution of the Millard County Commission amending schedules 2A and 2B of the Millard County facilities use and rental policy to increase stall fees at the Millard County fairgrounds and equestrian park.

Commissioner Whatcott stepped from the chair and SECONDED the motion. Clerk Brunson called for a roll call vote. Commissioner Smith voted YES. Commissioner Whatcott voted YES. The voting was unanimous by those present and the motion carried by majority vote of the commission.

OTHER BUSINESS CONTINUED

Commissioner Smith met with Mayor Bunker on May 9, 2011. He and Clerk Brunson received a letter from Delta City that states that Delta City is exercising the option to terminate the Interlocal Agreement for building inspection services between Delta City and Millard County. The termination agreement will take effect on August 8, 2011.

Darrell Owens, County Building Inspector, is finishing the inspections with Delta City. He

will continue to do inspections through the term of the contract.

Commissioner Smith made a motion to appoint Tanya Stephensen as the new Miss Millard Pageant Director.

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

Commissioner Whatcott said that he has some road project agreements for the county to sign. He made some small detail changes to the agreement. He talked with the Forest Service and informed them that they would need to sign them as well.

Dawson GeoPhysical company wants to do some seismic testing across Millard County. They are coordinating with land owners and are requesting permission to cut across an 80 acre parcel of county land.

Commissioner Whatcott will inform Dawson GeoPhysical Company that Millard County will prepare a hold harmless agreement.

Commissioner Whatcott said that he has some issues with the contract with Otis Elevator Company. He presented a bill in the amount of \$5,267.33. It was discussed that Attorney Waddingham will review the contract and the commission will then decide whether to renew the contract.

Clerk Brunson informed the commission that Fillmore City sent a public notice to the boundary committee and the county commission/county clerk informing them that an annexation has been filed.

The commissioners discussed the TRCC tax lawsuit with Utah County. The law firm representing Utah County sent a letter to all county officials asking them to join in the litigation since it would affect all counties. After discussing this matter, the commissioners directed Attorney Waddingham to send a letter to the firm representing Utah County acknowledging that Millard County will join the TRCC tax lawsuit.

Commissioner Smith made a motion to recess for lunch.

Commissioner Whatcott stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. The meeting recessed at 12:10 p.m..

NOON LUNCH BREAK

Commissioner Smith made a motion to reconvene the meeting.

Commissioner Whatcott stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. The meeting reconvened at 1:38 p.m..

PUBLIC INPUT

There was none.

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

Commissioner Smith reported that he attended the Natural Behavior Network Conference in San Diego, CA. He thought it was a very beneficial conference. Bill Clinton was one of the keynote speakers. He discussed his version of health care reform and the efficiency of non governmental organization opposed to government agencies.

One of the other keynote speakers talked about how functioning committees or leadership groups should function. There should be conflict and disagreement and open discussion in everything that the executive committee does, which is healthy and natural in a professional setting.

They talked about the services that need to be provided to people who suffer from a substance abuse or mental health problem.

Commissioner Smith reported that the Rock Crawl was held in Delta, Thursday, Friday and Saturday. There was a really good turn out and it seems to get bigger and bigger every year. He appreciates Kevin Morris and the guys who put the Rock Crawl on. It is a big positive for the community and brings revenue to the county.

Commissioner Smith attended the school district public meeting in Delta regarding the upcoming Bond Election. He asked how much capital money they had and how much of their own capital money they were going to spend. They are going to spend five million dollars of their own capital money to furnish the building. The bond will be used to build the buildings. The new building in Delta will be around 80,000 square feet. There were about 30 people who attended that meeting. There will be several hearings held throughout the county. Commissioner Smith encourages everyone to attend one of those public meetings.

Commissioner Smith attended a meeting with the State Tax Commission Centrally Assessed Division along with the other elected officials.

Commissioner Whatcott attended the open house hosted by Sevier County and presented by the Fishlake National Forest. They discussed their burn policy and managing forest fires on the Fishlake National Forest.

Commissioner Whatcott attended a meeting at the State Tax Commission in Salt Lake City, Utah along with Commissioners Jim Withers and Daron Smith. They discussed the taxable value of Milford Wind.

Commissioner Whatcott attended the West Desert hearing in Reno, Nevada. They discussed the time frame for the case, which case will be presented first, start dates, what will be allowed and not allowed, tentative closing argument dates and ruling dates. Millard County will present its case on October 31, 2011.

Commissioner Whatcott attended the Six County Association of Governments (AOG) meeting in Richfield, Utah. They reviewed their year end budget figures. They received congressional briefs from the senators and congressmans' staff and reviewed different projects on forest service properties and private lands.

Interior Secretary Ken Salazar's Order 3310 is still a hot issue for Six County AOG. They discussed how it affects our county economics. They also discussed the declining fund balance to operate on.

Senator Hatch reported that Senator Durbin from Illinois and Congressman Hinchey from New York will introduce their "Redrock Wilderness Bill".

APPROVAL OF APRIL 19, 2011 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held April 19, 2011 were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Smith made a motion to approve the minutes of April 19, 2011, as corrected.

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

COORDINATION MEETING WITH US FOREST SERVICE AND THE BOARD OF MILLARD COUNTY COMMISSIONERS TO DISCUSS CURRENT PROJECTS, FUTURE PROJECTS AND TRAVEL PLANS

Dell Barnhurst, US Forest Service District Ranger, reported that there are not very many gates opened due to the late spring. They are hoping to have Chalk Creek Road opened up this week. There was a lot of rock that came down the mountains this spring, so they are trying to get that all cleared up. They are planning to rottomill the Chalk Creek road this year.

Mr. Barnhurst said that a culvert has been washed out around both sides of Second Creek road to Clear Creek road. That culvert will need to be reset before the road can be opened.

There are two big mud holes by Pavant Ranger Station and Three Creeks. They need to bring some rock and equipment in to fix the holes.

Commissioner Whatcott said that is one of the main routes for the ATVs. Mr. Barnhurst said that he is hoping to get the equipment in to fix those roads within the next few weeks. They will get those roads open as soon as they can.

Mr. Barnhurst said that they are late bringing on cattle this year because they have not had grass growing this year. Hopefully by the middle of June they will be all caught up.

Commissioner Whatcott said that they will coordinate with the folks herding cattle so they do not interfere with the ATV Jamboree.

They have had several permittees who have applied for and received the straight GIP Grazing Permit Grants. The permittees apply to the State for improvements on their allotments. The US Forest Service signs as a cooperator. The permittees get the money and the US Forest Service

contributes the material on the allotment. The state pays for part of the materials and equipment if it is needed.

Mr. Barnhurst said that they applied for RAC money and received \$26,000.00 for Scotch Thistle control in the Cove Fort area. They did a weed day with the high school yesterday. They will buy a lot of chemical and have their crews work with BLM and the private land owners to treat the Scotch Thistle.

Mr. Barnhurst presented handouts from some fire meetings they held. The handouts show the decision process they go through if there is a fire started.

The Forest Service uses risk analysis management to keep the fire at the smallest size possible. They discuss the possible risks and the objectives for the fire. They continue to examine those objectives and try to do the appropriate management of the fire. They will be using this process on any fire that they have. One of the main objectives will be to keep the fires off of private lands. They will be looking at risks to firefighters and any opportunity to contain the fire the best they can.

They will not be doing very much burning this year. They are planning on doing some of the slash, east of Cove Fort, knocking some of the Junipers down and possibly burn what has been knocked down. They are trying to get a fuel person hired, when they get them on board they will try to finish up Nepa. They are wanting to do some burning on the Pioneer, Sweet Water Ridge and Wild Goose, but not for about a year.

The forest plan for the Fishlake revision was never completed. They did complete the EIS and implemented the travel plan. Right now they are going through a process with the travel plan that needs to be completed by December. They have identified any problems or mistakes with that plan.

The Commissioners reviewed a map of the Forest Service travel plan.

AUDITOR'S REPORT

Auditor Grace presented the check edit of May 17, 2011 for the commissioners to review and sign.

Auditor Grace received a cell phone allowance agreement from the Sheriff's Office for Zachary Richmond.

Auditor Grace received the Utah Retirement Systems Certification forms that requests the county identify its 401K contributions and certify its rates. It has to be sent back by June 16, 2011. This item will be brought back on June 7, 2011.

POSSIBLE APPROVAL OF HARDSHIP ABATEMENT APPLICATIONS

There were none.

TREASURER'S REPORT

Treasurer Hansen received the third quarter allocation on mineral lease money from the State in the amount of \$56,646.67, which is more than he anticipated it would be, based on the other quarters.

Treasurer Hansen discussed leaving United States of America parcels belonging to David Williams and Lake Enchantment parcels on the tax sale and removing Jean Smith's property and James Heath's property from the tax sale. They also discussed a piece of property in Meadow Town's name and property owned by the Andersons; property owned by the Fullmers; and property owned by the Turners; all of which will stay on the tax sale list.

POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND OR ACTION

Assessor Manis said that Mary Herbert's mobile home had a water leak. The sub-flooring in both bathrooms and the water pipes need to be replaced. He wanted to recommend that the commission lower the value of the home from \$7,935.00 to \$4,435.00. He said that it is going to cost around \$3,500.00 to fix the problems.

Commissioner Smith made a motion to enter into a BOE.

Commissioner Whatcott stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. The BOE began at 3:09 p.m..

Assessor Manis suggested that Mary Herbert's home value be reduced from \$7,935.00 to \$4,435.00 due to massive damage to the mobile home.

Commission Smith made a motion to reduce the property value of Mary Herbert's mobile home, account number B008217, from \$7,935.00 to \$4,435.00.

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

Commission Smith made a motion to close the BOE.

Commissioner Whatcott stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. The BOE ended at 3:11 p.m..

MILFORD WIND CONSTRUCTION AND PROGRESS UPDATE

Brian Harris reported the following:

- Milford Wind Phase II project went commercial on May 2, 2011. This means they started selling power to the purchaser.
- There are still some clean up projects going on, but other than that the project is essentially complete.

- The private roads and the one county road they accessed have been maintained and will be put back to the state they were in before the project started.
- There will be a ribbon cutting ceremony sometime in June.

APPROVAL OF MAY 3, 2011 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held May 3, 2011 were presented for consideration and approval. Commissioner Smith made a motion to approve the minutes of May 3, 2011, as presented.

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

OTHER CONTINUED

The Commissioners discussed the status of the court house upgrades; the restrooms on the main floor are complete and are very nice. The parking lot is finished and they are working on the back steps and will be doing the front part of the building hopefully soon.

Commissioner Smith questioned the status of the window being installed in the courthouse. Commissioner Whatcott said that he would talk to Klint Penney, East Millard Maintenance Supervisor, to see where they are with that.

Commissioner Smith made a motion to adjourn the meeting.

Commissioner Whatcott stepped from the chair and SECONDED the motion. The voting was unanimous and the meeting adjourned at 3:19 p.m..

Commissioner Smith made a motion to reconvene the meeting for the purpose of going into a closed session to discuss pending litigation.

Commissioner Whatcott stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. The meeting reconvened at 3:20 p.m..

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

Commissioner Smith made a motion to go into a closed executive session to discuss pending litigation.

Commissioner Whatcott stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. Present in the closed session were: Commissioners Bart Whatcott and Daron Smith, Clerk Norma Brunson, Deputy Clerk Marki Rowley, Auditor Brandy Grace, Treasurer John Hansen, Assessor Pat Manis and Brian Harris. Excused was Attorney Richard Waddingham and Commissioner James I. Withers.

After the closed executive session the regular meeting reconvened at 4:51 pm..

WHERE UPON THE MEETING ADJOURNED

Commissioner Smith made a motion to adjourn the meeting.

Commissioner Whatcott stepped from the chair and SECONDED the motion. The voting was unanimous and the meeting adjourned at 4:54 p.m..

Attest: _____

Approved: _____