

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 3rd DAY OF FEBRUARY 2015
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: James I. Withers..... Chairperson
Alan M. Roper..... Commissioner

Pat Finlinson..... County Attorney
Marki Rowley..... County Clerk

Excused: Dean Draper..... Commissioner

ALSO PRESENT: Ted Recupero and Peter C. Vander Meide..... Citizens
Sheryl Dekker..... County Planner
Hannah Jones..... Chronicle Progress
Wayne Jackson..... Military Liaison
Bart Whatcott..... East Recreation
Brandy Grace..... County Auditor
Sheri Dearden..... 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 Roper said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag. Commissioner Withers excused Commissioner Draper who is attending a water hearing in Nevada regarding a protest that the County filed in 2009.

APPROVAL OF JANUARY 20, 2015 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held January 20, 2015 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Roper made a motion to approve the minutes of January 20, 2015, as corrected.

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

FOLLOW UP ACTION ITEMS FROM JANUARY 20, 2015

Commissioner Roper said that the County will be meeting with representatives from Juwi Solar Company to see if they can demonstrate its solar project in one of the County's buildings. He said that he discussed this with Millard Economic Development Association (MEDA) Director Linda Gillmor; both Ms. Gillmor and the commissioners will look further into this.

Commissioner Roper discussed presenting a plaque of appreciation to Howard Allred for his years of service to the County. The plaque will be presented to Mr. Allred at a future commission meeting.

Commissioner Withers presented a letter from Brady Nielson, a citizen from Delta, Utah, expressing his support for recreation and the Sunset View Golf Course. *See attachment.*

Attorney Finlinson reported on his training regarding the Utah Open Meetings Act. He said that he visited with Jeff Hunt, with Par Brown, regarding some of the County's issues. Mr. Hunt presented at the training Attorney Finlinson attended and did an outstanding job. Mr. Hunt provides training to a lot of agencies and is willing to provide this training to the County.

RATIFY THE APPROVAL OF A BUSINESS LICENSE FOR ASCENT BUSINESS SOLUTIONS, OWNER - HEATHER R ERICKSON

Commissioner Roper made a motion to ratify the approval of a business license for Ascent Business Solutions, Owner - Heather Erickson, an administrative and general management consulting service business in the insurance and medical industry.

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

RATIFY PRESENTATION OF DISCLOSURE STATEMENTS

Commissioner Roper made a motion to ratify the presentation of disclosure statements from Sheri Dearden and Stacie Dean.

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

DISCLOSURE STATEMENTS

Disclosure statements were submitted for the following employees:

James I. Withers

Alan M. Roper

Commissioner Roper made a motion to accept the presentation of disclosure statements received today.

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

DISCUSSION AND POSSIBLE APPROVAL OF A CELL PHONE ALLOWANCE FOR COMMISSIONER DEAN DRAPER

Commissioner Roper made a motion to approve a cell phone allowance for Commissioner Draper in the amount of \$120.00.

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

APPROVAL OF A FIDELITY BOND OR THEFT OR CRIME INSURANCE ON ALL COUNTY OFFICIALS AS A GROUP, RATHER THAN INDIVIDUALLY, BY PRESCRIBING THE AMOUNT OF SAID GROUP FIDELITY BOND OR THEFT OR CRIME INSURANCE FOR ALL COUNTY OFFICIALS, INCLUDING THE MILLARD COUNTY TREASURER, AND APPROVING THE PREMIUM FOR SAID BOND OF INSURANCE FOR ALL OFFICIALS

Attorney Finlinson explained that statute requires that all elected officials and some appointed officials need to be bonded in order to serve. He said that the indemnity pool, the County is a member of, provides a service that allows one bond to cover all officials. He said that the County has done it this way for a long time. There are people who may be unhappy about this from time to time, but there are no legal issues with bonding this way.

Commissioner Roper made a motion to approve the fidelity bond or theft or crime insurance on all county officials as a group, rather than individually, by prescribing the amount of said group fidelity bond or theft or crime insurance for all county officials, including the Millard County Treasurer, and approving the premium for said bond insurance for all County officials for 2015.

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

STATUS UPDATE ON THE IHC LAWSUIT SETTLEMENT

Attorney Finlinson has been in contact with Ryan Perkins, with Kirton McConkie, who is IHC's attorney. He said that they have agreed on some language for the settlement. Mr. Perkins is supposed to respond to the County's specific proposal no later than Friday.

Attorney Finlinson said that there have not been any changes made to the previously discussed settlement. He said that as soon as he hears from Mr. Perkins they will get the agreement signed.

DISCUSSION AND POSSIBLE APPROVAL OF UTAH RETIREMENT SYSTEMS TIER 2 WORKER'S COMPENSATION COVERAGE

Auditor Grace explained that when legislation changed to having the employees who were hired after July 1, 2011 be on Tier 2 retirement; the requirement for worker's compensation also changed. She explained that if an employee is on Tier 1 retirement and has a workers' compensation injury, the County would continue to pay the contributions to their retirement. She said that with the changes, it leaves the discretion of how to handle Tier 2 retirement up to the commissioners.

Auditor Grace said that previously the County chose to treat the Tier 2 employees the same as Tier 1 employees. She explained that this is an annual election and the commissioners need to make a decision as to whether they will continue with how they have been doing it, or if they want to make any changes at this time.

Commissioner Roper made a motion to approve the Utah Retirement Systems Tier 2 Worker's Compensation coverage to continue with the way they have done in the past.

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

REVIEW AND APPROVE AN AMENDMENT TO OUR AGREEMENT WITH PEHP

Auditor Grace said that the County currently has an agreement with PEHP for employee health insurance. She said that this amendment would allow PEHP to file the necessary reports on behalf of the County to comply with the affordable care act. She explained that at the end of each year there is now reporting requirements from employers to report the number of employees eligible for health insurance and those who are covered. She said that PEHP will file those reports at no extra cost to the County.

Commissioner Roper made a motion to approve the amended agreement with PEHP.

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

DISCUSSION AND POSSIBLE CONSIDERATION OF THE FINAL REVISIONS FOR TITLE 10, CHAPTER 23 OF THE MILLARD COUNTY LAND USE ORDINANCE TITLED "ENFORCEMENT"

Attorney Finlinson said that he went through everything after the agreed upon changes were made, at the last commission meeting, and found that there were several more references to civil penalties, which he has now taken out. He also made a few language corrections to smooth the flow from the changes and had to renumber one thing. He said that he has a copy with the changes stricken and a copy of the final with the changes taken out.

Commissioner Roper and Commissioner Withers said that they both read through the changes and both thought that the corrections were good.

TJ Lavato asked to have this agenda item tabled until the public could have a chance to review it.

Attorney Finlinson said that the public hearing has already been held, but the commissioners can table it if they want.

Commissioner Withers said that he does not have a problem with tabling it until Commissioner Draper returns; to be sure that he has had a chance to review the changes.

Commissioner Roper made a motion to table the approval of the final revisions for Title 10, Chapter 23 of the Millard County Land Use Ordinance titled "Enforcement".

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

DISCUSSION AND POSSIBLE APPROVAL OF A BLANKET FEE WAIVER FOR RECORDS REQUEST AT THE TREASURER'S OFFICE

Treasurer Dearden suggested that the commissioners revisit Ordinance 09-11-13, an ordinance establishing fees and services provided by Millard County Officers. She said until they are able to do that, Section 9 allows for the waiver of fees based upon the recommendation of the head of the department/division providing the service for the said fee and the approval of the governing body in Millard County. She said in relative to Section 9, her office receives requests from people who are filing for Down Winder Compensation benefits. She would like to provide those records at no charge; including research time, photo copies and certification fees. She said that this is something her office has done in the past, and is something that she feels is appropriate for people in that situation.

Commissioner Roper made a motion to approve the Treasurer's Office continuing to provide fee waivers for Down Winders, until they have the opportunity to address the concerns the Treasurer has with the Ordinance.

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

Commissioner Roper said that the commissioners will set up a meeting with the elected officials and the department heads to discuss Ordinance 09-11-03.

Attorney Finlinson said that the ordinance provides a blanket fee schedule; there are a few department specific fee schedules, but it does give the commission authorization to waive those on a case by case basis. He said that in his office, there are some things that they cannot charge for and will have to look at a little closer.

DISCUSSION AND POSSIBLE APPROVAL OF THE 2014 TAX PAYMENT OVERRIDES REPORT

Treasurer Dearden presented the commissioners with the 2014 Override Report. She said that the total overrides for 2014 were \$50,661.23. She broke the cost down:

- \$8,084.53; commission agreements.
- \$68.00; roll back application that was entered with an incorrect date, so the penalty and interest was removed.

- \$4,202.00; tax sale properties stuck to Millard County that received no bids at the tax sale.
- \$2,505.00; J and B Land; the road deeded to Oak City Town.
- \$35,699.00; attached personal property.
- \$90.00; personal property over and shorts.
- \$11.62; real property over and shorts.

Commissioner Roper made a motion to approve the 2014 tax payment overrides report.

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

DISCUSSION AND POSSIBLE APPROVAL OF DELINQUENT PROPERTY TAX SETTLEMENT OR DEFERRAL

Treasurer Dearden discussed Aggregate Products and Minerals that would be up for tax sale this year. She said that former Treasurer Hansen had discussed this with the commissioners and recommended to write it off. This is a lease on SITLA property from 2010. It was billed as a privilege tax because SITLA has no tax obligation. SITLA said that the lease expired in 2010 and the corporate filing for this corporation expired in 2011 and all attempts made to contact have been returned to sender.

Treasurer Dearden said that she visited with Attorney Finlinson regarding this issue. Attorney Finlinson said that it is another government entity and the best you can do is write it off.

Commissioner Roper made a motion to write off the amount from Aggregate Products and Minerals.

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

DISCUSSION REGARDING A CONDITIONAL USE PERMIT (CUP) - PETER VANDER MEID

Sheryl Dekker, County Planner, said that when Rocky Mountain Power first made application with the County it was for a change to the general plan to create a major transmission corridor by Cove Fort; which was granted. She reviewed the map with the commissioners. She said that they then came back to the County for a CUP. She read from the permit and said that the County granted a one mile corridor, but they did not take that much.

Ms. Dekker said that she received a new map from Rocky Mountain Power this morning. She reviewed that map with the commissioners.

She said that there should be no reason that the title company would have a problem with the CUP. She said that she will do whatever is needed to make this right for Mr. Vander Meide, as well as the other property owners.

Attorney Finlinson asked if this issue came up because Mr. Vander Meide had a title search done on the property. Mr. Vander Meide said that he is trying to sell the property and when he went to the title company he was told that they would not be able to give the property title insurance. Attorney Finlinson said that he would prepare a release for Mr. Vander Meide's property.

Commissioner Withers said that they need to get this addressed as soon as possible for Mr. Vander Meide.

Commissioner Roper asked if Attorney Finlinson could do a release for all of the property owners on the same release. Attorney Finlinson said that he does not know for sure; he will look into it, but they can release Mr. Vander Meide's property right now. He said that, by its own terms, the CUP has expired. Ms. Dekker said that the CUP was for the construction phase, which is now complete.

Mr. Vander Meide said that the title company said that they would not be able to issue title insurance because they consider the CUP a "cloud" on the title. He suggested to exempt Section 26 in its entirety, which would cover anyone with a problem. Attorney Finlinson said that he would prepare a release document.

Commissioner Roper made a motion to release Section 26 out of the CUP.

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

REPORT ON GAS STORAGE UPDATES REGARDING THE SPLIT BETWEEN GAS STORAGE CONDITIONAL USE PERMIT AND NGLS LIQUID GAS STORAGE - BRIAN PUGH & TIFFANY JAMES

Brian Pugh followed up on the split between Magnum Gas Storage CUP and NGLs Liquid Gas Storage back in December. He said that they have taken all of the exhibits and pieces from the description of the gas storage project, and have corrected it; based on the removal of all the NGLs pieces. He said that the NGLs pieces that they had were just a little over 700 acres. He said that the water wells were moved and placed into that project along with the brine pond and all the facilities; specific to the truck and rail system and the caverns that went with it. He said that they have updated the language in the first CUP from the Gas Storage and have removed resources from the gas storage, because they were dedicated to the NGLs CUP.

He said that they just wanted to inform the commission that this has been formalized with Ms. Dekker. He said that they discussed when, in the future, they split the NGLs, that will be the facility that they want to expand. They are still in Phase II of that project which will continue into the Spring.

He said that the next time they come to this Commission; they will most likely be at the beginning stages of Phase III.

Commissioner Withers asked where the new brine pond will be located. Mr. Pugh said that they rezoned the section to add it to the NGLs, which is where the pond will be located.

Commissioner Roper asked what point the salt will be available. Mr. Pugh explained the process and said that they will give a better update sometime late March.

PUBLIC INPUT

Commissioner Withers asked Wayne Jackson if he was able to get some information on the flags for Mr. Anderson. Mr. Jackson said that he was never contacted by Mr. Anderson. Commissioner Withers will touch base with Mr. Anderson to see what he needed.

OTHER BUSINESS

Commissioner Roper presented a signed agreement with BLM on the right-of-way grant for filing.

Commissioner Roper attended a Millard County Fair Board Meeting. He said that the Millard County Fair is scheduled for the first week in August. He said that there are a lot of great activities planned again this year.

Commissioner Roper reported that he has an Economic Development Corporation of Utah (EDCU) meeting in Salt Lake on February 12, 2015.

Commissioner Roper received a mileage reimbursement check for attending a Mental Health meeting last Wednesday. He signed the check over to the County, since he used a County vehicle to attend that meeting.

Commissioner Roper said that he has been asked by Mental Health to attend a Mental Health Seminar in Florida; the last week in April. He said that Mental Health will cover all the travel costs.

Commissioner Roper said that the Legislature Day will be held next Friday in Salt Lake City, Utah; all three commissioners will be attending.

Commissioner Roper said that Sheriff Dekker sent out an email; asking if he could use the office space that is no longer being used by the Utah Highway Patrol (UHP). The revenue from that space was \$7.00 a sq ft per year; \$1,400.00 a year. Commissioner Roper recommended that the Sheriff be able to use that space if it can be worked out with the UHP.

Attorney Finlinson explained that the UHP removed its administrative office from Fillmore, to Nephi, Utah, to consolidate some of its offices. He said that Sargent Kelsy is the only one who will still operate out of the Fillmore Office.

Auditor Grace said that the County currently has an agreement with UHP for the rental space; that agreement may need to be revised before making a decision.

Commissioner Roper said that the commissioners took a field trip to look at possible locations for constructing a road somewhere between the Lime Plant and East Millard. He said that they want to take another trip coming in from the other side. He feels that it would be appropriate to apply for a CIB grant to aid in a study of the road to see if it could be done.

Commissioner Roper said that the sooner they do it, the sooner they can get on the CIB list, and he would like to see it done as soon as possible.

Commissioner Withers said that he would like to visit with those who have grazing permits, as well as the public and private land owners that this may affect; before they go to CIB.

Bart Whatcott, East Millard Recreation Director, recommended to extend an invite to Barney Trucking as well, because they use the dirt road often. Commissioner Roper said that Graymont also would be interested in using the road.

Commissioner Roper said that he would like to at least approve applying for a grant; they

could always table it, if needed.

Commissioner Withers said that he wanted to be careful not to spend a lot of tax payers' money on something that might not happen.

Commissioner Roper said that this would all be part of the discussion.

Commissioner Withers met with the Road Department after its safety meeting. They discussed the project with Juwi Solar Company in the McCornick area, which is going well.

He said that there have been a few issues raised regarding employees driving County trucks too fast and leaving them running while they take a break.

He said that things seem to be progressing a lot. The project of re-graveling a road seems to be coming along good.

Commissioner Withers said that he spoke with Lou Brown regarding the lease of the building in Eskdale, Utah, that the County Road Department will be leasing from SITLA. Mr. Brown informed him that there is an administrative fee of \$750.00; he forgot to tell him about. He said that it is an additional fee that goes along with the lease.

Auditor Grace said that she would need an invoice to pay that fee.

Commissioner Withers said that he went on a field trip to the west desert, to look at a road that the County has a problem with. It is in an area that a huge forest fire burned on the Nevada side of the boarder in 2012-2013.

Commissioner Withers said that they were not allowed to fight the fire because it was a wilderness area. Therefore, there was no major suppression of the fire and now all the water and debris that comes off the mountain when it rains, washes out the county road. He said that two miles of road has already been washed out because of this.

Commissioner Withers contacted Bronson Smart, from the NRCS, who sent an application for the County to apply for some money to help fix the road and mitigate that problem.

He said that Brandon Winget, Road Supervisor, has some ideas on how they can stop the flooding.

Commissioner Roper said that he was contacted by a citizen regarding a railroad crossing without lights, located near 1500 South in Delta. He said that it is the only crossing that does not have lights and requested that the County get lights on that crossing.

The commissioners will look into this and see how to proceed.

Commissioner Roper said that there are semi trucks that are going up the road to Hillside Farms in Scipio; thinking that it is a frontage road, resulting in needing to be towed. He suggested to get a sign placed on that road to warn the semi trucks that it is not a frontage road. He suggested to make the sign bigger, if one is already there.

Commissioner Roper said that there is a Tourism and Economic Development joint meeting next week. They are going to discuss the expansion of the board members and will make a recommendation to the Commissioners.

Auditor Grace said that the Road Department wants to do something with the step and grade to allow for another position for an equipment operator. She said that she worked on the schedule a little bit and came up with a proposal. She suggested to have it as an agenda item for further discussion. In order to amend the step and grade policy it would have to be done as a resolution.

Commissioner Withers explained that there is a huge gap between two positions in the Road Department and they feel that there is a position that carries more responsibility than the one below it and not as much responsibility as the one above it. He thinks that it would be a benefit to the County to have the position filled.

Auditor Grace went over the requested additions including the recommendation to add a 12-A to the schedule. Attorney Finlinson said that he will get the resolution ready for approval.

Auditor Grace suggested that if there are other things that need to be addressed to address them while the resolution is being done.

Auditor Grace presented the public defender renewal contract for signature, which was approved in November.

Commissioner Roper said that Roland Comeau has served on the Millard County Housing Authority Board for over 20 years. His term expired on December 31, 2014 and he would like to be replaced. The commissioners will send Mr. Comeau a letter of appreciation and will find a replacement.

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

Attorney Finlinson said that he interviewed four applicants for a third attorney position in his office. He said that they all were great interviews and he will need to make his decision; hopefully sometime this week. He said that this position will fill the vacancy made by Kaela Jackson moving into the Chief Deputy position.

Attorney Finlinson said that they are restructuring pretty dramatically. The new attorney will be doing the civil related projects, not necessarily the day to day operations in the office. He said that he will continue to try to balance the criminal and civil cases within the office.

Attorney Finlinson said that this position is an exempt position, but the expectation will be, that it will be full-time for the first year.

Clerk Rowley discussed the Play Unplugged program with the Commission. She spoke with Teresa Thompson who indicated that they have learned a lot of things from doing the program last year. She also wondered if the commissioners had any recommendations for a person who would be willing to promote the program on the East Side of the County, as well as get more business participation.

Clerk Rowley said that the required purchase of the brag tags has decreased from 250 last year to only 100 this year. They are also working on a refund or exchange, on a case by case basis, of possibly allowing a swap of 50 unused badges from last year for 50 new badges for this year.

Commissioner Roper said that he feels that it is a good program and he will work on finding someone to recommend.

Commissioner Withers said that when he attended a Community First meeting it was recommended to take government to the schools; to better teach the children about the government.

Auditor Grace said that Utah Association of Counties (UAC) is already working on something like that.

Clerk Rowley informed the commissioners that she will be hiring someone to fill the vacant position in her office.

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 Roper made a motion to adjourn the meeting.

Commissioner Withers stepped from the chair and **SECONDED** the motion. The voting was unanimous and the meeting adjourned at 11:11 a.m..

Attest: _____

Approved: _____