

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 4th DAY OF DECEMBER 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: Cheryl Searle State of Utah
Alan M. Roper Commissioner Elect
Howard Allred, Fred Johnson and Marv Turner State of Utah
Sheryl Dekker County Planner
Brandon Anderson and Justin Taylor Days of the Old West
Joe Miller and David Peterson Millard County Raceway
Jim Robson Citizen
Kevin Morris, Rick Bublitz, Mike Jackson, Laurie Jackson,
and Jenni Anderson Millard County

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 Abraham Lincoln: “You cannot help men permanently by doing for them what they could and should do for themselves ”. Commissioner Smith said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF NOVEMBER 20, 2012 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held November 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 November 20, 2012, as corrected.

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

DISCUSSION AND POSSIBLE RENEWAL OF THE UTAH HIGHWAY PATROL LEASE AGREEMENT - CHERYL SEARLE

Cheryl Searle presented the lease agreement for the Utah Highway Patrol which leases office space in the Public Safety building in Fillmore, Utah. She said that there were not any changes from the last lease with the County.

She said that Sheriff Dekker viewed the lease agreement and was okay with renewing it.

Commissioner Whatcott made a motion to approve the lease agreement between Millard County and the Utah Highway Patrol for office space in the Public Safety building in Fillmore, Utah, in the amount of \$47,250.00, for five years.

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

Commissioner Whatcott suggested that when the new phone system at the public safety building is installed and in place, that Sheriff Dekker contact Ms. Searle to possibly incorporate some of the cost into the contract.

AUDITOR'S REPORT

There was none.

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 for the month of November. He said that \$17,177,371.87 is the amount of distribution that will be sent December 10, 2012, to the various taxing entities in the County. He said that the School District will get approximately \$9,160,000.00 of that amount.

Treasurer Hansen discussed the property of Mani Grewal, Scipio Motel, in the name of Sandy

Crossing Enterprises. He said that at a previous Commission meeting the Commission told Mr. Grewal that if he paid his delinquent taxes in full before the 2012 taxes came due they would waive the penalties and interests on that account.

Mr. Grewal sent a check to the Treasurer's office in the amount of \$14,853.98 which is the balance due for the 2008 and 2009 taxes (not including penalties and interest), but he has not paid his 2012 property taxes yet.

Treasurer Hansen asked the commissioners how they wanted him to apply the check. The Commission said for Mr. Hansen to apply the check to the delinquent taxes from 2008 and 2009 and send Mr. Grewal a letter informing him that his 2012 taxes are now delinquent.

Commissioner Smith said that he received a phone call from Roger Young, National Credit Systems Plus, who gave a presentation to the County in October. He was inquiring if the County decided whether or not it wanted to use his company for its collection services.

Commissioner Smith informed him that Millard County did not want to use his company for this service.

OTHER BUSINESS

Commissioner Withers said that he was approached by a group of people from Delta who are wanting to use the indoor arena for an archery shoot, one or two nights a week. Patrick Bond informed him that they would like to start up a business called Bow Benders. Commissioner Withers said that what they want to do as a business sounds pretty fun. He said that one of his concerns was the scheduling of that building.

Commissioner Smith said that if they were to rent the building then they would take precedents over those who are using the arena for free.

Commissioner Whatcott said that it sounds fun and he would support it.

Howard Allred said that a few years ago he tried to put an archery shoot together in the indoor arena and was told by the past commissioners that he could not discharge a lethal weapon in a public building.

Attorney Waddingham said that an issue when dealing with these types of activities is the liability and making sure that there are good indemnification and hold harmless clauses in a release, in case something goes wrong.

Commissioner Withers said that he is concerned that the shooter misses his target and the arrow goes straight through the metal building.

Attorney Waddingham will research this and will get back to the commission.

DISCUSSION AND POSSIBLE APPROVAL OF THE STATE FORESTRY WILD LAND FIRE BUDGET - HOWARD ALLRED

Fred Johnson, Division of Forestry, Fire and State Lands, presented the budget for the State Forestry Wild Land Fire. He said that they are asking the County to budget \$108,958.00 for the coming year in case of wild land fires. He explained that they came up with that amount by taking

the cost amounts from the last seven years. They eliminated the largest and the smallest amounts and then averaged the remaining five amounts.

Mr. Johnson said that in 2011 the county had two costly fires, both of which were cost collection fires. If the County were to pursue collection on those fires from the responsible parties the averaged number would decrease.

Commissioner Smith questioned how the numbers would be affected if there was a FEMA fire. Mr. Johnson explained that the FEMA grant amount is deducted from the average amounts.

Mr. Johnson said that they are also requesting that the County cover a portion of the Fire Warden, Howard Allred's, salary, as well as other miscellaneous items such as: public notices during fire season, equipment, supplies etc.. He said that the State covers some of these expenses but they are asking that the County cover some as well. Mr. Johnson explained to the Commission what the insurance fee is and how it works.

Commissioner Smith said that this amount is usually budgeted through the Fire Service District.

Commissioner Smith discussed the possibility of having an assistant fire warden to help Mr. Allred when he feels he needs one.

Mr. Johnson explained that there are a few counties who have assistant wardens so the State budgets a couple thousand extra dollars on those counties' budgets just in case the assistant warden does something non-fire related. If that happens, the State will help the county cover those costs. All fire related costs will be covered and billed appropriately.

Commissioner Smith made a motion to approve the contract between Millard County and the Utah Division of Forestry, Fire and State Lands.

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

DISCUSSION AND POSSIBLE APPROVAL OF COMMISSION DATES FOR 2013

Clerk Norma Brunson presented the Millard County Commission Meeting Schedule for the year 2013:

January 8, 22	July 2, 16
February 5, 19	August 6, 20
March 5, 19	September 3, 17
April 2, 16	October 1, 15
May 7, 21	November 5, 19
June 4, 18	December 3, 17

Commissioner Whatcott made a motion to approve the commission dates for 2013.

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

DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 12-12-04, AN ORDINANCE AMENDING THE COUNTY CODE OF MILLARD COUNTY, UTAH BY REPEALING IN ITS

ENTIRETY THE EXISTING TITLE 10, ZONING REGULATIONS AND ESTABLISHING IN ITS PLACE A NEW AND REVISED TITLE 10, ZONING ORDINANCE, A LAND USE ORDINANCE OF MILLARD COUNTY

Sheryl Dekker, County Planner, said that they took out the need for the transmission corridor as a zone and are simply requiring compatible uses within the transmission corridors rather than creating a new zone. The ordinance gives the Planning Commission the option to determine what compatible uses will be.

Commissioner Smith said that the Planning Commission would review applications to determine whether or not there is a conflicting use and would then make a recommendation to the Commission.

Commissioner Withers thanked Ms. Dekker for all of her work on this ordinance. Commissioner Whatcott said that the Commission also appreciates all of Bruce Parker's work on this ordinance as well.

Commissioner Whatcott made a motion to adopt Ordinance 12-12-04, an ordinance amending the County Code of Millard County, Utah by repealing in its entirety the existing Title 10, zoning regulations and establishing in its place a new and revised Title 10, zoning ordinance, a land use ordinance of Millard County, effective January 1, 2013 at midnight.

Commissioner Smith 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.

DISCUSSION AND POSSIBLE ADOPTION OF RESOLUTION 12-12-04, A RESOLUTION ESTABLISHING THE MILLARD COUNTY LAND USE ORDINANCES ADMINISTRATIVE MANUAL. THE ADMINISTRATIVE MANUAL IS FORMULATED TO PROVIDE GUIDANCE TO LAND USE AUTHORITIES, COUNTY STAFF, APPLICANTS, AND OTHERS IN THE ADMINISTRATION AND DECISION - MAKING REQUIRED BY MILLARD COUNTY'S LAND USE ORDINANCES

Attorney Waddingham said that the reason this was adopted by a resolution is because it is strictly administrative. It is easier to address changes by resolution because it can be done immediately upon adoption of a resolution instead of having to go through the publication and the notice process required with an ordinance.

Ms. Dekker said that it will make it so they can process applications in an orderly fashion.

Commissioner Smith made a motion to adopt Resolution 12-12-04, a resolution establishing the Millard County Land Use Ordinance Administrative Manual. The Administrative Manual is formulated to provide guidance to land use authorities, county staff, applicants, and others in the administration and decision - making required by Millard County's Land Use Ordinance, effective January 1, 2013 at midnight.

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

DISCUSSION REGARDING THE RODEO COMMITTEE'S REQUEST TO POSSIBLY ALLOW A BEER GARDEN AT THE COUNTY EVENTS

Commissioner Withers said that he had several discussions regarding this issue with the event planners who hold their events at county facilities. He invited the public to voice their opinions regarding this issue.

Joe Miller and David Petersen run the race track. Mr. Miller said that their point of view is that they are trying to make this a feasible deal to survive long term. They have put a lot of money and effort into the race track, as well as the County, and they lost \$40,000.00 last year.

The revenue produced from beer sales are big. He said that he has received a large number of phone calls from people saying that if alcohol is not served they would not attend the event.

Mr. Miller said that they would be responsible for incorporating a limit system of three beers per person. They would also quit serving alcohol approximately a half an hour before the event ends.

Mr. Miller said that they had a petition signed by local residents and others who were in favor of having a beer garden at the race track events.

Mr. Petersen said that they understand that there are a lot of pros and cons and as long as they do this in a responsible manner it would be a win-win for the event and the County. He said that 70% of their fans and participants come from outside of the County.

The increase in revenue from the beer sales will not make them rich but it will help to sustain the event and to help keep it going.

So far they are not making enough money from the event to break even. He discussed the race track, the attendance and the prize payout.

Brandon Anderson, Rodeo Committee, said that they feel that the sale of alcohol at the rodeo would help keep the people in the arena, instead of them going out to their vehicle to drink. This way it could be controlled better.

Mr. Anderson said that the Rodeo Committee would bring in a vendor who will sell the beer and would give the Rodeo Committee a percent from those sells.

Justin Taylor, Rodeo Committee, said that he made some phone calls to other areas. He spoke with a representative from the Elko, Nevada Rodeo. He told him that beer and alcohol sales are their biggest money maker. He said that once they started serving hard liquor they had a few people get a little out of control.

Mr. Taylor also spoke with Randy Munns, who is a rodeo clown and served on the Wilderness Circuit Finals Committee which was held in Heber City recently. He told him that this was the first year that they served alcohol and did pretty well with it. He said that there was a beer garden which was designated for people who chose to drink.

He spoke with other people, some who said that they designate a drinking area, and others who said they let them take the beer back to the stands.

Mr. Taylor also spoke with a committee member from the Moab Rodeo Committee. He told him that they are pretty similar to the Delta Rodeo and their beer sales have varied between \$2,500 and \$4,500 revenue, in their pocket.

Mr. Taylor said that they are trying to look at this from a business standpoint with the rodeo.

They try to budget so that they can make money and reduce their expenses in anyway that they can and also, to bring more money into the County.

Attorney Waddingham asked if the people he contacted were hosting rodeos at county facilities. He did not know. Kevin Morris, West Millard Maintenance, said that he gave the Commissioners a list of counties and some of those listed are using county facilities including Moab and Heber City.

Mr. Taylor said that as long as they can control the distribution then they will make a good revenue from it.

Jim Robson, Owner of Curly's Lounge in Delta, Utah, said that he just went through the process of getting the State's approval to be able to throw horseshoes at night.

Mr. Robson discussed the process he went through to get this approved. He also went into detail of what his event will entail and what it will cost for the permits to serve alcohol.

He said that if the County would like his compliance officer, Stephanie Pilings, to come and talk to them, he would ask her do that.

After much more discussion on this issue, it was clarified that none of these events are trying to promote hard liquor sales in any way.

Commissioner Withers expressed the concerns of Sheriff Dekker with not having enough law enforcement to cover these events without the deputies getting over-time. He also said that there will be some people who will have a problem with the sale of alcohol at these events, and since these events will be held on County property, which is paid by county taxpayers, they should listen to those people.

He said that his biggest fear is that if they were to pursue this option and something were to happen on the road ways and kill one of our kids that would really affect him very much! He has expressed this concern to both committees. He said that not so much as a county, but as a community, if this was condoned and something bad happened it would be a difficult pill for him personally to swallow. He thanked Mr. Robson for taking responsibility for his customers by making sure they get home safely.

There was much more discussion on this issue, including the County Attorney explaining that the way the County Ordinance is currently written the County does not allow any consumption of alcohol on any county facility property.

The commissioners and Attorney Waddingham will research this further and look at all of the options and will get back to the committee with a decision. *(This discussion in its entirety was recorded and is available for review at the Millard County Clerk's office.)*

OTHER BUSINESS CONTINUED

Commissioner Smith said that Nickle Mortuary is working on an indigent burial request for Eleanor Trent.

Commissioner Smith made a motion to approve an indigent burial for Eleanor Trent, pending

the receipt of a death certificate and an application.

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

Commissioner Whatcott said that he emailed the other commissioners a copy of the purchasing policy. He asked if they would take the time to review it before the next commission meeting.

Commissioner Withers asked Auditor Grace if there was ever contact made from the person who wanted to do E- tickets for the County. Auditor Grace said that she has not heard anything from him. Commissioner Withers asked Auditor Grace to contact the person and ask him to come and give a presentation to the Commission.

Commissioner Smith said that he received a letter from Doug Heaton, American Lands Council. A while back Mr. Heaton gave a presentation on his organization to the Commission and asked that the County fund \$5,000.00 and become a sponsoring member. Commissioner Smith thinks that the organization is a well founded effort but he does not want to participate financially with the organization.

Commissioner Smith said that Ken Brown, Western County Alliance, also asked the County to fund and join its organization. Commissioner Smith feels that this is also a good organization but he does not want to fund this organization either. He just feels that there are other avenues that the County is funding to get the same resolution on the same issues.

Commissioner Whatcott said that the American Land Council is big in House Bill 148. Ken Ivory and his people have put a lot of time and effort into this bill. He supports their efforts on what they are doing and if there was a smaller amount that the County could contribute it may be easier for the county to contribute financially, but their base amount is \$5,000.00. He also said that there are other things in the County that they are supporting and it would be hard to ask for more money to support the same issues.

Commissioner Smith said that he feels that if the County is going to provide that kind of money the Commission should be more involved with the issue, but they do not have time to put that much involvement into these organizations. All three Commissioners agreed and chose not to fund the organizations. The Commission will send a letter informing them of the County's decision.

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

Clerk Brunson discussed the date for swearing in the new elected official with the Commission. The date was set for Monday, January 7, 2012 at 12:00 p.m. and will be advertised in the paper.

Attorney Waddingham said that the Rodeo Committee members want to sign a contract tomorrow with Bar T. Rodeo. He questioned the legality of the contract.

Attorney Waddingham said that either the Committee can incorporate as an entity or the county can take it over. Different rules apply as to how they function depending on whether it's a non-profit corporation or run by the County.

Commissioner Withers said that he thought that the County was over the Rodeo Committee and the members were volunteers representing the County.

Attorney Waddingham said that if the county takes it over there will be a lot of volunteers who would have to register with the Human Resources Department. Volunteers who are properly registered would be allowed workers' compensation if they were to get hurt.

Attorney Waddingham said that incorporating takes a lot of pressure off the County but if the county wants to keep it, the County will need to make sure it is in full compliance with all of the statutory provisions.

Commissioner Withers said that he wants to limit the liability of any volunteer who is helping the County put on an event in the County. He would rather the liability be on the County rather than the people who are volunteering their time to help with a County event. That is the direction that he personally would like to go.

Attorney Waddingham said that if the volunteers are properly registered with the Human Resource Department they would be covered under workers's compensation.

Commissioner Smith said that in the past the Rodeo Committee became a 503C because it wanted to be a little more independent.

After more discussion the Commission decided that they would meet with the Rodeo Committee and discuss this further.

All three commissioners worked on the budget the last two weeks.

Commissioner Whatcott met with a number of people from the Governor's Office, regarding the west desert water issues and the agreement between Utah and Nevada.

Commissioner Whatcott finished working on the draft purchasing policy for Millard County.

Commissioner Smith said that the Snake Valley Aquifer Advisory Council held a meeting in Delta. The Council, which was created by statute, took the position that the Governor should not do anything until the BLM process is finished. Nevertheless, Millard County is against Utah signing the agreement. They had a conference call with BLM, but because the County is a cooperating agency and what was discussed is not public information, he cannot talk about the conversation.

Commissioner Smith said that he appreciated meeting with the Governor who spent almost two hours talking with the County. He is holding true to his commitment that he would not sign an agreement until the Millard County Commissioners agree with it, or unless he feels that it is in the best interest of the State's citizens. The Governor has continued to get the County's input and opinion. Also in the wave of a host of State and others who have advised him to sign the agreement he is still doing due diligence in that process because of Millard County's concern.

DISCUSSION REGARDING SNOW COLLEGE FOUNDATION BOARD'S TAX EXEMPT STATUS

Attorney Waddingham said that he received a memorandum from the Attorney General's office regarding its position on whether the Snow College Foundation Board is tax exempt. He read the cases that they cited in the memorandum and is still not convinced that the foundation is tax exempt. They can appeal to the State Tax Commission.

Auditor Grace said that the Snow College Foundation made it clear that they are not asking for an exemption for 2011. They never submitted an application for exemption in 2012. They filed an application for exemption after they received a delinquent tax notice in 2011.

Attorney Waddingham will send the Foundation's attorney a letter informing him that the County disagrees with the memorandum opinion and will not further consider this matter.

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

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

There was none.

PUBLIC INPUT

There was none.

Commissioner Whatcott said that it is Millard County's turn to host the Six County Awards Banquet tomorrow night. There will be a tour through the museum at 6:30 p.m., dinner at 7:00 p.m. and the awards will start shortly after that. This year's Millard County business of the year is Great Lake Cheese. Delta City will also be receiving a beautification award at this banquet.

Commissioner Smith said that the Planning Commission is having its Christmas party tomorrow as well. They will be presenting Robyn Smith, who is retiring, with a plaque.

Commissioner Smith said that they received a letter from UDOT. The letter informed the Commission that the Six County Association is going through the process of working on a transportation plan. Part of that plan has to do with the functional classification of roads in the State and counties.

Before UDOT sends a proposal to Six County they wanted to make sure the County was aware of what was happening. Commissioner Whatcott will get a hold of Emery Polelonema to get more information.

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 12:36 p.m..

Attest: _____

Approved: _____