

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 3rd DAY OF JULY 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: Zane Pentz ..... Sunrise Engineering  
Connie Hansen . .... County Recorder  
Jean Smith ..... Citizen  
Brandy Grace . .... County Auditor  
John Hansen . .... County Treasurer  
Pat Manis . .... County Assessor

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, Utah, 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 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.

APPROVAL OF JUNE 19, 2012 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held June 19, 2012 were

presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Whatcott made a motion to approve the minutes of June 19, 2012, as corrected.

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

## AUDITOR'S REPORT

Auditor Grace said that she still does not have the audit information for Special Service District #8, so the County's audit that is due to the State by June 30, 2012 is late. She said that the County's auditors have been in contact with Todd Holt, CPA, for Special Service District #8 and as of yesterday evening they still have not received a response.

Auditor Grace received the charity plan for the 2012 Delta Community Medical Center and Fillmore Hospital; both are available in the auditor's office for review.

Auditor Grace informed the commission that there will be two locally assessed BOE appeals heard by the State July 6, 2012 in Fillmore. The first will be Holmes Deer Valley at 9:00 a.m. and the second will be Jeff and Heidi Smith at 11:00 a.m..

Auditor Grace updated the commission on the scheduled status conferences:

- July 9, 2012, Pacific Corp at 8:45 a.m. and DTG at 9:00 a.m.
- July 16, 2012, Union Pacific at 11:05 a.m.
- July 17, 2012, Milford Wind Phase I and Phase II at 11:15 a.m.

If the commission would like to attend these status conferences they would have to call ahead of time and provide a number where they can be reached.

## 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 discussed the private landfill average cost. Government run landfill sites average monthly pickup cost is \$35.00, private landfill average monthly pickup cost is \$15.00 - \$20.00. Millard County charges less than the lowest average cost for landfill pickup.

Treasurer Hansen provided the property tax collection and distribution list for June, 2012. This shows the current collection for June and the distribution list for the month of May. This month is the end of the quarter so most entities will receive a distribution this month.

He also presented a breakdown he received from the state regarding the distribution of mineral lease money the County received from the Utah School Institutional and Trust Lands Administration (SITLA) for the State's quarter ending June 30, 2012.

RATIFY THE ACCEPTANCE OF STAKER PARSON'S BID FOR RESURFACING THE PUBLIC SAFETY COMPLEX PARKING LOTS AND APPROVAL OF CONTRACT WITH STAKER PARSON

Commissioner Whatcott made a motion to ratify the acceptance of Staker Parson's bid for resurfacing the Public Safety Complex parking lots and approve the contract with Staker Parson.

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

Commissioner Whatcott said that Staker Parson has completed the hot oil mix and will come back down and blow all the crack sealing and seal the parking lot. So far it is looking pretty good.

RATIFY THE APPROVAL OF THE 2011 INDEPENDENT AUDIT

Commissioner Whatcott made a motion to table final action on the 2011 Independent Audit.

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

RATIFY THE APPROVAL OF THE HEALTH AND HUMAN SERVICE POVERTY GUIDELINES

Commissioner Whatcott made a motion to ratify the approval of the Health and Human Service poverty guidelines for ambulance abatements.

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

RATIFY THE APPROVAL OF THE 2012 PERSONAL PROPERTY EXEMPTION TAX LIST

Commissioner Smith made a motion to ratify the approval the 2012 personal property exemption tax list.

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

Commissioner Smith explained that this is a list of all the businesses in the county that fall under the \$3,900.00 limit.

RATIFY THE MOTION TO WAIVE THE PERSONAL PROPERTY TAXES OF JUAN SANDIVAL, C CORE CEMENT, BC MAINTENANCE AND SERVICES, TERRY'S ALTERNATE HEATING, AND VERIZON GLOBAL NETWORK

Commissioner Smith made a motion to ratify waiving the personal property taxes of Juan Sandival, C Core Cement, BC Maintenance and Services, Terry's Alternate Heating, and Verizon Global Network.

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

It was explained that these personal property taxes were being waived because it was determined that there was no way of collecting the taxes since the businesses are no longer in existence.

#### DISCUSSION OF EMERGENCY INTERIM SUCCESSORS FOR ELECTED OFFICES AND DEPARTMENTS

Attorney Waddingham explained that the commissioners interim successors are set out by county ordinance. He explained that one commissioner can act on his own until another commissioner becomes available.

Attorney Waddingham discussed state law regarding the process of filing interim successor designations.

Commissioner Smith said that Sheriff Dekker called Commissioner Smith and informed him that Oak City needed to be evacuated and he needed to have approval from at least one commissioner before he could do this.

Commissioner Smith said that he feels that it should be documented that proper procedure was followed.

Commissioner Withers said that he would like to see a list of interim successors available to the commissioners each year.

The list is due to the State in July of each year.

#### DISCUSSION AND POSSIBLE ADOPTION OF AN ORDINANCE AMENDING MILLARD COUNTY CODE 1-5-4 A., TO CONFORM WITH MEETING SCHEDULES

Commissioner Withers said that in the past the commission would meet every Monday but it was later decided to have the commission meet on the first and third Tuesdays of each month. It was published and now needs to be in document form.

Commissioner Smith made a motion to adopt Ordinance 12-07-03, an ordinance amending Millard County Code 1-5-4 A., to conform with meeting schedules.

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

## OTHER BUSINESS

Commissioner Whatcott presented a letter he received from Great Basin National Heritage Area Partnership accepting the resignation of Josephine Huntsman from the board and replacing her with Eric Jenson.

Commissioner Whatcott reported that he talked to Don Fowley with RC&D Panoramaland regarding the \$100.00 donation the county donates each year. After hearing what they do for the different counties he feels that the \$100.00 a year more than pays for itself.

He said that Dale Roper from Delta has stepped down from the RC&D Board. He represented Millard County on that Board and needs to be replaced.

Commissioner Whatcott reported on the Utah Climate Water Report he receives from Randall Julander, Snow Survey Supervisor:

- Dry
- Reservoir storage is falling fast
- Soil moisture is nonexistent
- Precipitation was a no show in June ranging from 1% to 11% of average
- Thanks to the NRCS Range Conservationists on their contribution on forage production
- This report will help the agriculture customers to prepare for the potential of poor fall and winter forage conditions.

## PUBLIC INPUT

Zane Pentz, Sunrise Engineering, came before the commission today to discuss some of the potential problems with flooding issues that may come up due to the fires that have been going on and to see what the county plans on doing to react when and if flooding does happen. He questioned if the county is having the communities take care of that or if they will be doing something proactive to help take care of the potential flooding.

Commissioner Smith said that Oak City is the hot spot at this time. They have moved on from the fires and are now discussing the potential for flooding. Oak City is being proactive on how they can avoid any flooding. Oak City is reevaluating a plan right now.

Commissioner Smith said that the County has always been willing to help out.

Mr. Pentz said that Sunrise Engineering has been looking at possible funding sources for any work regarding this issue. So far they have considered the Federal Emergency Management Agency (FEMA) and the Natural Resource Conservation Service (NRCS) but funding from these agencies are generally after damage has occurred.

Commissioner Smith said that in the past Oak City had a study done and selected projects which needed the most attention at that time and was able to get some funding to complete those projects.

The County will allow the communities to decide what they want to do, but the County will offer support and will help with what it can.

Mr. Pentz said that Sunrise has been in contact with the contractor regarding the issue with the roof of the ambulance building in Fillmore. He said that there is warranty in the contract and if it does not get taken care of they can go after their bond.

Mr. Pentz has noticed that the contractor has been out working on the building and has already replaced some of the rain gutter. The contractor is stumped by what has occurred.

Commissioner Whatcott asked if the problem with the showers at the ambulance building has been fixed. Mr. Pentz was unaware of the problem with the showers but he will follow up on that issue as well.

Jean Smith presented information to the commission regarding her property. Commissioner Withers briefly went through the history of Ms. Smith's property taxes brought before the commission. He said that in 2011 Ms. Smith came before the commission and asked for consideration at that time. The commission and Ms. Smith agreed on a payment plan and if she kept to the payment plan the commission agreed to waive penalties and interest on the property taxes.

Ms. Smith has made a few payments but was unable to keep up the set payment schedule.

Ms. Smith said that someone from the assessor's office came out and evaluated her property. She said that they agreed that her home was being over valued. She thought that her property taxes would be reduced based on that evaluation.

Ms. Smith feels that she should not have to pay the amount based on the higher value which she says was not accurate. Ms. Smith claims that she has tried to resolve this issue over the last five years.

It was clarified that the 2011 property taxes have been adjusted to the correct value of the home. It was also clarified that the Commission cannot go back and change the value after a certain time frame.

The Commission discussed this issue further. Commissioner Withers said that Ms. Smith failed to comply with the agreement made in 2011 to bring the property taxes current before they became due in November 2011 in order to have the penalties and interest waived. Ms. Smith did not communicate with the Commission as to why she could not make the payments agreed on. He said that it is her personal responsibility to make the payments agreed upon and to inform the Commission if she could not make those payments. The commission has to be fair and equitable with all the citizens of the county. The Commission would need to see what options are available in going forward.

Treasurer Hansen said that he understands that once the money has been collected for property taxes it cannot be refunded. He also said that notice was given for the prior years up until the tax sale. Opportunities were made available for Ms. Smith to get this taken care of.

Commissioner Withers said that the Commission needs some time before moving forward to find out more information. The Commission will have a decision for Ms. Smith at the next commission meeting.

#### OTHER BUSINESS CONTINUED

Commissioner Smith reported that on Wednesday, June 27, 2012 at approximately 4:00 p.m. he was contacted by Sheriff Dekker who informed him of an emergency situation and requested that

the town of Oak City and possibly Fool Creek be evacuated. The Red Cross set up an emergency center at the Delta Stake Center. The evacuation was lifted the next morning at approximately 10:00 a.m..

Sheriff Dekker followed procedure and contacted the county commission who did approve the evacuation of Oak City and Fool Creek in that emergency.

Commissioner Smith reported that on Thursday, June 28, 2012 the Commission participated with the BLM, the Forest Service and the State of Utah in putting together priorities and objectives to submit to the Type II Management Team that was taking over the management of the fire. The management team took over the authority from the agencies at 6:00 a.m. on June, 29, 2012. The agencies, in a formal action, have to pass its authority on to the Type II Management Team.

Del Barnhurst, on behalf of the Forest Service, handed over authority to the Type II Management Team at a meeting in Oak City at 8:00 p.m June 28, 2012. This is important in their process as far as the line of responsibility.

The county does have to sign an agreement with the BLM, Forest Service and the State of Utah for a cost share of the fire. The county has to cover any suppression on private properties. Commissioner Smith signed an agreement with the State and the other agencies on the grease fire which started Friday. He will provide a copy of this agreement to the clerks office.

The county is responsible for approximately 26.9% of the suppression costs attributed to approximately 12,000 acres of private property. The commission has been actively involved in that fire.

The Commission has been involved with the Type II Management Team and meeting with the agencies as to the status of the Clay Springs fire. Its objective, along with the other agencies, was to keep the fire as small as possible and to be safe. The Commission participated in supporting the plan that was presented and the amendment to the plan. They review the implementation of the plan everyday at 10:00 a.m. and 8:00 p.m..

Commissioner Withers said that the Commission held some community meetings which they felt were important to help inform the public. They met in Leamington, Scipio, Oak City and Holden. They discussed the plan of the Type II Management Team. They felt that this gave an opportunity for the public to not only vent their frustrations but to also understand this process.

Commissioner Withers said that it was discussed how important it is for the communities to help one another. They discussed how the volunteer fire department's prompt response may have helped save some homes. The commission really appreciates all the county residents for volunteering in this time of need.

Commissioner Smith said that the County, the BLM and the Forest Service, as a group, authorized the agencies to use heavy air support if the fire should break a line and head to the communities. They would expend any costs to save the private property and homes in the communities. The initial plan was adopted with a \$3,000,000.00 limit. The County, the Forest Service and the BLM approved raising the limit to \$5,000,000.00 which is an amendment to the document the agencies have to sign to give direction to the Type II Management Team. The impact of raising the limit is that the agencies, including the county, would have to pay a percentage of that

cost, but it was felt that it was warranted if the increased amount would help put out the fires.

The County Road Department was called out to assist with the fires and the county is occurring expenses for this. The County is authorizing special pay for overtime for the Road Department. The county will be reimbursed for these expenses since the fire has been considered as a FEMA fire. The Sheriff and Howard Allred made a request to the State and it was approved to be a federal reimbursement for suppression costs.

Commissioner Whatcott reported that as of Monday, July 2, 2012 the fire had grown to 102,699 acres. There are approximately 565 personnel engaged on this fire. There were two outbuildings and one summer home destroyed. There were seventy-five homes being threatened in Oak City and in the Mills area. There were two injured volunteer firefighters from Oak City; both are now home. There was a lot of talk about the rehabilitation of the burned area to minimize flooding in the future.

Commissioner Withers presented a petition to improve road maintenance between Hwy 6 and the Juab County line near the Garrison area. This petition will be filed in the clerk's office.

Commissioner Withers said that there is a gentleman who owns some property near the Delta fairgrounds and ball parks who is interested in selling the property to the county. This is the northeast corner property and is a 20 acre parcel.

The commissioners discussed the option of having the property appraised before making a decision.

Commissioner Whatcott made a motion to have the property appraised to determine the market value. After receiving the appraisal, the commission will make a decision.

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

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

Commissioner Whatcott attended an Economic Development Committee meeting in Salt Lake City, Utah, along with Linda Gilmore, Millard County Economic Development Director, on June 12, 2012.

Commissioner Whatcott attended a Meet Your Candidate Meeting hosted by the Delta City Chamber of Commerce on June 13, 2012.

Commissioner Whatcott helped with the American Legion State Convention June 14, 15, and 16.

Commissioner Whatcott attended a public lands renewable energy meeting in Washington D.C. June 19, 20, and 21. The meeting was a fly-in hosted by the Wilderness Society to help create a revenue stream from wind and solar energy. Presently, Senate Bill 1775 helps counties who have



this kind of renewable energy sources. The bill would give counties 25%, the States 25%, and the Federal Government 50%. It is broken down as 15% for administrative fees (permit processing) and 35% to offset impacts to fish and wildlife habitats. It is supported by the Western Governors Association and NACo.

The Wilderness Society will reimburse the county for all the expenses incurred by Commissioner Whatcott on this trip.

Commissioner Whatcott attended multiple update meetings regarding the Clay Springs Fire.

Commissioner Whatcott participated in town hall meetings in Leamington, Scipio and Holden.

Commissioner Smith attended a BBQ on June 21, 2012 hosted by Millard Care & Rehabilitation. He said that he appreciates the Board and how they function. They had a great turn out.

On Monday, June 25, 2012 at 2:00 p.m., Commissioner Smith and Commissioner Withers met with some people from the west desert Caleo area and one of the Juab County Commissioners and its planner to discuss west desert water issues. They gave an update on the BLM process on EIS and Millard County's official position. The county does not support an agreement with the States at this time and they are waiting for the final EIS which will be out in September. The county supports the involvement of those people they met with.

Commissioner Whatcott met with people from the Utah Attorney General's Office (AG) on RS2477 road issues. He presented two volumes regarding the road issues that were prepared by the AG's Office. These volumes will be filed with the county.

Commissioner Smith requested that the commission canvass the election today instead of Thursday because he will be out of town.

The canvass will be held today at 3:00 p.m..

Attorney Waddingham informed Clerk Brunson that the county voting machines are insured while in transit. He said that they need to be insured as contents in the clerk's office as well.

Commissioner Smith said that the Coyote Voucher program is now under the Department of Natural Resources instead of the Department of Agriculture as of July 1, 2012.

Commissioner Smith will not be attending the commission meeting on Tuesday, July 17, 2012. He will be at the National Association of Counties Conference in Pittsburgh from July 12 to July 17, 2012.

Recorder Hansen said that the State has certified the boundary adjustments between Millard and Juab Counties. She gave Clerk Brunson the original documents to file in the clerk's office. She said that they will get the maps ready. One property that is located in Juab County will be

deactivated in Millard County and will not become activated in Juab County until next year.

The commission discussed the possibility of banning fireworks in the unincorporated areas.

Commissioner Smith made a motion to ban all fireworks in the unincorporated areas in Millard County for the year 2012.

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

#### POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

#### 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 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. Present in the closed session were Treasurer John Hansen, Auditor Brandy Grace, 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 12:41 p.m..

#### 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 12:42 p.m..

Attest: \_\_\_\_\_

Approved: \_\_\_\_\_