

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 3rd DAY OF SEPTEMBER 2013
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Daron P. Smith..... Chairperson
James I. Withers..... Commissioner
Alan M. Roper..... Commissioner

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

ALSO PRESENT: Amus & Jeannie Harmon, John & Marilou Heath,
Peter C. VanderMeide, Shaun Hodges, Jeff Davies, Jimmy Hodges, and
John Pratt..... Citizens
Scott Corry..... Kanosh Fire Department
Sheryl Dekker..... County Planner
Wayne Jackson..... American Legion Liaison
Bruce Curtis, Howard Allred and Lynn Ashby..... Millard County Fire District
Alan Peacock..... CUU Cert
Mike Holt..... Fillmore City Council
John Hansen..... County Treasurer
Brandy Grace..... County Auditor

Note: Not all agenda items were followed in order.

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN PROVIDED TO each member of the governing body, posted at the principal office of the Millard County Commission, posted on the Utah Public Notice Website, and provided to the Millard County Chronicle Progress, a newspaper of general circulation within Millard County, 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 Smith to the public and Commission members.

OPENING STATEMENTS

Commissioner Smith asked if anyone had an opening statement to give. Commissioner Roper said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF AUGUST 20, 2013 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held August 20, 2013 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Roper made a motion to approve the minutes of August 20, 2013, as corrected.

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

FOLLOW UP ACTION ITEMS FROM AUGUST 20, 2013

Commissioner Smith said that the bid for the East Millard Swimming Pool ceiling project was awarded to Pahvant Builders who had the lowest bid of \$15,164.00.

AUDITOR'S REPORT

Auditor Grace presented a framed certificate with the Community Covenant Program to be displayed in the Commission Chambers.

Auditor Grace and the commissioners discussed possible dates to hold meetings with the department heads to work on their budgets. Tentative dates were set for September 11 and 17 in Fillmore and September 16 in Delta.

Auditor Grace said that she was made aware that there may be some indigent burials. Once she receives more information she will bring it to the commission for approval.

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 report for property taxes collected and disbursed for the month of August. He said that the distribution for August was from the July collections, therefore, the figures do not match. He said that the report shows what was collected in property taxes and in personal property taxes for that month and those figures will be used for the September distribution.

Treasurer Hansen wanted to confirm that he could write off the balance of the property taxes owed on the property that Stephen Crabb deeded to Kanosh Town since it is now an exempt property. The Commission gave Treasurer Hansen permission to write off the balance owed on the property.

Treasurer Hansen said that the payment made to the Division of Wildlife Resources (DWR), for re-seeding Oak City in the fire buffer area, used up the balance of the SRS Title III money. He presented the Commission with a proposal of what he would do. He also presented the report, a copy of the check sent to the DWR, and the invoice, all of which needs to be sent to the Federal Government Comptroller office before February 1, 2014. Treasurer Hansen will get all of the documents sent as soon as possible.

RATIFY THE CELL PHONE ALLOWANCE FOR BRANDON WINGET, COUNTY ROAD SUPERVISOR

Commissioner Withers made a motion to ratify the cell phone allowance for Brandon Winget, County Road Supervisor, in the amount of \$80.00.

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

REVIEW AND POSSIBLE AWARDING OF THE BID FOR THE EMERGENCY WATER SHED PROTECTION PROJECT FOR THE OAK CITY AREA, RECEIVED BY JONES & DEMILLE ENGINEERING

Auditor Grace presented a notice of award and tabulation she received from Jones & DeMille recommending the bid be awarded to Harward and Rees in the amount of \$796,800.00. This bid request was advertised in the Chronicle Progress August 7, 14 & 21.

Commissioner Withers said that the County Road Department was on its way to help the State Road Department with debris removal up Oak City Canyon due to flooding this weekend.

Commissioner Withers said that it is interesting that nobody local bid on this project. He said that not too long ago an outside company was awarded a contract for a bridge project. This company did not complete the job, therefore, the County had to complete it.

He said that he will contact Jones & DeMille to make sure that the entire job is complete and done correctly before they sign off on the project.

Commissioner Roper made a motion to award the bid to Harward and Rees for the emergency watershed protection project for the Oak City area, received by Jones & DeMille.

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

REVIEW AND POSSIBLE APPROVAL OF A MINOR SUBDIVISION - HAVING RECEIVED A FAVORABLE RECOMMENDATION FROM THE MILLARD COUNTY PLANNING COMMISSION ON APPLICATION #Z-2013-018 FOR A PROPOSED MINOR SUBDIVISION FOR THE PURPOSE OF DIVIDING A 78.875 ACRE PARCEL INTO TWO PARCELS (ONE 1.13 ACRE AND ONE 77.75 ACRE PARCEL) LOCATED AT 884 N 3000 W, DELTA GRID. JAKE CHRISTENSEN - APPLICANT; MICHAEL CHRISTENSEN - OWNER

Commissioner Withers made a motion to approve application #Z-2013-018 for a minor subdivision for Jake Christensen - applicant; Michael Christensen - owner.

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

Commissioner Smith said that he attended the Planning Commission meeting where this item was discussed. He explained that this is an agriculture zone where they would be breaking one acre out for Mr. Christensen to build a home on a farm he is going to purchase. He said there was an existing lot, a trailer and a well on the property but the survey was incorrect, so they had to have a new survey done.

REVIEW AND POSSIBLE APPROVAL OF MINOR SUBDIVISION - HAVING RECEIVED A FAVORABLE RECOMMENDATION FROM THE MILLARD COUNTY PLANNING COMMISSION ON APPLICATION #Z-2013-022 FOR A PROPOSED MINOR SUBDIVISION FOR THE PURPOSE OF DIVIDING A 23.80 ACRE PARCEL INTO TWO PARCELS (ONE 1.10 AND ONE 22.70 ACRE PARCEL) LOCATED AT 590 N 500 W, DELTA, UTAH. ROBERT AND TAMMY BUNKER - APPLICANTS; GARY AND MARION BUNKER - OWNERS

Commissioner Smith said that this is a similar situation as the item listed above. They are allowed to break away one acre from a parcel to build a home.

Commissioner Roper made a motion to approve application #Z-2013-022 for a minor subdivision for Robert and Tammy Bunker - applicants; Gary and Marion Bunker - owners.

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

OTHER BUSINESS

Commissioner Withers said that he received a letter from the Governor's Office requesting that the County provide its pre 1977 road department maintenance records, as well as its pre 1991 photographs, assumably for the RS2477 road issue. He said that he assumes that the Road Department has that information and will provide it to them.

Commissioner Smith said that he thinks that Adam Britt, GIS, has all of the roads GPS and photographs and probably a lot of the documentation to record all of the roads.

Commissioner Withers will double check with Brandon Winget, to make sure the Road Department has all of the requested information.

Commissioner Withers said that Anthony Fuller asked Mr. Winget if the County would be interested in purchasing his gravel pit located in Fillmore. The County has purchased gravel from Mr. Fuller for some years now. Mr. Winget looked back a few years and said that since 2006 the County has spent around \$90,000 on gravel. Mr. Fuller has offered to sell the gravel pit to the County for \$100,000.

It was suggested to see how much the gravel pit is worth and then to have Mr. Winget contact Mr. Fuller and ask him to submit an official offer.

Commissioner Withers said that in the past when a drain ditch needs to be put in under the road, the County has provided the pipe, the fill and the cap. Apparently, Mr. Winget informed the drainage districts that he does not think the County could afford to provide all of that anymore. Commissioner Withers will have a meeting with Ken Fowles, Garth Lake and Mr. Winget to discuss this issue.

Commissioner Withers explained that in the past the drainage districts were willing to put in a 40 foot pipe, but Thayne Henrie required a 60 foot wide pipe, so he always had his crew put it in. Commissioner Smith said that he would be fine with the County either purchasing the pipe or installing the pipe, but not both. Commissioner Roper would prefer the County install the pipe if the drainage districts purchase the pipe. Commissioner Withers will pass on the commissioners preference at the meeting.

Commissioner Withers said that he has asked Brandon Winget to look into an issue regarding the road on Cropper Lane. Apparently a farmer put in a new cement ditch next to the county road. He also put a road in between his ditch and the county road. His road sits about four feet higher than the County's road. There is no longer a barrow pit and when it rains the water comes across the farmer's road and sits about half way across the county road, which is going to ruin the County road.

Commissioner Roper presented a letter regarding an issue with the Delta Sands. The letter was given to Attorney Waddingham for further action.

Commissioner Roper will visit with Terry Cummings, East Millard Swimming Pool, regarding a request he received for extending the swimming pool hours to 8:00 p.m. in Fillmore.

Commissioner Roper visited with Jedd Memmott regarding placing a sign on the west frontage road in Scipio by Flying J, warning truckers that it is not a through street. He said that he spoke with Mr. Winget regarding this issue. Commissioner Withers said that he will follow through in seeing what can be done.

Commissioner Roper informed the commissioners of the following meetings:

Wednesday, September 4, 2013:

- 10:00 a.m., with Mayor Larsen, Flowell Electric, Chris Conabee and Economic Development.
- 1:00 p.m., with Six County AOG and the Governor's Economic Development team.

Thursday, September 5, 2013:

- 9:00 a.m., with a few people invited by Flowell Electric and Fillmore City Mayor Eugene Larsen.
- 10:00 a.m., with Rocky Mountain Power.

Friday, September 6, 2013:

- 10:00 a.m., with IPA in Delta.

Commissioner Withers asked if the other commissioners were okay with the layout of the Fillmore public health building. Commissioner Smith said that his preference would be to leave the two public restrooms rather than adding an office.

The commissioners discussed the potential property locations for constructing the public health building. It was suggested to discuss the plans and the location with the Fillmore public health staff.

REVIEW AND POSSIBLE ADOPTION OF ORDINANCE 13-09-03, AN ORDINANCE ADOPTING A PROPOSED TEMPORARY LAND USE ORDINANCE PROVIDING FOR PLANNED UNIT DEVELOPMENTS. MILLARD COUNTY - APPLICANT. APPLICATION #Z-2013-0029

Sheryl Dekker, County Planner, said that when the County received an application from Deseret Heritage for a subdivision, they were concerned because some of the lot sizes did not meet the zoning requirements for their location. She said that after taking another look at the ordinance they found that in a planned unit development the lots could be smaller. She also said that the services provided by the County would be used in a more economic and feasible situation if there is a cluster of homes.

Ms. Dekker said that it was discovered that the ordinance which took effect in January 2013, had the planned unit development ordinance in Title X, which should have been in Title XI. She said that since the new ordinance repealed all the Title X ordinances they lost the planned unit development language. They are requesting that this section of Title X be put in the new ordinance by way of a temporary ordinance until the new Title XI subdivision ordinance can be adopted.

Attorney Waddingham said that this ordinance will take effect immediately and any applications that are currently pending fall under the old ordinance.

As required by §17-27a-504, Utah Code Annotated, 1953, as amended, Commissioner Smith, County Commission Chair, affirms the findings that the following ordinance be enacted based on a compelling, countervailing public interest.

Commissioner Smith explained that this ordinance will take effect today, and that this is a temporary ordinance that will allow planned unit development to continue until the ordinance can be amended to include it in Section XI.

Commissioner Roper made a motion to adopt Ordinance 13-09-03, an ordinance adopting a proposed temporary land use ordinance providing for planned unit developments. Millard County - applicant, application #Z-2013-0029.

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

DISCUSSION REGARDING COVE FORT FIRE TRUCK ISSUES - HOWARD ALLRED AND BRUCE CURTIS

Bruce Curtis, Fire District Chairman, discussed with the Commission the possibility of closing down the fire station located in Cove Fort during the winter season. He gave reasons and examples of why the fire district came to this conclusion. Some of the reasons were that the fire station was not being maintained as it should be, things were freezing up which caused damage, lack of volunteers with the proper training and liability issues.

He said that in the past the members of the Kanosh Fire Department were helping with the Cove Fort Fire Department, but it is no longer feasible for the Kanosh Fire Department to help out.

Mr. Curtis said that Ben Pratt, a resident of Cove Fort, has the ability to run the brush truck, but the lack of volunteers and proper training causes a liability issue.

Alan Peacock, a resident of Cove Fort, said that he has taken the proper training to be able to help out during a fire but he has not had a chance to take the test.

Mr. Peacock voiced his concerns with closing the fire station in the winter. He said that there are many reasons why the fire station should remain open all year long. Winter is when people use their fireplaces, which increase the chances of chimney fires. He said that the residents in Cove Fort could respond to a fire in seconds versus waiting for fire fighters to come from out of the area. He said that by the time they arrived the house would be burned completely.

They discussed the lack of fire equipment at the Cove Fort Fire Station. Mr. Peacock said that they would need the larger truck that the Kanosh Fire Department recently took. Right now they only have a 300 gallon brush truck on hand at the station. He also discussed a storage problem in the facility. He said that there is a pile of stuff in the station that does not belong there. He has asked the person who brought it there several times to remove it but it is still there and in the way.

Peter Vander Meide, a Cove Fort resident, said that he agrees that there needs to be more than one firefighter in the Cove Fort area. He said that insurance companies have dropped the insurance for some of the Cove Fort residents due to fire issues. He gave some examples of fires that have caused mishap.

Jon Pratt, a Cove Fort resident, said that he has the firefighting background and experience. He said that he would be willing to help when he is available.

Commissioner Roper said that there has to be some kind of training for the volunteers to avoid the liability issues. Attorney Waddingham asked how often the training would be required and whether certification was required. Scott Cory, Kanosh Fire Department, said that he takes training twice a month and would be willing to pass that training onto the Cove Fort volunteers.

They discussed the red card for private land and construction fire fighting which is not needed for domestic firefighting.

Amos Harmon, a resident of Cove Fort, shared some of his issues with living in Cove Fort. He said that he has watched the little community grow. There are now several buildings, homes, a rest area and a gas station. He said that it is moving in a positive direction.

Mr. Peacock said that the church put in their own private water system and have trained the missionaries to use the hoses to defend the buildings from fires, if needed.

Jimmy Hodges, owner of Cove Fort Chevron, said that he pays a lot of money in property taxes and wants to know why they can't get use of the tax money they pay. Mr. Curtis assured them that it is not a financial issue at this point, it is more of a liability issue due to the lack of trained volunteers. Mr. Curtis said that they would need at least four trained volunteers to keep the fire station up and running.

Mr. Peacock said that they mainly want to defend the structures from the wild land fires. Commissioner Roper said that it sounds like we are all on the same page we just need to get some trained volunteers. It is up to the residents of Cove Fort to step up and get the proper training and become volunteers.

Mr. Peacock suggested to hold a training once a month. Mr. Hodges said that he and his boys would be willing to go to the training if they would hold it in Cove Fort. Mr. Corry said that they

would be willing to provide the training in Cove Fort.

Mr. Peacock praised Howard Allred on being a loyal fireman, who is willing to do whatever it takes to get things taken care of, as well as, Scott Corry.

Mr. Corry asked if the Fire District Board is willing to cover the heating costs in the winter if they can come up with volunteers. Mr. Curtis said that if they were to get four solid volunteers with proper training then he is sure the Board would be willing. Commissioner Withers said that the commission would be willing to look into funding as well, if it is an issue of keeping the residents safe.

Commissioner Smith said that they appreciate the discussion, the concerns, the effort of everyone and everyone's willingness to participate. The County is concerned with the health, safety and welfare of the citizens and is willing to help.

Commissioner Withers asked Mr. Corry to proceed in looking for volunteers and training of those volunteers. He also asked to keep the County informed on the financial issues.

Mr. Hodges asked if the commissioners have made a decision regarding bringing a dumpster into Cove Fort. Commissioner Roper said they are moving forward in that direction.

OTHER BUSINESS CONTINUED

Attorney Waddingham said that he provided the commissioners with a couple proposals received from the Deseret Heritage Association regarding surety for subdivision improvements. He said that they presented a few draft proposals for the County to give to the engineer for consideration. They have already filed a preliminary plat with the Planning Commission. The final plat with a surety proposal will be filed with the County.

Attorney Waddingham said that in regards to the Milford Phase I & II windmill projects, the County required Milford Wind to have security in place for reclamation in case the project was ever decommissioned. The letters of credit were originally issued by Royal Bank of Scotland. They are now considering a switch to a new bank called PNB PARIBAS. It is a bank headquartered in France. He has looked over the letters of credit and it seems to him that there is not much difference. He sent PNB PARIBAS an e-mail asking how the bank was rated. He received an e-mail back stating that in terms of ranking, S&P ranks BNP as A+ and Moody's ranks them as A2. Attorney Waddingham also asked if there were any other responsibilities or obligations to the County by reason of issuing the new letters of credit.

Attorney Waddingham does not see a problem with the proposed letters of credit. He asked the commissioners to look over the letters of credit and to let him know if they have any questions or concerns with them.

Commissioner Roper said that when they left planning and zoning he felt that they were directed in one direction and the county in a different direction. Attorney Waddingham explained that both were right. They had to comply with eight criteria and felt that they could not comply with number 6, incompatibility of adjoining properties. This is basically a subjective test because one may think that 50 feet is close enough and someone else might feel that 2 miles is not far enough. There were no footage requirements in the ordinance. They may have been thinking in terms of a

conditional use permit, not a zone change. When they held the hearing in commission meeting, the commissioners all felt it was compatible. Commissioner Roper said that he thought that would be the answer since the commission visited with them.

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

Commissioner Withers attended a public health quarterly meeting last Wednesday in Richfield, Utah. They discussed several different things. He said that the employees do great things for the County. They are really excited about the new building that is going to be built in Fillmore.

Commissioners Withers and Roper met with the planning commission. They discussed the statutory duties in relationship to planning and zoning and how it works, as well as, the roles of the County and the planning and zoning commission.

Commissioner Roper said that the commissioners are invited to attend the Utah State Parks Staff and Statewide Committee Partners for a presentation and discussion about increasing cultural and arts programming. They can attend either at the Antelope Island State Park in Idaho on September 4, 2013, or at the Territorial State House in Fillmore on September 5, 2013 from 2:30 p.m. to 4:30 p.m..

Attorney Waddingham explained that the Utah Counties Indemnity Pool training regarding the open meetings act is basically for those who sit on a board and make decisions and is subject to the open meetings act.

Commissioner Smith said that Todd Mullen, Golf Pro, has been working with the Road Department and Delta City regarding putting in a car path from the airport to the golf course, which will be needed for the "Fly-In" September 21, 2013. They just need to get a permit from UDOT.

Commissioner Smith said that the County received a thank you card from Lavoy Martin for the floral arrangement the County sent her for her husband's funeral.

PUBLIC INPUT

Wayne Jackson asked the commissioners if they were ready to make a decision regarding the wall so that they could get the process started.

Commissioner Roper said that the County is about one month away from having a decision which is when they will work on the budget.

Mr. Jackson said that they were hoping to have the wall completed by November 11, 2013.

Mr. Jackson thanked the County Road Department for its help with the flash flood.

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

Auditor Grace presented the East Millard Swimming pool ceiling replacement contract for signature.

POSSIBLE CLOSED MEETING PURSUANT TO UTAH CODE ANNOTATED SECTION 52-4-204 & 205

There was none.

WHERE UPON THE MEETING ADJOURNED

Commissioner Roper made a motion to adjourn the meeting.

Commissioner Withers SECONDED the motion. The voting was unanimous and the meeting adjourned at 12:40 p.m..

Attest: _____

Approved: _____