

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 6th DAY OF MAY 2014  
AT THE COURTHOUSE, FILLMORE, UTAH

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

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

ALSO PRESENT: Robert Dekker..... County Sheriff  
Merlin & Eric Jackson, John & Marilou Heath, Peter Greathouse  
T. Lavato..... Citizens  
Hannah Jones..... Chronicle Progress  
Terri Cummings..... East Millard Swimming Pool  
Pat Manis..... County Assessor  
Brandy Grace..... County Auditor  
John Hansen County Treasurer

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 Roper to the public and Commission members.

OPENING STATEMENTS

Commissioner Roper asked if anyone had an opening statement to give. Commissioner Withers read a quote from Thomas Jefferson: "I find that as I grow older, that I love those most whom I loved first". Sheriff Dekker said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF APRIL 15, 2014 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held April 15, 2014 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Withers made a motion to approve the minutes of April 15, 2014, as corrected.

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

#### FOLLOW UP ACTION ITEMS FROM APRIL 15, 2014

There were none.

#### AWARDING OF THE BID FOR THE MILLARD COUNTY HEALTH DEPARTMENT BUILDING IN FILLMORE, UTAH

Commissioner Withers said that the commissioners appreciate the participation from all of the contractors who put in for the public health building in Fillmore. He said that the commissioners have chosen to accept the bid received from Pahvant Builders in the amount of \$299,396.00 for the building only. The commissioners have a meeting on May 29, 2014 with the CIB Board regarding funding for this project. He said that construction cannot begin until after that meeting.

Commissioner Roper asked when they expect that the bond and paperwork would be done. Attorney Waddingham said that he will create a contract and as long as everything is in place before May 29, 2014 they will be good to go.

#### DISCUSSION AND POSSIBLE APPROVAL OF PURCHASING NEW SHEEP AND HOG PANELS FOR THE MILLARD COUNTY LIVESTOCK SHOW

Commissioner Withers said that he was approached by Jared Buhler, President of the Jr. Live Stock Show, regarding the possibility of purchasing new panels for the Millard County Live Stock Show. After discussion it was decided to wait until the 2015 budget cycle to see if there will be funds available in 2015 for this purchase.

#### DISCUSSION AND POSSIBLE APPROVAL OF A CELL PHONE ALLOWANCE FOR MATT BOWLES, MILLARD COUNTY RECREATION DIRECTOR

Commissioner Roper said that he visited with Matt Bowles, East Millard Recreation Director, regarding a phone in his office. It seems that it would be more feasible for the County to offer a stipend for his cell phone rather than installing a phone in his office.

Commissioner Withers said that, in moving forward, he is more in favor of doing what is more economical for the County. He also said that if it is decided in the future that a phone is needed for his office the Commission would revisit this stipend.

Commissioner Smith made a motion to approve a cell phone allowance for Matt Bowles, Millard County Recreation Director, in the amount of \$40.00.

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

carried.

#### DISCUSSION AND POSSIBLE APPROVAL OF AN INDIGENT BURIAL APPLICATION FOR ZANA CORBIN

Commissioner Withers said that he was contacted by the husband of Zana Corbin. Her husband informed Commissioner Withers that his wife had passed away that day. He told Commissioner Withers that due to circumstances beyond his control his wife's body would need to be taken to the crematory on Sunday. Mr. Corbin explained that he had no income and no way of making any income. Commissioner Withers approved the indigent burial under the circumstances, contingent on visiting with Commissioner Roper.

Commissioner Withers made a motion to approve an indigent burial application for Zana Corbin.

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

#### DISCUSSION AND POSSIBLE APPOINTMENT OF DEB OEPPINGER TO SERVE ON THE GREAT BASIN HERITAGE BOARD

Commissioner Roper said that Deb Oeppinger is willing to serve on the Great Basin Heritage Board.

Commissioner Smith made a motion to appoint Deb Oeppinger to serve on the Great Basin Heritage Board.

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

#### DISCUSSION AND POSSIBLE APPROVAL OF THE 2014/2015 STATE COURT CONTRACT

This contract is renewed annually. Clerk Brunson said that there was a slight raise in this year's contract.

Commissioner Smith made a motion to approve the 2014/2015 State Court Contract in the amount of \$172,313.01.

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

#### DISCUSSION AND POSSIBLE APPROVAL OF CONTRACT BETWEEN MILLARD COUNTY AND GREAT BASIN BMX - BICYCLE COMPETITION EVENTS

Attorney Waddingham said that he has spoken with both the Works, who are running the program here, and the owner in Arizona. He said that he has a contract prepared and is only waiting

to see which insurance company will be giving primary coverage. He would recommend that Commissioner Roper be authorized to sign the contract based on the final information.

Commissioner Smith said that the Works are wanting to hold BMX race events at the Millard County Race Track. Once the County enters into an agreement with them there will be some people from their national association who will help build the track. He said that Jake Smith and other citizens will donate the material. He said that the County will waive the fee for the first few events. If the events are successful then the County will rent the facility according to the County's fee schedule.

Commissioner Withers said that they will also be holding indoor events, during the winter months, inside the indoor arenas both in Fillmore and Delta.

Commissioner Smith made a motion to approve a contract between Millard County and Great Basin BMX - bicycle competition, events pending final review of Attorney Waddingham's recommendation and to allow Commission Roper to execute the contract.

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

#### DISCUSSION AND POSSIBLE APPROVAL OF FULLER FAMILY FARMS, LLC SUBDIVISION

This item has been tabled.

#### PUBLIC INPUT

There was none.

#### OTHER BUSINESS

Clerk Brunson presented a letter received from Fillmore City requesting to amend the Fillmore City Annexation Policy Growth Expansion Map. Commissioner Roper read part of the letter into the minutes. Clerk Brunson said that there will be a public hearing on May 27, 2014.

Commissioner Smith said that he received an invoice from the American Lands Counsel asking the County to participate as a Silver Member for \$5,000.00. In the past the County has participated at a level of only \$1,000.00. This will be brought back to the next commission agenda for approval and at what level.

Attorney Waddingham presented the Limited TV Translator Easement and Right-of-Way Lease Agreement. He said that this agreement has already been approved at a previous commission meeting, but needs to have the commission chair's signature notarized.

Commissioner Withers said that he received a phone call from a resident of the Sands Apartments in Delta, who expressed concerns regarding management issues. She requested to have a meeting with the commissioners to discuss these issues. The meeting was tentatively scheduled

for Wednesday, May 14, 2014.

Sheriff Dekker told the Commission that he may be able to shed some light on the issues before the meeting.

Commissioner Withers received a phone call from Ms. Davis??? she had been to a Six County meeting and was informed that they will no longer provide insurance for the boards that serve the senior citizens.

Commissioner Withers said that he and Attorney Waddingham discussed if there were options available for the County possibly helping with insurance. It is unknown why Six County is no longer offering insurance for these boards. Attorney Waddingham said that he will look into the options.

Commissioner Withers said that he thinks that the volunteers should not have to take on the liability or find insurance.

Commissioner Roper said that he has a meeting with Six County tomorrow and will bring this issue up for discussion.

Auditor Grace received a notification from the Utah State Library Division for the Bookmobile contract. They provided a memorandum of agreement that they would like returned by June 1, 2014. The agreement would be for a term from July 1, 2014 through June 30, 2015 in the amount of \$108,766.00. This will be brought back for approval at the next commission meeting.

Commissioner Smith said that Jennifer Tolbert is the new bookmobile person and has expressed that she loves it.

Commissioner Roper said that there is a Utah Counties Indemnity Pool (UCIP) Workshop and wondered if there will be a representative from the County at the workshop. Auditor Grace said that she would not be able to attend due to it being held the same day as the Tax Sale. Attorney Waddingham said that he will check to see if Deputy Attorney Jackson would be able to attend.

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

Commissioner Smith said that he attended a meeting yesterday with the Governor of Utah and Todd Mullen, Millard County Golf Pro. He said that the Governor declared, by way of resolution, that the month of May is now Golf Month. Commissioner Smith explained the economic benefits golf has on the economy.

Commissioner Withers reported on his meeting in Sacramento, California. He said that he and Verl Tolbert attended a Steering Committee meeting with a group of veterinarians and land use representatives who the BLM asked to study the wild horse issue in the west. He said that it was interesting to hear the different perspectives of what should happen with the wild horse issue. He said that there were people representing both sides of the issue.

Commissioner Withers said that Verl Tolbert was the only person interviewed after the meeting by the local TV station. Mr. Tolbert represented the County really well in both the interview and the meeting. Commissioner Withers said that he was pleased with Mr. Tolbert's comments. He

said that Mr. Tolbert had some good advice on how the wild horse issue should be managed.

Commissioner Withers said that it was good to have a voice heard from an actual citizen of our county whose livelihood is affected by this issue. He said that it was a good meeting to attend.

Auditor Grace said that Iron County has filed a lawsuit against the BLM. She said that several commissioners have contacted her as the UAC President to see if UAC would support their effort with an amicus brief.

Commissioner Withers said that he knew that the State of Nevada also has a pending lawsuit against the BLM. He said that the BLM is actually breaking its own law. They have put AUMs on their horses, which is that basically you can only have a certain amount of horses in an area. The studies show that the horses are about double what they should be and that is where the lawsuit is coming from. Commissioner Withers said that it is thought that the BLM should manage their horses the same as the cattlemen are expected to manage their cattle. He said that it will be interesting to see where it goes from here.

Commissioners Withers and Roper both had the opportunity to take an ATV ride on the range of the Swayze Mountain. He said that they looked at the challenges, problems and solutions. He said that he was pretty impressed with what the local BLM is doing to manage the herds the best they can. He said that the local BLM is not in too bad of shape. They are over the allowed limit of horses, but are trying to make it bearable. They have a few sales lined up in Cedar City, UT and Delta, UT.

Commissioner Roper said that the commissioners certainly had some concerns and felt that their trip back to Washington was very beneficial, as well as Commissioner Withers trip to Sacramento, CA.

Commissioner Withers said that it is good to have a good relationship with the local BLM and with the federal representatives. He said that Kevin Oliver, West Desert Regional Manager, also attended the ATV ride with them to see the depravation??? up the range, which was very apparent.

Commissioner Roper said that Linda Gillmor, Millard Economic Development Director, and the MEDA Board put on a technology convention in Delta. They invited different businesses to come and make presentations. The convention was geared to help educate what the needs are for Millard County. He applauded Ms. Gillmor for the great effort she puts forth in putting these things on. He said that there were about 90 people in attendance.

Commissioner Roper said that on April 15 and April 16 the Salt Lake City Chamber of Commerce put on a field trip beginning in Millard County and ending in Beaver County. He said that it was interesting to know that the Salt Lake Chamber had an interest in what is going on in Millard and Beaver Counties.

Commissioner Smith said that he attended a Joint Highway Committee on April 25, 2014 in St George, Utah. They discussed transportation needs of the State. He said that the federal government adopted a new transportation bill because there is not a lot of funding for a transportation infrastructure. They are hoping to have something in the future that would allow funding for three or four years so the counties could actually plan on doing projects.

Commissioner Smith said that at the state legislative session they talked about a local option sales tax for transportation needs locally or a percentage change in the gas tax, as well as some of

the financial needs regarding transportation in the future.

Commissioner Roper said that the County has thought about putting in a road from Flowell to the lime plant.

Commissioner Smith explained the process. He said that the County would come up with a proposed route. They would then hire an engineer to design the road. He said that at one point the County could apply for a State Transportation Improvement Program (STIP). Now the County has to put up the money for the project before hand and then could use federal money to be reimbursed. Commissioner Smith said he thinks that is a pretty risky option.

Commissioner Smith said, as far as the road, there are other options and there may be a better way to route, as far as the money is concerned, and the ease of maintaining the road in the future. It would be a great access road to the east side of Millard County to the Milford Highway and to the industries that are out that way.

Commissioner Smith said that a proposal was discussed in the past to have the County build the road over a few years. He said that in order to use the STIP money the County would have to come up with 20% of the money, follow federal highway regulations and pay Bacon-Davis wages. The County could only then spend up to \$160,000.00 a year on a road before they have to bid it out.

Mr. Heath said that he thinks that the road is needed because as the industry grows over there, it would be much faster for the fire department and Sheriff's Officers to get there from Kanosh rather than having to go through Delta.

## POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

## DISCUSSION REGARDING EXPLORING OPTIONS OF GOING FROM A COMMISSION TO A REPRESENTATIVE COUNCIL - ED PHILLIPS

Ed Phillips thanked the Commission for the opportunity to speak today. He discussed with the Commission the option of going to nonpartisan for local elections and the possibility of looking into districting county commission seats. He gave examples of other counties who have gone to nonpartisan and changed their form of government.

Mr. Phillips said that he got fired up on this 4 years ago during the last election cycle. He said that he understands that there is a bottom line that becomes the public's decision. The process could begin with the county commission through a resolution or to have a citizen initiative by collecting signatures. He read a letter into the minutes that he put in the local paper. *See attachment.*

Mr. Phillips discussed the gentleman's agreement with the Commission. He said it probably happened in the early 1900's, but it has not been codified or written down anywhere.

He said that the commission could be a five member council or commission. He said that he is asking that the Commission consider a process of ideas as commissioners to consider this. He said that he has received phone calls from people who say that this is way past due.

Attorney Waddingham said that there are four different types of county government. The legislature made effective May 1, 2000, that any type of optional form of government chosen could

not allow for nonpartisan elections for elected officials. He read the language from the code book.

Mr. Phillips said that in looking at the state legislature it does not surprise him at all. Attorney Waddingham said that the way it is worded may allow for an already established commission to go that route, but he said that he would have to do some research.

Commissioner Roper said that there is certainly a lot of interest and he thinks that they need to look into it to see what they can do legally.

Attorney Waddingham said that the statute is clear that if you changed forms of government then you could not have nonpartisan elections.

Peter Greathouse said that he has concerns about switching forms of government or forming districts. He said that if the County Commission divides into districts they will only represent their district and will not be doing what is best for the county as a whole. He said, how it is now, they have to work together and find a solution.

Mr. Greathouse said that in regards to the partisan issue, choosing candidates to represent a party is the business of the party. The party is formed to get people, of a like mind, together to put forward a candidate to represent their interests. This is done every two years. Anyone can file to be a candidate for a party. They will have to go through a process and the party will determine whether or not they want that candidate to represent their party.

Mr. Greathouse said that when they go through the process, candidates are interviewed by the delegates, who are all registered voters of the county, to get their take on the different issues of the county. It is a grueling process for the candidates. The delegates get together and discuss who will represent them best. If they cannot agree on one candidate, then it will go to a primary.

Mr. Greathouse said that anyone can vote in the Republican Primary by changing their affiliation. They can change back to their party preference as soon as they are done voting.

Mr. Greathouse discussed that there are great people from each party, but a lot of voters rely on party labels to determine a baseline of where a candidate is. He said that if you take that away most will rely on who is their friend and who can give them what they want, rather than what is better for the county as a whole.

He said that Millard County has one of the best primary turnouts in the state of Utah and it is still not that good. He said that changing to a nonpartisan is not going to change things. It will cost the County more money because they would have to hold a primary election every other year.

Mr. Greathouse said that the gentleman's agreement is between the citizens of the county. He has heard several different versions of it. He said that it is up to the voters to decide if that will remain in effect. He said that a lot of people have said that they get less representation when forms of government is switched. He said that he looked into the law and found that changing forms of government is a daunting and lengthy task. He explained the process of switching the form of government and said that it will be quite expensive to the County.

Commissioner Roper said that this issue will come to the people to decide.

Mr. Phillips said that he does not disagree with Mr. Greathouse. He said that it does make sense to spread it out and to go to the five member council commission, but it may be a very awkward situation to have some not looking out for the interest of the entire county. He said that the rest of the elected offices are not as cumbersome but whether it is or it isn't, it is an issue that has risen the level of community concern and is worth looking into.

Commissioner Roper said that he appreciates the comments made today and that the

commissioners will certainly follow through on their end.

Mr. Heath said that he is totally against the count your vote movement. He said that he does not see, in the primary election, where the different parties have the right to choose a party not associated with its own party. This is where the parties come together to pick their candidates for the general election.

Marylou Heath said that if you put four more people on the commission the budget needs to be taken out of the Sheriff's or the School Board's budget.

Sheriff Dekker said that in all his years in law enforcement he has never made a decision based on him being a Democrat. He feels that nonpartisan is a good way for county government to go.

#### DISCUSSION REGARDING THE MILLARD COUNTY PAY PLAN FOR THE EAST MILLARD SWIMMING POOL EMPLOYEES

Terry Cummings, East Millard Swimming Pool Director, said that she wants to rehire Bobbette White who worked for the pool for 10 years. She is already experienced, but with the step and grade she can only hire her at a first year step on the pay plan. She said that Ms. White is already life guard certified, experienced and would not have to be trained. When she left 3 years ago, she was making \$9.77. According to the pay scale she can only start her out at \$9.13, even with her past experience. Ms. Cummings asked if the commission would think about changing the way the step and grade is set up for the recreation employees. She explained that there are certifications required for certain positions and other positions require a lot more certification. She would like to see those steps separated out a little better especially with the supervisor positions.

She said that Mike Roberts is an instructional trainer at the East Millard Swimming Pool and is there all of the time. He has his CPO and does maintenance, including all of the little things that are needed and not listed in any job description.

Ms. Cummings questioned why the step and grade in full-time levels are higher than a part-time level. She said that Mr. Roberts has been employed with the pool, part-time, for 20 years.

The commissioners will discuss this and get back to Ms. Cummings.

Commissioner Withers asked how many certifications they need to work at the pool? Ms. Cummings explained that there are several certifications that a pool employee can get, but not all are the same certification levels and should not be paid the same. She said that there are many things that supervisors have to deal with for which they are not fairly compensated.

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

Commissioner Withers made a motion to go into a closed executive session for the purpose of discussing pending and/or threatened litigation.

Commissioner Smith **SECONDED** the motion. Clerk Brunson called for a roll call vote. Commissioner Smith voted YES. Commissioner Withers voted YES. Commissioner Roper voted YES. The voting was unanimous and the motion carried. Present in the closed session were Sheriff Dekker, Commissioner Smith, Commissioner Roper, Commissioner Withers, Attorney Waddingham

and Deputy Clerk Rowley.

After the closed executive session the regular meeting reconvened at 11:49 a.m..

**OTHER BUSINESS CONTINUED**

Commissioner Smith made a motion to approve paying \$500.00 to the Nevada State Bar for Attorney Waddingham to represent Millard County in the State of Nevada in the Snake Valley Water issue. The money will be taken out of the Snake Valley Water account.

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

Attorney Waddingham discussed with the Commission an email received from Sheryl Dekker and a citizen named Ted regarding RAPower-3.

**WORK MEETING WITH FOREST SERVICE TO DISCUSS UPCOMING FIRE SEASON**

The commissioners had a work meeting with the Forest Service to discuss the upcoming fire season.

**WHERE UPON THE MEETING ADJOURNED**

Commissioner Smith made a motion to adjourn the meeting.

Commissioner Withers **SECONDED** the motion. The voting was unanimous and the meeting adjourned at 12:00 p.m..

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

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

### **A More Representative Process Needed**

As a follow up to my pitch a couple of weeks ago to the citizens of Millard County that it is time to make some changes in how we elect county government officials: we need to look no further than where we are right now in the process of election cycle 2014 to see the need to take a serious look at this issue. All Millard County government elected offices, except one county commission seat, are up for election this year. Of the nine positions up for election, ( Auditor, Assessor, Attorney, Clerk, Recorder, Treasurer, Sheriff, Commissioner "A", and Commissioner "B" ), three of the nine are unopposed (Assessor, Attorney and Treasurer ) and one (the Clerk candidate) eliminated her opponent in a convention setting with no more than sixty-four citizens allowed to vote. So, these four candidates are virtually ensured of their election in November. The Auditor, Recorder, and Commissioner "B" races will be decided in a primary election in June with the winners in those races moving on to the November election unopposed, insuring their election. One of the two Republican candidates for the Commission "A" seat will also be selected in the June primaries, with the winner moving on to face an opponent in November. The State Republican Party, by rule, only allows registered Republicans to vote for their candidates in primary elections. All candidates who will be involved in the June primaries in Millard County have filed for office as Republicans.

The first candidate selection process (county convention), was decided by a few (about 64) delegates. The next selection process (June primary election) as mentioned above, will then be made by the members of only one political party. So by the time the primary election is over, at least four of the contested (meaning more than one person filed) Millard County Government

Offices up for election in 2014, will have been filled by candidates without a general vote and election by the people they are to serve.

The results of the election system that I have just described, I believe, discourages involvement and participation, and it is also leaving way too many citizens out of the candidate selection and election process.

If, for whatever reason or purpose, only one candidate files for an office, so be it. I enjoyed such a situation for six election cycles after my initial election as Sheriff. However, when two or more candidates seek the same office, it should go to the vote of the people, all of the people.

I believe a nonpartisan, open primary election system would be a good system for Millard County Government to implement. I believe such a system would make it easier and less intimidating for all citizens to participate in and become more involved. More citizen involvement would spawn more accountability from those we choose to serve us.

There are two ways to initiate the changes in county government I advocate. One is for the County Commission to take action to place a proposed change on the ballot to be voted on by the electorate. The other way, which is a little more difficult, is by a citizen referendum to place such a change on the ballot. Partisan politics and the delegate systems are needed and work well at the State and National level, but not so well for rural counties like ours.

I have received enough encouraging comments and input about a previous article on this subject I had submitted to the Chronicle/Progress a few weeks ago, that I have now decided to ask the County Commission to form a committee to at least study the issue of nonpartisan county elections, along with the possibility of creating election districts for commissioners.

