

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 3rd DAY OF DECEMBER 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: Matthew R. Kesler, Keith Shurtz & Craig Stump..... Citizen
Kevin Morris..... West Millard Recreation
Lindsay Mitchell..... Sheriff's Office
Garon Sandall..... Fish Lake National Forrest
Connie Hansen..... County Recorder
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 Smith to the public and Commission members.

OPENING STATEMENTS

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

APPROVAL OF NOVEMBER 19, 2013 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held November 19, 2013 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Roper made a motion to approve the minutes of November 19, 2013, as corrected.

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

carried.

FOLLOW UP ACTION ITEMS FROM NOVEMBER 19, 2013

Commissioner Smith said that the commissioners met with Rob Bliss, as a Board of Equalization, and worked out the issues that he brought to the last commission meeting.

DISCUSSION AND POSSIBLE APPROVAL OF A NEW COURT SITE CONTACT

Clerk Brunson explained that this contract is an amendment to the contract the County currently has with the State Courts. She said that the State Courts overpaid the County for salary reimbursement due to an error with the current contract. This new contract will fix the error since the State Courts have already deducted the overpayment from this month's reimbursement amount.

Commissioner Withers made a motion to approve the corrected Court Site Contract between Millard County and the State Courts.

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

DISCUSSION AND POSSIBLE APPROVAL OF A BILLING SERVICE AGREEMENT BETWEEN PACIFICORP AND MILLARD COUNTY

Attorney Waddingham said that there are a few provisions he would like to change in this contract.

Commissioner Smith explained that the County currently has a contract with Pacificorp for billing landfill services on its power bill. Pacificorp charges the County a fee for this service and would like to increase that fee, as well as change the provision in the contract for how it receives the billing service fee.

Commissioner Roper made a motion to approve the Billing Service Agreement between Pacificorp and Millard County, pending Attorney Waddingham's approval on the language in the contract.

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

POSSIBLE APPROVAL OF RESOLUTION 13-12-03, A RESOLUTION TO ADOPT A MILLARD COUNTY EQUAL EMPLOYMENT OPPORTUNITY PLAN

Attorney Kaela Jackson explained the resolution to the Commission. She said that the last time the County adopted an equal employment opportunity plan was in 2007. There has been a bit of a lapse with this process.

Attorney Jackson said that basically there is a policy statement included in the plan about the County's commitment to provide equal employment opportunity, and it outlines the steps that will

be taken to ensure that will happen. Also, included in the plan is a utilization analysis chart that goes through the numbers, including statistics about race, gender and other numbers about the county employees.

She said that the County is actually doing pretty well as far as comparison to the County's labor statistics. There were only two areas the County was under represented, one was with white males in the job category of technicians, the other was with hispanic males in the service and maintenance job category.

Attorney Jackson said that she included some steps in the resolution for the County to follow, which include monitoring applications when job openings come open. This will help to determine if there are issues with overlooking certain categories of individuals, when they are looking at employment in the two areas mentioned above. She said that this plan will help ensure that the County is in compliance with federal law.

Commissioner Smith clarified that the two mentioned issues were the only areas that the County should be aware of. Attorney Jackson said that those were the only two areas that were under represented, to the point that it is an issue. She said compared to the plan passed in 2007, the County's numbers were better in many categories.

Commissioner Roper made a motion to approve Resolution 13-12-03, a resolution to adopt a Millard County Equal Employment Opportunity Plan.

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

DISCUSSION AND POSSIBLE APPROVAL OF ADDING TO THE CIB LIST, REPAIRING OF LEAMINGTON CITY'S SPRING COLLECTION SYSTEM, WHICH WAS DAMAGED BY POST FIRE FLOODING

Commissioner Smith said that the Mayor of Leamington requested that repairing Leamington City's spring collection system project be added to the CIB list. The commissioners contacted Six County Association, Emery Polelonema and asked that this project be added to the CIB list. Leamington Town will still have to go through the process to get this project added to the list.

Commissioner Withers questioned if the commissioners could request that this project be moved up the list. Commissioner Roper said that he feels that this project should be pressed. He said that he will discuss this at the next Six County AOG meeting and he will make sure that they push for it to be moved to the top of the list.

Commissioner Withers made a motion to approve adding to the CIB list, repairing Leamington City's spring collection system, which was damaged by post fire flooding.

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

DISCUSSION REGARDING UTV & ATV TRAILS - KEVIN MORRIS

Kevin Morris, Craig Stump and Keith Shurtz presented maps to the Commission. Mr. Morris said that they want to tie a lot of the Fillmore trails and Delta trails on the ATV routes together so that you can make a loop. They went over the maps which show the routes that they are proposing. They need the commissioners support on this and then they will go to the Sheriff, the BLM and private land owners for approval. Mr. Morris said that he can see a real potential for tourism with this. Mr. Morris said that the areas and trails discussed have already been positioned on the global satellite system.

Commissioner Roper said that there is a problem coming out of Oak City since there is no access going into the Canyon for ATVs. The road is so narrow that the Forest Service will not allow access onto the road.

Commissioner Smith suggested to plan a meeting around the first of the year, with the other entities that this will involve. Mr. Morris explained that they are not trying to take away from anything that the ATV Jamboree is doing on the East Side.

The commissioners were okay with Mr. Morris moving forward by discussing this project with the Delta City Mayor and the Sheriff. The commissioners will set up a meeting with the BLM and the Forest Service.

DISCUSSION AND POSSIBLE APPROVAL OF AMBULANCE ABATEMENT(S) - LINDSAY MITCHELL

Lindsay Mitchell presented an ambulance abatement application from Meagan Juardo, daughter of Aaron and Christina Jurado. She was transferred to Primary Children's Hospital. The insurance has already paid \$3,804.80 leaving a balance of \$1,465.51.

Both parents are employed with a total monthly income of \$8,000.00. Commissioner Smith said that their income exceeds the amount of allowed income for an abatement.

Commissioner Withers made a motion to set up a monthly payment amount of \$100.00 until the bill is paid in full.

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

DISCUSSION AND POSSIBLE APPROVAL OF OBTAINING ADDITIONAL RIP RAP OUT OF THE LEAMINGTON PASS PIT FOR FOREST SERVICE USE - GARON SANDALL

Garon Sandall, Civil Engineer with the Fishlake National Forest Service, said that they recently received additional funding to do some stream reclamation work in Dry Creek Canyon. They are looking at different possibilities of obtaining rip rap to do the work. They are interested in negotiating a price per cubic yard with the County to obtain approximately two to three thousand cubic yards of rip rap out of the Leamington Pass pit, which was recently opened when the Forest Service granted a permit to Millard County to mine it.

The County has been permitted to mine 10,000 cubic yards this year and an additional 10,000 cubic yards next year.

Commissioner Roper said that if the County could recoup the cost from providing it to the Forest Service he thinks they should approve it.

Mr. Sandall said that he visited with someone on the site of the project who indicated that they would be willing to negotiate a price with them.

Commissioner Withers said that he agrees with Commissioner Roper and feels that they should probably get started with this. Mr. Sandall said that they would like to get started soon after the spring runoff.

After further discussion the commissioners said that they will look into this further and will get back to Mr. Sandall.

PUBLIC INPUT

There was none.

OTHER BUSINESS

Commissioner Withers had a citizen talk to him regarding the laws in Millard County on spot lighting skunks, racoons and coyotes and shooting them. He said that a while back someone came to the commission to see if they could change that law so that citizens could use artificial lighting to hunt predators. Attorney Waddingham said that they may need the Sheriff's Office and the property owner's approval before doing this. Commissioner Smith said that he/she would need a permit.

Commissioner Roper heard that it was illegal no matter if you have permission or not. Commissioner Smith said that according to state statute it is legal if you get a permit and do not use artificial light.

After more discussion Commissioner Smith suggested to discuss this further with the Sheriff.

All three commissioners met with the State Institutional Trust Lands Administration (SITLA), the Bureau of Land Management (BLM), the Utah Department of Transportation (UDOT), and the Oak City Desert Grazers to discuss the replacement of a fence that was burnt during the Oak Creek fire.

Commissioner Smith said that because of the fire they had the ability to fence the south side of the road. The permittees, SITLA, BLM and UDOT have agreed to fence the other side of the road due to a safety issue.

The Oak City Desert Grazers have agreed to do the maintenance on the fence. The BLM has put together a cooperative range improvement agreement. BLM will maintain the fence, SITLA will pay for the material, Oak City Desert Grazers will pitch in some funding. The BLM will put up the material for the cattle guards and Millard County will install them. All of the parties have come together at the moment to make this happen. The property which the fence will be placed will be designated as open range and UDOT will look into posting signs to inform the public.

Commissioner Smith asked Attorney Waddingham if he found a provision in the County statute that discusses open range. Attorney Waddingham said that the statute does not come out and talk about open range, except as it applies to horses. He said that there is a statutory provision in the motor vehicle code regarding owners life stock on a highway, which he read to the Commission.

He said that the County has an ordinance that specifically states that the property owner has a duty to fence their animals in. He said State law states that there is no presumption of negligence

by an owner, for example if the cow gets out and gets hit on the highway. A person still has to prove negligence.

Commissioner Smith said that the permittees have agreed to maintain the fence. The County has the ability to say whether the range is open or closed. The way the permit is set up with SITLA and BLM it is one big range. Cattle guards will be put in where there are existing roads and a fence will be placed at the sand hills. There will be signs posted, informing the public. All parties mentioned, as well as the Sheriff are all on board with the fencing. The County will not maintain the fence but will participate in using heavy equipment if there is ever a need.

The agreement will be brought to the next commission meeting for possible approval.

Commissioner Roper received an email from Krista Kisch, Bright Source Energy, asking if the Commission would become active on her company's behalf, as far as working with the BLM. Commissioner Roper discussed this with Commissioner Smith who indicated that he would be on board with issuing a statement of support. Ms. Kisch said that they are concerned that they will be required to do an EIS.

Commissioner Roper contacted Juan Polmis' office and visited with him regarding Ms. Kisch's concern. Commissioner Roper said that he supports the project, as well as them not having to do an EIS. Commissioner Smith said that in the past the County has offered its support to projects like this who come into our County. He said that BLM will do whatever they feel is appropriate regarding this process.

Commissioner Roper said that he will put a letter of support together for this project.

Commissioner Roper reported that there is an office dinner at the Delta County Offices on December 10, 2013.

Commissioner Roper had a citizen in Flowell contact him regarding placing street lights in Flowell. Commissioner Smith said that there are a few street lights already on the major intersections where there have been safety issues. Commissioner Roper said that there are two more areas in Flowell that the citizens would like to have street lights placed.

Commissioner Smith said that they have a safety committee where they discuss issues like this. It was also discussed that there is probably a need for a street light at the end of Jones Road since there have been a few close calls. The commission will look into the cost of the lights.

Commissioner Roper reported that the commissioners are all invited to the Six County AOG awards dinner tomorrow night in Richfield, Utah. Quality Market will get an award for its business endeavors in the County this year.

Commissioner Smith said that he will be attending a Planning and Zoning dinner tomorrow night.

Commissioner Roper asked if the public defender contract would be taken care of on today's agenda. Attorney Waddingham said that he spoke with Tate Bennett, Millard County Public Defender, and he said that there is only about one incident a month where conflict counsel would be needed. Attorney Waddingham said that the public defender contract is ready to go besides negotiating an amount.

Commissioner Roper recommended to renew the contract with the same amount as this year's contract. Commissioner Smith said that they have budgeted the same amount of this year's contract with an additional \$10,000 for conflict counsel. Commissioner Withers said that Attorney Bennett does a good job. It was suggested to leave the amount of the contract as it is now. The renewal of the public defender contract will be brought back for approval at the next commission meeting.

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

Treasurer Hansen gave Commissioner Withers a report of the receipt for County finances for the month of October, since he was not present at the last administrative meeting.

Treasurer Hansen said that Jerry Anderson's wife came in and paid \$300.00 of their property taxes which were \$592.74. She explained to Treasurer Hansen that they had a hardship recently and asked if she could pay the \$292.74 balance next Wednesday without being assessed a late fee.

Commissioner Smith said that the County has been pretty good to work with people in the past, as long as they come in and make an agreement with the County. Commissioner Roper asked how the County can do this for one person without opening the door to have to do it all of the time. Commissioner Withers explained that in the past they have worked with those who are having struggles. He just does not want to see a habit made out of it. Treasurer Hansen said that he agrees with Commissioner Roper but he has seen the door open for other things that are substantially different than this situation.

Attorney Waddingham asked if doing this was a common practice. Treasurer Hansen said that the County does not normally do this kind of a thing unless there is a hardship and someone comes in and requests it. He said that the County has waived penalties and interest for years.

Commissioner Smith said that they usually do this kind of thing when the property is five years delinquent and is ready to be placed on the tax sale, or with a hardship abatement. The commissioners will waive penalties and interest if the requestor will pay the amount in full before a certain date.

Treasurer Hansen said in this situation it is nice when somebody comes in and explains their situation and are willing to pay the remaining balance in one week.

Attorney Waddingham questioned if this is allowed in the statute, as far as reducing penalties and interest prior to tax sale issues that come up. Treasurer Hansen said that the commissioners have the ability to abate penalties and interest after they become due.

Commissioner Withers made a motion to grant Ms. Anderson one week to pay the balance of her taxes without having to pay penalties and interest.

Commissioner Smith stepped from the chair and **SECONDED** the motion. Commissioner Withers and Commissioner Smith both voted in favor of the motion and Commissioner Roper voted against it. The motion carried.

Commissioner Roper said that he does not see how the County can do this. He said at some point you have to draw a line. Everyone has a special issue. He just can't see how it can be done.

Commissioner Smith said that they have done it under a hardship and that is what is being

claimed. Commissioner Withers said that he has an easier time helping those who ask for it before their property becomes five years delinquent and then ask for forgiveness later. In this situation they are only asking for a week to pay the balance in full. Treasurer Hansen recommended the commission grant this request.

Treasurer Hansen discussed a piece of property in the name of Clint Peterson. He said that he thinks that this property was discussed at a previous commission meeting. He said that Mr. Peterson deeded the piece of property to Tyle and Callie Peterson and they refused to pay the property taxes on it last year because it is a road right-of-way and is unusable. Treasurer Hansen said that he thinks this particular piece of property was removed from the tax sale last year, but it was assessed a tax again this year. After discussion and looking at the map it was found that this piece of property was not the property discussed last year. That piece of property was actually sold at the tax sale last year. The Peterson's are responsible for paying the taxes owed on this piece of property.

Auditor Grace presented bids for redoing the East Millard Swimming Pool floors that were received by Terri Cummings, East Millard Recreation. The decision was made to go with PEP Systems International's bid. Auditor Grace presented a contract provided by PEP Systems International and they are asking that the county pay 50% of the contract up front. The bid amount was \$17,440.

Commissioner Smith said that there were three bids received:

- PEP Systems International \$17,440.00
- Finn Wall \$15,178.00
- Amp Coating 19,825.00

The bid received from PEP Systems International was in the middle of the three bids but the County feels that this is the best value, because the County has used this company before and feels that they did a good job.

Attorney Waddingham reviewed the contract and would like to incorporate some additional terms before the commission chair signs it. He said that he will put a revised contract together and will send it to the commissioners for approval. He said that the amended contract would be based on the same type of contract the County has approved before.

Commissioner Roper made a motion to approve the contract with PEP Systems International for the bid on redoing the East Millard Swimming Pool floors, pending the approval of the amendments made by Attorney Waddingham.

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

Commissioner Smith announced that the 2014 Millard County Budget Hearing is scheduled for tonight at 7:00 p.m..

Commissioner Roper said that the chairman of the Tourism Committee's husband recently passed away and Judge Haveron has requested that the County give her a gift card in lieu of flowers. The Commission discussed the policy regarding funeral flowers and found that it only applies to

County employees and their immediate family members and past employees.

Commissioner Roper said that they are getting closer with the public health property they want to purchase. As soon as they put the proposal together they can get a bid. Bids will only be accepted from the list of names who attended the pre construction meeting.

They discussed the parking lot and which way the building would face.

The commissioners met with Sheriff Dekker, Recorder Hansen and Zane Pentz, Sunrise Engineering, to discuss the records storage building.

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

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

There was none.

WHERE UPON THE MEETING ADJOURNED

Commissioner Withers made a motion to adjourn the meeting.

Commissioner Roper SECONDED the motion. The voting was unanimous and the meeting adjourned at 11:50 a.m..

Attest: _____

Approved: _____