

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 3rd DAY OF APRIL 2012
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: James I. Withers..... Chairperson
Bart A. Whatcott. Commissioner
Daron P. Smith..... Commissioner

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

ALSO PRESENT: Bruce Parker PDS
Bryan Harris First Wind
Sheryl Dekker. Planning and Zoning
Tim Carling & Chris Carling..... Carling & Company
Skyler Davies & Zane Pentz Sunrise Engineering
Lynn Mansfield Recorder's Office
Lisa Crosland Fillmore City
Brandy Grace..... County Auditor
John Hansen County Treasurer

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 Withers to the public and Commission members.

OPENING STATEMENTS

Commissioner Withers asked if anyone had an opening statement to give. Commissioner Smith read a quote from Thomas Jefferson: "I sincerely wish that the whole union may accommodate the interests of each other. That the wealth and strength of any one part should be viewed as a wealth and strength of the whole." Commissioner Whatcott said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF MARCH 20, 2012 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held March 20, 2012 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Whatcott made a motion to approve the minutes of March 20, 2012, as corrected.

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

AUDITOR'S REPORT

Auditor Grace presented an invoice from Panaramaland RC&D in the amount of \$100.00 for approval.

The commission would like to look into what this amount is used for before approving the payment.

Auditor Grace said that they became aware of some details regarding the transfer of funds from the John Hancock 401K fund to Trans America. There are some contracts that need to be signed by a trustee to set that up. It was suggested that one of the commissioners become a trustee for that plan. There are currently three trustees: GeorgeAnn Probert, Richard Beckstrand and Connie Hansen. Commissioner Whatcott said that he would be willing to serve as a trustee.

Commissioner Smith made a motion to appoint Commissioner Whatcott as a trustee for the Millard County 401K plan for Trans America.

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

POSSIBLE APPROVAL OF HARDSHIP ABATEMENT APPLICATIONS

There was none.

POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND OR ACTION

There was none.

TREASURER'S REPORT

Treasurer Hansen presented the property tax collections received and distributed by the County Treasurer's Office for the month of March.

Treasurer Hansen presented and explained a report regarding the values for all the different taxing entities and the collections and distribution made to those taxing entities through the year (referred to as the TC750 report). He said that this report to the State Tax Commission is due by the end of March.

Treasurer Hansen discussed Davis Freight who has been in bankruptcy since 2003. He said

it does not appear that Millard County is being included in that bankruptcy. He questioned if the county could petition the court to take that property and sell it. Attorney Waddingham said that he will follow up on this.

OTHER

DISCUSSION AND POSSIBLE APPROVAL TO APPOINT THAYNE DRAPER TO SERVE ON THE DESERET/OASIS WATER SPECIAL SERVICE DISTRICT BOARD

Commissioner Smith said that he was contacted by Dallas Anderson who told him that they will need to fill a vacancy on the Board. He suggested Thayne Draper to fill the vacancy.

Commissioner Smith made a motion to appoint Thayne Draper to serve on the Deseret/Oasis Water Special Service District Board.

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

The commission discussed sending a letter to the Special Service District to inform them that they would need to be reappointed from time to time. Attorney Waddingham will find out how often they will need to be reappointed and will send them a letter.

DISCUSSION AND POSSIBLE APPROVAL TO APPOINT BRETT BUNKER TO THE WEED BOARD

Commissioner Withers had a meeting with the Weed Board. They will have a vacancy coming up. Commissioner Withers spoke to Brett Bunker who indicated that he would be willing to fill that vacancy.

Commissioner Whatcott made a motion to appoint Brett Bunker to the Weed Board.

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

REVIEW OF THE ENVIRONMENTAL ASSESSMENT REPORT FOR MILFORD WIND PHASE III - BRIAN HARRIS

Brian Harris, First Wind, gave a brief update on Phase III of the First Wind project:

- They are still finishing up the final permitting process.
- They missed the deadline in 2011 for the Federal Tax Grant. They were making good time but were unable to get the power purchase agreement in place by the end of last year.
- The environment for the project has slowed down.
- The federal tax credit expires this year so they will have to have the project completed this year to qualify for the credit. They are hoping it will be extended but

it does not look like that will happen.

- They are hoping to get started the end of this year or next spring.
- They may be coming back for an extension or a renewal of the Conditional Use Permit (CUP).

Mr. Harris said that one of First Wind's conditions was to have the environmental report approved by the commission. He presented the commission with a document similar to the environmental impact study. He said that a lot of time and effort has gone into this report as well as a lot of studies and surveys.

Mr. Harris said that Bruce Parker, Planning Consultant, has taken a lot of time to review the report and he has provided a lot of good comments and feedback to make this a great report.

He said that he will get reports in final format to the county for filing.

Mr. Parker said that the county approved a CUP for Milford Wind Phase III on November 15, 2011. One of the conditions included in that approval was for them to include an environmental assessment report.

Mr. Parker said that Phase I and Phase II was located on federal land which not only required permitting by the county but also a level of review by the BLM, which triggered the NEPA process and the federal government permitting process required an environmental assessment report.

He said that Phase III is on private land so the federal agency will not be involved. They asked to be allowed to provide assessments on environmental issues to allow Milford Wind to show and demonstrate clarity and addressing environmental issues. This will help the county to evaluate the project as well as for Milford Wind to demonstrate the requirement for the environmental review to the purchasers in California .

Mr. Parker has worked with Milford Wind over the past few months to ensure the document is responsive to the environmental issues to Millard County and he feels that it does. Mr. Parker recommends the commission accept this document as part of Milford Wind's check for the CUP condition #4.

Commissioner Smith asked if Milford Wind did a reevaluation of the birds on the Phase III site. Mr. Harris said that they have done multiple evaluations.

Commissioner Whatcott asked if the nesting birds would cause an issue on this phase. Mr. Parker said that it should not cause an issue and that was included in the report as well.

Mr. Harris said that they are in the process of completing an Avian Bat Protection Plan to address all of the bird and bat issues. He said the biggest concern is the eagles.

Commissioner Whatcott made a motion to accept the final environmental assessment report, dated March 2012, provided by Milford Wind Corridor Phase III, LLC, as required by approval Condition #4, Application #Z-2011-018, CUP - Wind Energy System (Major).

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

Commissioner Smith clarified that the CUP was for a term of one year and that the

commission can do an extension for up to a year. Mr. Parker said that they need to look at the provisions of the CUP because he thinks that it did speak to that issue. Mr. Harris said that it was for 6 months and the commission made it for one year.

OTHER BUSINESS

Commissioner Smith said at a mental health meeting on Wednesday that he asked the Board about the desire to construct a building in the county. He was informed that the Board is no longer pursuing a new building because they are not sure where the federal funding stands.

Commissioner Whatcott said that they are waiting for IHC to get back with Bruce Costa regarding the Public Health Department in Delta moving into a new office.

He said that something needs to be done as far as a better office for the Public Health Department in Fillmore.

Commissioner Smith said that Todd Mullen, Golf Pro, has advertised and hired Austin Fowles and Garret Spence to fill the summer positions.

Commissioner Whatcott presented a letter from Mark Cram with Siemens Industries. The letter explained the intent to proceed with the lighting and heating savings to the county's utility costs. He gave the letter to Attorney Waddingham to review. The commissioners would like to look at the savings that came from the equipment already installed in Fillmore to see what the actual savings have been. This will then be discussed further at a later commission meeting. If the county continues with this contract there will be a fee associated.

Commissioner Withers said that the Hinckley Lions Club requested that the county waive some of the rental fee for the portable bleachers.

Commissioner Smith said that he talked to Kevin Morris and is pretty comfortable in making the Hinckley Lions Club only pay for the seats that they sell. He said that the people who are paying for those seats will help the county recover some of the costs.

The commissioners said that the Hinckley Lions Club only pays for the rental fee for the building and the cost of renting the portable bleachers.

This item will be brought back to the next commission meeting for a possible decision.

Attorney Waddingham said that he was contacted by the Juab County Attorney regarding a public hearing on a boundary change affecting Millard and Juab Counties.

Commissioner Smith said that Recorder Connie Hansen and Juab County's Recorder have been talking about the boundary.

Commissioner Whatcott said that they have talked about having two public hearings; one in Juab County and one in Millard County. They are wanting to get the boundary line squared up so that it is easy for accountability.

Attorney Waddingham said that the statute requires a public hearing but he likes the idea of having two separate public hearings.

Commissioner Withers will call Recorder Hansen to see where she is at with this.

Commissioner Smith asked if the agreement with PM Promotions was complete. Attorney Waddingham said that it is complete. He gave two originals to Kevin Morris to send to PM Promotions and PM Promotions should send an original back to the county.

Auditor Grace said that the final tax sale is scheduled for May 24, 2012, at 10:00 a.m.. The listing is available on the county website. The recorder's office is going to print off the plat maps so the commissioners can review those properties.

Sheryl Dekker, County Planner, explained that in 2005 Carling & Company received a CUP from Millard County to operate a gravel crushing operation. Included with that was an agreement with Fillmore City requiring that they have a 660 foot buffer zone and the hours limited from 6:00 a.m. to 6:00 p.m..

Carling & Company came back to Millard County and to Fillmore City because they have an opportunity to provide gravel and have a crushing operation for a highway project. They would need to have a reduction in the buffer zone and a change in the hours of operation. They went before the Planning Commission and asked to change the buffer zone from 650 feet to 20 feet.

Carling & Company has a new agreement with Fillmore City to change the hours of operation from 6:00 a.m. to 9:00 p.m..

The Planning and Zoning Commission forwarded a favorable recommendation. Attorney Waddingham said originally the CUP incorporated the old agreement so the CUP also needs to be amended to include the new agreement.

Commissioner Smith said that during the original application Fillmore City was the only one that made comment.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON APPLICATION #Z-2005-002 TO AMEND AN EXISTING CUP FOR A LARGE SCALE SAND & GRAVEL QUARRY PROPOSED BY CARLING & COMPANY - APPLICANT. THE APPLICATION IS FOR PROPERTY LOCATED WEST OF OLD FARM ROAD AND NORTH OF HIGHWAY 100, WHERE THE TWO ROADS INTERSECT AND MORE SPECIFICALLY DESCRIBED AS: THE NW 1/4 OF THE SW 1/4 & THE W 1/2 OF THE SE 1/4 & THE E 1/2 OF THE SW 1/4 OF SEC 18, T21S, R4W, SLB&M. 189.435 ACRES

Commissioner Whatcott made a motion to enter into a public hearing for the purpose of receiving public comment on application #Z-2005-002 to amend an existing CUP for a large scale sand & gravel quarry proposed by Carling & Company - applicant. The application is for property located west of Old Farm Road and north of Highway 100, where the two roads intersect and more specifically described as: the NW 1/4 of the SW 1/4 & the W 1/2 of the SE 1/4 & the E 1/2 of the SW 1/4 of Sec 18, T21S, R4W, SLB&M. 189.435 acres.

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

Present were: Sheryl Dekker, Treasurer Hansen Auditor Grace, Lisa Crosland, Tim Carling Chris Carling and Dean Draper.

Commissioner Withers called the public hearing to order at 11:01 a.m..

Tim Carling said that they sent the aerial map to all the commissioners. Their crusher operation is small but they would like to have the buffer lifted for the bigger project.

Attorney Waddingham said that one of the points of discussion at the planning commission was that they will only be using the state road. Mr. Carling said that with the private operation they use the county roads, but the bigger operations will not have to use the county roads.

Ms. Dekker said that one of the conditions in the agreement between Fillmore City and Carling & Company is that any crusher activity used in the gravel operation should be located in the north/west corner of an existing gravel pit located at that site.

Commissioner Smith said that the reason Fillmore City wanted the buffer zone in place and have the crusher activity located on the north/west side was so that they did not have dust coming across. That agreement was only between Fillmore City and Carling & Company.

There were no other comments made.

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

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at 11:04 a.m..

The regular meeting reconvened.

DISCUSSION AND POSSIBLE APPROVAL OF A CUP AMENDMENT TO A CUP FOR A LARGE SCALE SAND AND GRAVEL QUARRY, APPLICATION #Z-2005-002 - CARLING & COMPANY, APPLICANT

Commissioner Smith made a motion to approve an amendment to a CUP for a large scale and gravel quarry, application #Z-2005-002 - Carling & Company, based on a favorable recommendation from the Millard County Planning and Zoning Commission, and a new agreement that was entered into with Fillmore City and Carling & Company. Fillmore City was an original party of interest in the original CUP.

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

PUBLIC INPUT

There was none.

Commissioner Smith made a motion to recess for 10 minutes.

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

Commissioner Smith made a motion to reconvene the meeting.

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

DISCUSSION REGARDING CLOSURE COSTS FOR THE MILLARD COUNTY LANDFILL

Commissioner Withers said that the county has some questions concerning a recent estimate that Sunrise Engineering provided to the county to close the landfill.

Zane Pentz said that there are two parts of that estimate; one was closure costs and the other was post closure costs. He said that from what he saw the closure cost they came up with was pretty close to the cost posted on the website. Ms. Dekker said that the estimate on the website included inflation since 1986.

Mr. Pentz said that the state requires that the post closure costs be prorated over thirty years. The amount posted on the website for post closure costs was more than likely for only one year.

Skyler Davis explained what was needed to be done with post closure of the landfill.

Commissioner Withers asked if the county would need to have a bond for the amount of the post closure costs for the next thirty years? Mr. Davies said that is what he understands due to circumstances such as if the county were to go bankrupt it would cover the costs for a third party to come in and maintain the closure.

Mr. Davies read from the Utah Division of Solid Waste Management Program, titled "Post Closure".

The total cost estimate made by Sunrise Engineering was \$1,073,368.00. A recent change in the law requires an engineer study be done every 10 years.

Ms. Dekker said that the permit has been in process for over a year and before it was a three month process. The old permit does not expire until the new one is in effect.

The expected life of the landfill is sixty plus years. The county has 160 acres it can use for landfill. Eighty of those acres are permitted and is what the county is currently using. The estimate is only based on the 80 acres currently being used.

The county is closing each trench as it goes and contouring to the original engineering. When the county finally closes the landfill and is not going to use it anymore the post closure costs will kick in.

The commission discussed the penalty for not complying with the financial obligation. They discussed the amount needed to be put away for the closure and post closure costs. Auditor Grace read an email from Matt Sullivan regarding the cost estimates and permit requirements.

Treasurer Hansen discussed Vector's closure costs and post closure costs and said that they said that if the county closes as it goes then the costs were adjusted and changed dramatically. He said suddenly it appears that all of the things the county did to determine the amount required to be held in reserve are no longer being considered and that they are looking at the total costs of closure and post closure instead of considering all of the ongoing costs the county is taking care of as part of its normal operations.

Commissioner Withers said that it seems like this will cost the county a lot of money that is unnecessary.

Commissioner Withers asked if Ms. Dekker would contact Vector to see if they have the

original file estimate and to update this at the next commission meeting.

OTHER BUSINESS CONTINUED

Commissioner Whatcott said that he met with Recorder Hansen and she informed him that she has been working with Juab County to straighten up the county boundary lines. Commissioner Whatcott presented a map with the boundary lines that they are looking to change. He went over the map with the commissioners.

Lynn Mansfield, Deputy Recorder, said that this is a proposed description. The surveyor is double checking it to confirm that what they are seeing is correct.

Ms. Mansfield said that Recorder Hansen does not want to rush into this, she wants to be able to get the letters sent out first.

Attorney Waddingham suggested to shrink a map and send it with the letters to give an idea as to where the boundary lines are located. He also said to make sure there is enough lead time to post everything. There will be two public hearings held; one in Millard County and one in Juab County.

The commission will look into this further and will get back to the recorder's office. The commission then discussed possibly holding a meeting in Scipio as well since some of the property that may be affected by the boundary change is owned by Scipio residents.

Commissioner Smith discussed the possibility of Millard County filing another protest with the Nevada State Engineer's ruling in Spring Valley. Dean Baker called Commissioner Whatcott this morning and informed him that the deadline to file a protest is a little over two weeks away. The county protested the applications and now you can protest the actual decision so that the state engineer's decision can be appealed.

Attorney Waddingham said that the county will have to utilize the Nevada counsel it retained. He will give Mark Ward a call and see what his thoughts are.

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

Present in the closed session were: Clerk Norma Brunson, Commissioner Daron Smith, Commissioner James Withers, Commissioner Bart Whatcott, Attorney Richard Waddingham and Deputy Clerk Marki Rowley.

After the closed executive session the regular meeting reconvened at 12:19 p.m..

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

The commission discussed the Siemens Industry contract.

Attorney Waddingham discussed a contract with the Forest Service for the law enforcement annual operating plans. He said that Pat Fordham with the Forest Service has changed the contracts and will be resending them.

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

Attorney Waddingham said that he posted all the notices regarding SITLA's petition to vacate certain county roads.

Commissioner Smith attended a mental health meeting last Wednesday. There is a new requirement where they have to report mental health services that are being provided in the county jail to the State Mental Health office. They have asked to have the Sheriff present when they do their annual meeting so they can get some data on what services are provided. He spoke to the Sheriff and he said that would not be a problem.

Commissioner Smith will be attending the Annual Behavioral Conference with Central Utah Counseling in Chicago on April 14 through April 17. Central Utah Counseling pays for a couple of the board directors to attend every year.

Commissioner Whatcott attended the Piute ATV Trail Committee meeting. In the past Erol Dearden was the only representative from Millard County serving on this committee. Now there are three individuals currently representing Millard County; Brian Tritle, Erol Dearden and Commissioner Bart Whatcott. These three individuals are gainfully employed to help develop and improve trails for off road vehicles.

Commissioner Whatcott attended the Fire Service District meeting on March 21, 2012.

Commissioner Whatcott attended a water training on March 22, 2012. He is a licensed small systems operator. He gets invited now and then to attend meetings dealing with rural water issues.

Commissioner Whatcott had a meeting at the BLM regarding the National ATV Jamboree. He met with Mike Gates, Field Manager. They discussed issues regarding trail closures. He was very willing to look at those to see why they were closed off.

Commissioner Whatcott has been meeting weekly with County Planner Sheryl Dekker and Chris LaCome from the State Attorney General's Office regarding RS2477 roads.

All three commissioners met with Peak Minerals representatives regarding how they are proceeding with their project. They also discussed how much water they will be acquiring. Peak Minerals has officially filed their water applications.

Commissioner Whatcott attended a combined recreation/maintenance meeting. They are still

working through the issues regarding soccer and the horse track.

Commissioner Whatcott met in Juab County along with David Susong, USGS Supervisory Hydrologist. They made a presentation to the Juab County Commissioners on moving forward and completing the water model on the west desert. Juab County was in favor of completing the water study. They still need to present this to Tooele County and Salt Lake Mayor Coroon's Office. This presentation is scheduled for April 16, 2012 at 10:00 a.m..

Commissioner Withers has been working with the Rodeo Committee and things are going well. They are going to have a carnival there this year to see if they can boost revenue.

Commissioner Withers met with the Stock Show Committee. There seems to be some organizational problems that he and Attorney Waddingham have been trying to work through. They want to make sure that they are covered for liability issues during the Jr. Livestock Show. He will be meeting with them again and will update the commissioners next commission meeting.

WHERE UPON THE MEETING ADJOURNED

Commissioner Smith made a motion to adjourn the meeting.

Commissioner Whatcott SECONDED the motion. The voting was unanimous and the meeting adjourned at 12:30 p.m..

Attest: _____

Approved: _____