

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 18th 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
Marki Rowley. Deputy County Clerk

EXCUSED: Norma Brunson County Clerk

ALSO PRESENT: Forrest Roper, Michael Winget, Morris Burton,
Lindsay Mitchell, Richard Jacobson, Mike Turner,
and Dale Josse County Sheriff's Office
Robert Dekker County Sheriff
Alan Roper Commissioner Elect
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, 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 Withers expressed the County's condolences to the Slavens family for their loss. Commissioner Whatcott read a quote from Thomas Jefferson: "The two enemies of the people are criminals and the government, so let us tie the second down with the chains of the Constitution so the second will not become the legalized version of the first." Commissioner Smith said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF DECEMBER 4, 2012 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held December 4, 2012 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Whatcott made a motion to approve the minutes of December 4, 2012, as corrected.

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

APPROVAL OF THE BUDGET HEARING MINUTES OF DECEMBER 4, 2012

The proposed minutes of a budget hearing held December 4, 2012 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Whatcott made a motion to approve the minutes of the December 4, 2012 budget hearing, as corrected.

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

AUDITOR'S REPORT

Auditor Grace presented invoices from UAC:

- The third quarter centrally assessed litigation fees in the amount of \$5,219.33
- The Joint Highway Committee dues in the amount of \$50.00
- The 2013 membership dues in the amount of \$12,443.00
- Public Lands Assessment in the amount of \$3,500.00.

Commissioner Smith made a motion to approve the invoices presented above.

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

Commissioner Smith explained that the Public Lands Assessment for \$3,500.00 is the amount the County spends for Attorney Mark Ward to represent the County's interest. The UAC 2013 membership dues slightly increased. The \$50.00 for the Joint Highway Committee is a committee that he has served on. The centrally assessed litigation is a 50/50 split.

Auditor Grace presented a cell phone allowance request from Terry Scottorn, Weed Department.

Commissioner Withers said that Mr. Scottorn contacted him and expressed to him that he has been using his personal cell phone for County business. Commissioner Withers contacted Tony Anderson, President of the Weed Department. Mr. Anderson approved the \$40.00 cell phone allowance to be budgeted from the Weed Department's budget. They will make that official at the next Weed Department meeting. This will be a year round allowance.

Commissioner Whatcott made a motion to approve a cell phone allowance in the amount of \$40.00 for Terry Scottorn, Weed Department, which will be budgeted for by the Weed Department.

Commissioner Smith 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.

POSSIBLE APPROVAL OF RESOLUTION 12-12-18, A RESOLUTION OF THE BOARD OF COMMISSIONERS OF MILLARD COUNTY, STATE OF UTAH, TRANSFERRING UNENCUMBERED OR UNEXPENDED APPROPRIATION BALANCES FROM ONE DEPARTMENT IN A FUND TO ANOTHER DEPARTMENT WITHIN THE SAME FUND

Auditor Grace explained the requirement which is when the County closes its books at the end of the year all departments must be within budget. This resolution allows the Auditor's Office to move unexpended monies from one department in a fund to another department within the same fund.

Commissioner Whatcott made a motion to approve Resolution 12-12-18, a resolution of the Board of Commissioners of Millard County, State of Utah, transferring unencumbered or unexpended appropriation balances from one department in a fund to another department within the same fund.

Commissioner Smith SECONDED the motion. Deputy Clerk Rowley 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.

POSSIBLE APPROVAL OF RESOLUTION 12-12-18 A, A RESOLUTION OF THE BOARD OF COMMISSIONERS OF MILLARD COUNTY, STATE OF UTAH, ADOPTING THE FINAL BUDGET FOR MILLARD COUNTY FOR FISCAL YEAR 2013 AND FIXING SALARIES FOR VARIOUS COUNTY OFFICERS

Auditor Grace explained that the final budget is different from the tentative budget but it is the same budget that was presented to the public the night of the budget hearing.

Commissioner Smith made a motion to approve Resolution 12-12-18 A, a resolution of the Board of Commissioners of Millard County, State of Utah, adopting the final budget for Millard County for fiscal year 2013 and fixing salaries for various county officers.

Commissioner Whatcott SECONDED the motion. Deputy Clerk Rowley 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 AND POSSIBLE APPROVAL OF RESOLUTION 12-12-18 B, A RESOLUTION

AMENDING MILLARD COUNTY'S POLICIES AND PROCEDURES MANUAL SECTION X-C ENTITLED "VACATION", BY CHANGING THE DATE FOR USING MILLARD COUNTY EMPLOYEE VACATION TIME

Attorney Waddingham directed the attention to page two of paragraph 11, which changes the date from January 31 to December 31, which was the only change made.

Auditor Grace stated that previously when the direction for making this change was given, all departments were notified of the change and that it would be affective this year.

Sheriff Dekker asked that the Commission not make this effective until next year. He said that if it is done this year it will affect his office adversely. He said that his office was notified of this but not until it was too late to act on it. He said that he has several employees who will lose time because of this change. His people cannot abandon their posts to take vacation time to meet this deadline. He explained in more detail his reasoning behind his request.

Commissioner Smith said that this was not put in place for employees to plan to take vacation time in January.

Sheriff Dekker said that his office is short staffed and they thought that they had an extra 30 days to use the accumulated time but with this new effective date he has a lot of employees who will lose their time.

Commissioner Withers said that as the Commission has discussed this, he has to agree with the Sheriff and he would hate to see any employee lose time because of the policy changes.

Commissioner Whatcott asked if they could adopt this for approval today and have a stipulation for the Sheriff's Office until January 31, 2013.

Attorney Waddingham said that you cannot discriminate within the same class. He asked if there were any other classes outside of the Sheriff's Office that would be affected.

Commissioner Withers said that they had a discussion with the Road Department and informed them of the date change. Their response was they hope it does not snow. He said that it gets hard for the Road Department if they are out pushing snow all night and then have to still work the next day.

Attorney Waddingham said that you do not want to discriminate among people similarly situated. Historically, the Sheriff's Office has always been looked at differently, even in the policies and procedures manual. He does not see a problem, as long as there are not any others similarly situated as the Sheriff's Office that have the same problem. If there are they would need to be included as well.

Commissioner Withers said that it is really difficult to make one policy for so many different departments.

Commissioner Whatcott said that there were some issues with payroll and it coming out of the next budget year. He questioned if the Sheriff's 2013 budget would be cut short by paying for hours earned during the 2012 budget year. Sheriff Dekker said that he thinks that the budget will be okay. He said that he does not care when the cut off is but they just need more than four or five weeks notice.

Commissioner Smith said that his opinion was that it would not be a problem. One reason being that people were scheduling time off in that month and that was not the intention. He would rather cut it off and work with one or two people who will lose time because of the policy change.

Sheriff Dekker said that he just needs this year. Commissioner Whatcott suggested that the Commission pass the resolution and give the Sheriff's Office latitude to work with the people who need an extension.

Auditor Grace explained what happened last year. She said the intent was to extend the time until January 31, but the accrual and personal preference time was held against them. Basically it was a disaster. She asked that they clarify if the amount of accrual time included only the hours at the end of December or if it will include January's accrual. Commissioner Whatcott said that it would be just working off the 2012 year and not counting the January accrual.

Auditor Grace questioned, for payroll purposes, whether they would be carrying over the 120 hours plus the January accrual. Commissioner Smith said that as of December 31, 2012 they will only be able to carry over the 120 hours.

Richard Jacobson said that some of the concern is that this will be a problem again next year. Some employees will be unable to use their vacation time because of lack of man power in the office. He asked if the adjustment could come on the carryover allowance instead of the cut off date?

Attorney Waddingham explained that County policy states that the Sheriff's Office complies with all Millard County policies and procedures, except where they are in conflict with the Sheriff's Office's policies and procedures. He said that when problems arise adjustments may need to be made.

Auditor Grace said that this might take care of the issue temporarily but she agrees with Detective Jacobson that this issue will arise again next year. Attorney Waddingham said that whatever the changes may be they need to be addressed in the County's policies and procedures manual.

Commissioner Withers said that going forward they should look at amending the policy but as for this date and time they should move forward with the resolution but allow the Sheriff's Department leeway for this year.

After much more discussion it was decided that the Commission will move forward with the adoption of the resolution today and will look at amending the County's policies and procedures manual early next year.

Commissioner Whatcott made a motion to approve Resolution 12-12-18 B, a resolution amending Millard County's Policies and Procedures Manual Section X-C entitled "Vacation", by changing the date for using Millard County employee vacation time, with the exception to allow the Sheriff's Office and the Road Department to work with its employees on using their vacation time in 2013. Also, to have further discussion on the Sheriff's Office and Road Department in 2013 to create a resolution that would better define the time used for vacation.

Commissioner Smith SECONDED the motion. Deputy Clerk Rowley 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.

TREASURER'S REPORT

Treasurer Hansen received notice from the State Auditor's Office that there are several entities within the County who are ineligible to receive their tax distribution at this time, including Lynndyl Town, Drainage District Number 4 and Millard County Water Conservancy District.

Treasurer Hansen presented the month end report for November county funds financial statements. He made the Commission aware that he has received notice from Wells Fargo that some items have been missing from the deposits. He said that it has happened a few times over the last few months. He said so far he has been able to track the missing items back to a specific check. He said in the future they may not be able to track them so the Commission would need to make a decision to write that off as a loss or to rely on the County's bond and take action.

Commissioner Smith said that if it is under a certain amount Treasurer Hansen has the ability to write it off, after all avenues for recovery have been exhausted. Large amounts would need to be brought to the Commission for further action.

Treasurer Hansen said that he would bring all these types of issues to the Commission since it would be dealing with financial decisions. He suggested to maybe have all checks processed through his office. By doing so, it would provide the County copies of all checks. He said if the County chooses to do that he would need additional help in his office.

Treasurer Hansen provided a letter regarding the finances and the balancing circumstances his office, along with the County Auditor's office, have had regarding the Justice Court.

RATIFY THE APPROVAL OF AN INDIGENT BURIAL FOR ELEANOR TRENT

Auditor Grace said that she has the information and the death certificate for Ms. Trent, but has not received the billing from the mortuary.

Commissioner Smith said that Jeff Christensen, Millard Care and Rehabilitation (MC&R), informed him that they found \$500.00 stored away by Ms. Trent and would send it to the County.

Attorney Waddingham said that the indigent burial policy states that if assets are found they would go to the County.

Auditor Grace said that when the policy was adopted it allowed for an adjustment for inflation.

Commissioner Smith made a motion to ratify the indigent burial for Eleanor Trent and authorize Auditor Grace to pay the invoice once it is received. Also, to collect the \$500.00 from the MC&R as an asset to help cover the costs of the indigent burial.

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

DISCUSSION AND POSSIBLE APPROVAL OF AMBULANCE ABATEMENTS - LINDSAY MITCHELL

Lindsay Mitchell presented an ambulance abatement application from Harmony Beckstrand in the amount of \$4,176.70. She does not have insurance. Her total debt, not including the

ambulance bill, is \$12,954.00. Ms. Beckstrand is currently employed by Costa Vida with a monthly income of \$1,100.00.

Commissioner Smith made a motion to abate 60% of Ms. Beckstrand's ambulance bill based on income and to work out a payment plan for the remaining balance of the bill.

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

Lindsay Mitchell presented an ambulance abatement application from Ronald Prescott in the amount of \$203.35. Mr. Prescott is now deceased. His wife's total debt includes thousands of dollars in medical bills. Her annual income from unemployment is \$15,600.00.

Commissioner Whatcott made a motion to abate 40% of Mr. Prescott's ambulance bill based on income and to work out a payment plan with Ms. Prescott to pay the remaining balance.

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

Lindsay Mitchell presented an ambulance abatement application from Wilford Schmutz in the amount of \$1,293.55. His total debt including the ambulance bill is \$7,006.00. Mr. Schmutz is employed with an annual income of between \$9,600.00 to \$10,800.00.

Commissioner Smith made a motion to abate 60% of Mr. Schmutz's ambulance bill based on income and to work out a payment plan.

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

Lindsay Mitchell presented a request from Vetta Todd who in the past received an abatement on this ambulance bill. Her bill was abated 25% bringing her balance to \$2,500.00. Ms. Todd has been making monthly payments of \$200.00 and recently made a \$500.00 payment which brought her new balance down to \$100.00. She asked Ms. Mitchell if the Commission would be willing to write off the \$100.00 balance.

Commissioner Smith made a motion to accept the \$500.00 payment from Vetta Todd and honor it as payment paid in full.

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

DISCUSSION REGARDING THE PUBLIC SAFETY BUILDING PHONE SYSTEM - SHERIFF DEKKER

Commissioner Smith said that he visited with Sheriff Dekker who would like to get started on the installation of the phone system. Commissioner Smith is fine with the bid amount and feels that they have gone through all the required processes and he agrees that they should get started with the project since the installation process will take some time to finish.

Commissioner Smith made a motion to accept the proposal from Frontier Communications for the new telephone system at the Public Safety building.

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

Commissioner Whatcott said that the current phone system is pushing thirty years old. It has been hard to find parts to repair the current system. The new system adds an edge of safety for the officers on a stop so they can get information a lot quicker and will speed up the process for the deputies.

POSSIBLE APPROVAL OF RESOLUTION 12-12-18 C, A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MILLARD COUNTY, UTAH APPOINTING TRUSTEES TO THE BOARDS OF MILLARD CO,UNTY DRAINAGE DISTRICT 1 THROUGH DRAINAGE DISTRICT 4

Attorney Waddingham said that the Millard County Chronicle Progress published the notice of vacancy for the drainage districts in its December 12, 2012 issue. He will provide an affidavit of publication to the Commission, as required by statute. Also, the resolution requires an order be signed for each drainage district.

The commissioners discussed approving Resolution 12-12-18 C, a resolution of the Board of County Commissioners of Millard County, Utah appointing trustees to the boards of Millard County Drainage District 1 through Drainage District 4 as follows: Drainage District 1, Dallas Anderson; Drainage District 2, Clayton Jeffery; Drainage District 3, Jared Bryan; and Drainage District 4, Dennis Anderson.

Commissioner Withers requested a roll call vote. Deputy Clerk Rowley 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 AND POSSIBLE APPROVAL OF RESOLUTION 12-12-18 D, A RESOLUTION AMENDING SECTION XXI OF THE MILLARD COUNTY'S POLICIES AND PROCEDURES MANUAL - PURCHASING POLICY FOR MILLARD COUNTY

Commissioner Smith said that Commissioner Whatcott has been working on the policies and procedures manual for a couple of years. The policy manual is weak in some areas and could be improved. He said that when he read through Commissioner Whatcott's proposal he had a few questions. He feels that they should get input from the other elected officials to make sure everyone is comfortable with what changes have been made.

Commissioner Smith made a motion to strike consideration of Resolution 12-12-18 D from the agenda.

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

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 12-12-18 E, A RESOLUTION AMENDING THE STEP AND GRADE BY ADDING A FULL-TIME POSITION FOR A DEPUTY COUNTY ATTORNEY

Commissioner Smith explained that the County will be creating a full-time position in the County Attorney's office which will be considered a grade 19, starting on column A in the County's Step and Grade Plan. Part of the reasons for creating the position is that the attorney's office will be handling a lot of the personnel issues in the County. With the added responsibility to the load in the attorney's office the full-time position is justified. The attachments are included with the Resolution. This position will qualify for benefits and by its nature the position is an exempt position. Kaela Jackson, who will be made full-time, has worked for the County for the past few years. An official job description will be submitted to the Auditor's office.

Attorney Waddingham will meet with Auditor Grace to decide how the current personnel issues at hand will be divided.

Commissioner Smith made a motion to approve Resolution 12-12-18 E, a resolution amending the Step and Grade Scale by adding a full-time position for a deputy county attorney.

Commissioner Whatcott SECONDED the motion. Deputy Clerk Rowley 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.

The County Attorney's 2013 budget reflects this increase.

DISCUSSION AND POSSIBLE RE-APPOINTMENT OF BOARD MEMBERS TO SERVE ON THE MC&R, INC. BOARD

Commissioner Smith said that MC&R Board's by-laws did not have term limits for its members. Attorney Waddingham amended the by-laws for the MC&R, and the amended by-laws were approved by the board. The new by-laws state that they will create a two year term for three of the board members and a four year term for the other members. After the two year terms expire, individuals serving those terms will be appointed for four year terms.

Commissioner Smith made a motion to re-appoint Rex Stanworth, Lon Jackson and Wayne Jackson to serve a 2 year term and the other members to serve 4 year terms on the MC&R, Inc. Board. The two year terms will be effective January 1, 2013 and will expire December 31, 2014. Beginning January 1, 2015, the term for the three named individuals or their replacements will extend to four year terms. The other four year terms will be effective January 1, 2013 and will expire December 31, 2016.

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

REVIEW AND POSSIBLE RENEWAL OF THE PUBLIC DEFENDER CONTRACT

Attorney Waddingham said that the only changes made to the public defender contract were

the dates. The County will review the contract during the first Commission meeting in November 2013 to determine whether to extend the contract for an additional one year term.

Commissioner Smith made a motion to renew the public defender contract.

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

PUBLIC INPUT

There was none.

OTHER BUSINESS

Commissioner Whatcott asked Deputy Clerk Rowley to contact all of the appointed boards and get updated information for the website. Commissioner Smith will get the Mosquito Abatement District's updated information.

Commissioner Whatcott received a letter from the BLM regarding the record of decision and the right-of-way ground for the Sigurd to Red Butte project. He said that throughout the construction of the project there will be the possibility of bringing on 255 additional jobs. The project will start at the Sigurd substation and go to the Red Butte substation in St. George, Utah.

Commissioner Withers met with Patrick Bond who had recently asked if he could hold an archery shoot inside the county fair building in Delta. Commissioner Withers informed Mr. Bond that Attorney Waddingham is looking into the legalities of his request and will get back to him as soon as he has an answer.

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

Commissioner Whatcott attended a Six County Association of Governments (AOG) meeting. Millard County hosted the Six County AOG annual awards banquet at the Territorial State House Museum. Great Lakes Cheese was the County's recipient for business of the year.

Commissioner Whatcott attended the Utah County's Indemnity Pool (UCIP) annual meeting at Thanksgiving Point.

Commissioner Whatcott attended the monthly Farm Service Bureau meeting in Fillmore. They talked about the NRCS proposed agreement and the Millard Conservation District (CD) Interlocal Agreement. The Millard CD will review its annual work plan and check on progress. They were updated on NRCS issues by Lars Rasmussen.

Commissioner Whatcott attended a Public Health meeting in Richfield where several issues were discussed regarding diseases in the Six County area, unlawful dumping of cherry pits in Juab

County, reviewing and accepting the 2013 Public Health operation budget and report on the yearly Public Health conference.

Commissioner Whatcott met with department heads on the upcoming 2013 projects and scope of work to be completed.

All three commissioners held a grievance hearing for Don Ponton. A phone call will be made to Mr. Ponton allowing him the opportunity, if he so chooses, to find a new attorney. A follow-up letter will also be sent to Mr. Ponton.

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 Commissioner Smith, Commissioner Withers, Commissioner Whatcott, Attorney Waddingham, Deputy Clerk Rowley and Auditor Grace.

After the closed executive session the regular meeting reconvened at 1:09 p.m..

Commissioner Smith said that he enjoyed working with Commissioner Whatcott and he appreciates the great service, the time, the dedication and the effort he made in fulfilling his duty as an elected official for Millard County. The citizens of Millard County had a true patriot, an honest man, and a hard worker who did everything he could to fulfill his responsibility of what an elected official should be. Commissioner Withers seconded what Commissioner Smith said. Attorney Waddingham also said that he too very sincerely appreciates Commissioner Whatcott's efforts.

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 1:12 p.m..

Attest: _____

Approved: _____