

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 6th DAY OF JUNE 2017  
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: James I. Withers . . . . . Chairperson  
Dean Draper . . . . . Commissioner  
Wayne Jackson . . . . . Commissioner

Richard Waddingham . . . . . Deputy County Attorney  
Lesli Shields . . . . . Deputy County Clerk

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

ALSO PRESENT: Deb Haveron . . . . . County Tourism  
Janelle Brandt . . . . . Chronicle Progress  
Lindsay Mitchell . . . . . County Sheriff's Office  
Corinne M. Lewis, Daniel Beggs & Ken Quarnberg . . . . . Citizens  
Scott Barney . . . . . MEDA Coordinator  
Angie McPhail . . . . . Deputy County Auditor  
Kevin Morris . . . . . West Millard Maintenance  
Tony Martin & Byron Kroeger . . . . . Millard Care & Rehab  
Adam Richins . . . . . County Planner/Zoning Administrator/Building Inspector  
Unarae Taylor . . . . . County Ambulance  
Pat Manis . . . . . County Assessor  
Sheri Dearden . . . . . County Treasurer  
Bonnie Gehre . . . . . 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 Withers to the public and Commission members.

OPENING STATEMENTS

Commissioner Withers 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 MAY 16, 2017, COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held May 16, 2017, were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Jackson made a motion to approve the minutes of May 16, 2017, as corrected.

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

#### FOLLOW UP ACTION ITEMS FROM MAY 16, 2017

There were none.

#### RATIFY THE APPROVAL REGARDING A CONTRACT WITH WEST MILLARD BASEBALL

Commissioner Withers briefly discussed the contract with West Millard Baseball that was approved at the May 16, 2017, Commission meeting.

Commissioner Draper made a motion to ratify the approval of a contract with West Millard Baseball.

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

#### RATIFY THE APPROVAL REGARDING CHANGING A COMMISSION MEETING DATE FROM AUGUST 15, 2017, TO AUGUST 22, 2017

Commissioner Draper made a motion to ratify the approval to change a Commission meeting date from August 15, 2017, to August 22, 2017.

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

#### DISCUSSION AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR NICKLE CONSTRUCTIONS, INC. - OWNER - NATHAN NICKLE

A business license application was presented for Nickle Construction, Inc., Owner - Nathan Nickle, a resale of welding supplies business. After review of the application and finding all signatures in order, Commissioner Jackson made a motion to approve a business license for Nickle Construction, Inc., Owner - Nathan Nickle.

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

DISCUSSION AND POSSIBLE APPROVAL OF INCREASING THE PURCHASING CARD LIMIT TO \$2,500.00 FOR NATE PORTER, EAST MILLARD RECREATION, AND BROOKS JACKSON, WEST MILLARD RECREATION

Commissioner Withers said that with the increase of recreation programs implemented by Mr. Porter and Mr. Jackson, there is a need to increase the credit card limits from \$1,000.00 to \$2,500.00.

Commissioner Draper clarified that any purchases made on the credit cards would be within the budgets and within the policy limit.

Commissioner Draper made a motion to approve increasing the purchasing card limit to \$2,500.00 for Mr. Porter, East Millard Recreation, and Mr. Jackson, West Millard Recreation.

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

DISCUSSION AND POSSIBLE APPROVAL REGARDING APPOINTMENTS OF BOARD MEMBERS TO SERVE ON THE MILLARD COUNTY TOURISM BOARD

Deb Haveron, Tourism, said that two people from West Millard County have expressed interest in an appointment, however, there is one other appointment available from East Millard County.

Commissioner Draper recommended this be tabled to verify that the two people who have expressed interest agree to the appointment, as well as to look for someone from East Millard County to fill the third appointment.

Commissioner Jackson made a motion to table this agenda item.

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

DISCUSSION AND POSSIBLE APPROVAL REGARDING APPOINTMENT OF THE NATIONAL ATV/UTV JAMBOREE COMMITTEE CHAIR FOR THE 2018 ATV JAMBOREE

Ms. Haveron said that one person, Corinne Lewis, has expressed interest to be appointed as the National ATV/UTV Jamboree Committee Chair, and recommended that she be appointed.

Commissioner Jackson made a motion to approve the appointment of Corinne Lewis as the National ATV/UTV Jamboree Committee Chair for the 2018 ATV Jamboree.

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

Ms. Haveron said that she would like to give the current Committee Chair a thank you gift, and asked what the policy restrictions are regarding this.

Commissioner Draper said that he does not know of any restriction, as long as it is in the

ATV budget.

## DISCUSSION AND POSSIBLE APPROVAL OF AMBULANCE ABATEMENTS - LINDSAY MITCHELL

Ms. Mitchell presented an ambulance abatement application from Sandeep Singh.

Commissioner Draper made a motion to abate 100% of the ambulance bill for Sandeep Singh, as the family qualifies under the Federal Poverty Guidelines.

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

Ms. Mitchell presented an ambulance abatement application from Connie Hayden.

Commissioner Jackson made a motion to abate 50% of the ambulance bill for Connie Hayden. Although the family does not qualify under the Federal Poverty Guidelines, there are exigent circumstances.

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

## OTHER BUSINESS

Commissioner Draper said that he has received the annual memorandum of agreement (MOA), from Utah State Library (USL), for continuing Bookmobile services in the County. He said that if the MOA is not approved by June 16, 2017, temporary suspension of service could occur. He asked for the MOA to be considered today and ratified at the next meeting.

Commissioner Draper made a motion to approve an MOA with USL for Bookmobile services, in the amount of \$108,834.00.

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

PUBLIC HEARING FOR THE PURPOSE OF OPENING BUDGETS FOR THE 2017 YEAR. BUDGETS TO BE CONSIDERED FOR INCREASED APPROPRIATIONS ARE: GENERAL FUND. BUDGETS TO BE CONSIDERED FOR INCREASE DUE TO DISTRIBUTIONS TO OTHER ENTITIES ARE: RECREATION AND CLASS B ROAD.

Commissioner Draper made a motion to enter into a public hearing for the purpose of opening budgets for the 2017 year. Budgets to be considered for increased appropriations are: General Fund. Budgets to be considered for increase due to distributions to other entities are : Recreation and Class B Road.

Commissioner Jackson SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 10:31 a.m..

Present were: Scott Barney, Janelle Brandt, Adam Richins, Treasurer Dearden, Deputy Auditor McPhail, Auditor Gehre and Daniel Beggs

Auditor Gehre said that the General Fund will need to be increased for Centrally Assessed litigation costs. She said that \$150,000.00 had originally been budgeted for this, but it was used for litigation costs for last year that were billed in April of this year.

Treasurer Dearden said that \$150,000.00 to \$200,000.00 should be sufficient for the litigation fees for now.

Commissioner Draper made a motion to increase the General Fund for Centrally Assessed litigation costs, in the amount of \$200,000.00.

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

Deputy Attorney Waddingham reminded the commissioners that motions are to be made once the public hearing closes. This motion should be withdrawn at that time.

Auditor Gehre said that the General Fund will also need to be increased for the contract for CDA consultation work performed by Lewis, Young, Robertson & Burningham that was amended at a previous meeting. She said that these charges will be reimbursed by ECG Utah Solar 1, LLC. She said that she would like to create a line item for this, with the Commission's approval.

Auditor Gehre said that Scott Barney, MEDA Coordinator, said that approximately \$20,000.00 would be needed for this line item.

Auditor Gehre said that the Recreation budget will need to be increased in order to create a pass through for West Millard Baseball. The budget has to be increased in order to accept the funds, which will then be paid out, in the amount of \$5,200.00.

Auditor Gehre said that the Class B Road budget will need to be increased to account for funds that may pass through from sales tax. She said that the State Auditor and the Independent Auditor have told her that the funds must be accounted for, even if the County does not receive it directly. She said that it is hard to estimate what this budget will need to be, however, Treasurer Dearden estimated that \$125,000.00 should be sufficient at this time. This may need to be adjusted again in the future.

There were no other comments made.

Commissioner Jackson made a motion to close the public hearing.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at approximately 10:40 a.m..

The regular meeting reconvened.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 17-06-06, A RESOLUTION OF

THE BOARD OF COUNTY COMMISSIONERS OF MILLARD COUNTY, UTAH, TO OPEN THE 2017 MILLARD COUNTY BUDGET AND AMEND THE GENERAL FUND, RECREATION AND CLASS B ROAD

Commissioner Draper withdrew the motion to increase the General Fund for Centrally Assessed litigation costs, in the amount of \$200,000.00, that was made during the public hearing.

Commissioner Draper made a motion to approve Resolution 17-06-06, a resolution of the Board of County Commissioners of Millard County, Utah, to open the 2017 Millard County Budget and amend the General Fund in the amount of \$220,000.00, Recreation in the amount of \$5,200.00, and Class B Road in the amount of \$125,000.00.

Commissioner Jackson SECONDED the motion. Deputy Clerk Shields called for a roll call vote. Commissioner Jackson voted YES. Commissioner Draper voted YES. Commissioner Withers voted YES. The voting was unanimous and the motion carried.

APPROVAL OF THE 2016 FINAL TAX SALE

Auditor Gehre presented the 2016 Final Tax Sale Report, which identifies the properties that were sold and who purchased them. If they were not purchased they would become property of the County. These deeds will be recorded and sent to the purchasers.

Commissioner Draper briefly read the 2016 Final Tax Sale Report totals.

Commissioner Draper made a motion to approve the 2016 Final Tax Sale.

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

REVIEW OF THE UTAH RETIREMENT SYSTEM (URS) COMPLIANCE AUDIT

Deputy Auditor McPhail briefly explained the findings from the recently completed Worker's Compensation Audit and URS Audit. She said that the County received a bill for approximately \$6,000.00 from Worker's Compensation resulting in an additional premium for underestimating payroll for 2016. She said that when she reviewed the findings, she found that they had classified a group of employees incorrectly. Worker's Compensation reviewed the findings and will be re-billing the County in the amount of \$3,000.00. She said that the County also received a dividend from Worker's Compensation in the amount of \$8,143.54; therefore, the County will net approximately a \$5,000.00 refund from Worker's Compensation.

Deputy Auditor McPhail submitted a copy of the URS compliance report for review. She said that there were three recommendations and one finding in the advisory portion. She said that all concerns have been addressed and an action plan was implemented or the issue was resolved. She briefly discussed the recommendations and finding.

REVIEW OF THE MAY FINANCIAL REPORT - TREASURER DEARDEN

The commissioners reviewed the financial reports for the month of May.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 17-06-06A, A RESOLUTION OF THE MILLARD COUNTY COMMISSION AUTHORIZING THE FILING OF CROSS-APPEALS FOR 2017 CENTRALLY ASSESSED PROPERTIES

Commissioner Withers said that this resolution will allow the County to continue to hire legal counsel for Centrally Assessed cross-appeals.

Commissioner Jackson made a motion to approve Resolution 17-06-06A, a resolution of the Board of County Commissioners of Millard County, Utah, authorizing the filing of cross-appeals for 2017 Centrally Assessed properties and to ratify any cross-appeals filed by the County to date.

Commissioner Draper SECONDED the motion. Deputy Clerk Shields called for a roll call vote. Commissioner Jackson voted YES. Commissioner Draper voted YES. Commissioner Withers voted YES. The voting was unanimous and the motion carried.

DISCUSSION REGARDING LOWER LEVEL RATES & REGULATORY CHANGES - MILLARD COUNTY CARE & REHAB, BYRON KROEGER

Tony Martin, Traditions Healthcare CEO, said that it has come to his attention that there may be controversy in the community that the care center is in competition with private enterprise. He said that he is here today to explain where the controversy may be stemming from. He presented several documents to the Commission.

Mr. Martin said that the documents he presented establish that Millard County Care & Rehabilitation (MCCR), is its own entity, separate from the County. He said that MCCR is a non-profit organization, with no shareholders. There is a governing board, of which Commissioner Draper is one board member, but it is not a County driven entity.

Mr. Martin said that the controversy that has been brought to their attention stems from the fact that they offer a lower level care of service, meaning someone can pay privately to live in the facility, although they may not qualify for substantial medical need to be in the facility. He briefly described the qualifications and competitive rates for the lower level care of service. He said that the services rendered at MCCR are in line with other care centers around the State. He said that a particular provider is under the impression that MCCR, as an entity, is competing with themselves for these types of services. He reiterated that MCCR is its own entity, separate from the County. He said that there are currently six individuals in this level of care within the facility, three of which have spouses in the facility who need more care, which is a great support for both spouses.

Commissioner Draper said that the ownership of the building has been brought to his attention as a possible conflict.

Deputy Attorney Waddingham said that the building is actually owned by IHC. He said that years ago, MCCR was created as a separate entity.

Mr. Martin said that the name of the facility is Millard County Care & Rehabilitation, which could make one think that it is County run.

Deputy Attorney Waddingham said that a law was passed several years ago, that a private

entity cannot use a government entity name as part of its business name. He said that there are several entities in the County that have Millard County as part of the business name. He said he is not sure if MCCR was grand-fathered in when that law was passed. He said that MCCR may just need to change the name of the facility.

Mr. Martin said that MCCR has worked hard to create a good reputation in the County.

Byron Kroeger, MCCR Administrator, reiterated that MCCR is not putting anyone out of business, it just wants to provide the best care possible to the residents of the County.

## DISCUSSION REGARDING TRANSFERRING WATER TO GUNNISON BEND RESERVOIR FOR A NEW WELL

Kevin Morris, West Millard Maintenance, said that last October it was found that the well at the reservoir is bad. It has been determined that it cannot be repaired and a new well will need to be drilled. He said that he has been searching for water rights and well permits, and has been unable to find any record that the well was ever drilled or showing water rights for the Gunnison Bend Reservoir area. He said that the County will need to find some water and drill a new well.

Deputy Attorney Waddingham said that he has found three possible sources, two of which are feasible to look into: one at the Topaz Slough area, which has close to 2-3 acre feet, and one by Duckworth Dairy, which has 2 acre feet of water.

Commissioner Draper asked if the one source by the Topaz Slough is being used by the County Road Department. He asked which of the two possible sources is preferable.

Commissioner Withers said that the County Road Department does not use water at the Topaz Slough.

Deputy Attorney Waddingham said that he will need to look further into the water use there, but he would recommend the source by Topaz. He said that he can file the change application on this.

Mr. Morris said that because there is no record of the drilled well, he has to start over and file for a new well. He said that a porta-potty system will be brought in, which will cost approximately \$13,000.00, and is in the budget. He said that the season may be close to being over before everything is up and running.

## PUBLIC INPUT

Daniel Beggs, Scipio resident, asked for an update regarding the Grupo Libertad that was discussed at the previous commission meeting.

Commissioner Draper briefly reminded the public that a group has been using certain property South of Scipio for an Alcoholics Anonymous, (AA), program, however the property is zoned for agricultural use. He said that Mr. Richins has been investigating this issue.

Mr. Richins, County Planner/Building Inspector, said that he has met with the representative of the group on the property and provided him with information with the correct use for the property. He told him that until they get a Conditional Use Permit (CUP), that the group does not have permission to use the property for the meetings. He gave the representative the paperwork for the



CUP, but has not received anything yet. He said that to his knowledge, the group has not been on the property since they were notified that they would need a CUP.

Mr. Richins briefly explained the CUP and building permit application process.

Mr. Beggs asked several questions that could not be answered since the group was not present at the meeting. He expressed his appreciation to the County.

Ken Quarnberg, Scipio resident, asked what would happen if someone were to build something without a permit.

Deputy Attorney Waddingham said that there are both civil and criminal ramifications if someone were to build something without a permit.

Mr. Quarnberg asked why the buildings have not been torn down, or why there have not been any fines against the group.

Commissioner Withers said that the County has only known about this situation for less than a month.

Mr. Richins said that building permits were obtained, it is the use of the buildings that is not in line with the permits that were obtained.

Mr. Quarnberg said that he knows it is fairly easy to get the correct permits. He said that he does not believe that the property is being used for AA purposes, there is drinking, loud music and bonfires that could easily get out of control and burn all the way to Scipio. He said that he believes the group built the buildings with the intent to use them the way they are currently being used, which is a violation of the code. He again asked why the group has not been assessed fines or asked to remove the buildings.

Deputy Attorney Waddingham said that the County is apparently working with the group to get the correct permits. He said that he will follow up on this issue.

Mr. Richins said that the permits that were applied for is agricultural. The buildings can still be used for agriculture.

Deputy Attorney Waddingham said that the County chose to address this issue civilly.

Commissioner Withers said that the consensus of the citizens at the Scipio Town meeting agreed to work through this issue civilly and allow the group to obtain the correct permits. There was no talk of litigation at the meeting.

Mr. Quarnberg said that a different conversation took place in the parking lot after the town meeting.

Commissioner Withers said that the commissioners can only base their assessment off of what was said in the public meeting.

Commissioner Draper reiterated that the buildings were built with a proper permit, it is the use that has changed. Ongoing improper use could trigger sanctions, but at this point they have been told not to use the property until they have the CUP. The group has not used the property since they have been told not to.

Deputy Attorney Waddingham said that Attorney Finlinson is addressing this issue.

## OTHER BUSINESS CONTINUED

Commissioner Jackson said that Meadow Town overpaid for landfill charges in the amount

of \$2,402.64. He asked if it could be approved to reimburse Meadow Town today and ratify it at the next Commission meeting.

Commissioner Jackson made a motion to reimburse Meadow Town in the amount of \$2,402.64 for an overpayment for landfill charges.

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

Deputy Auditor McPhail presented documents to the commissioners for review regarding GBS.

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

Commissioner Jackson said that he and Debra Arnold, Deputy County Treasurer, will be attending a meeting in Salt Lake City, June 8, 2017, for the Wellness Committee.

Commissioner Jackson said that a few more issues have come up regarding the landfill and they are also waiting for the State's decision on the amount to pay.

Commissioner Jackson said that the fence needs to be put back up at the outdoor track, or there will not be any grass left when the ATV Jamboree starts in a few weeks. He said that there were three bids, one of which was approved at a previous meeting. He said that there was money left over when the restrooms were upgraded and would like to use that money towards the fence. He said that the materials are already paid for, leaving a balance of \$7,500.00 with the contract. He would like this to be completed before the ATV Jamboree begins.

Commissioner Draper said that he participated in a telephonic conference with EDC Utah and Utah's World Trade Center, discussing the creation of 25,000 jobs in rural Utah. He said that the discussion revolved around mega sites, a piece of land that is ready for major development, of which IPP and the Delta Airport were discussed, where minimal work would be needed to attract a major company to come in to create new jobs. He said that they discussed bringing State resources down to meet with existing employers to create one more job with each existing company. He asked why not try to replace the 300 jobs that will be lost at IPP in 8 years, with similar paying jobs; there are already enough minimum wage jobs. The minutes of this telephonic meeting will be submitted throughout the State for further discussion. He said that at least 20 other rural counties in the State have the same desire as Millard County.

#### POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

POSSIBLE CLOSED MEETING PURSUANT TO UTAH CODE ANNOTATED SECTION 52-4-4&5

Commissioner Draper made a motion to go into a closed executive session for the purpose of discussing pending or reasonably imminent litigation.

Commissioner Jackson SECONDED the motion. Deputy Clerk called for a roll call vote. Commissioner Draper voted YES. Commissioner Jackson voted YES. Commissioner Withers voted YES. The voting was unanimous and the motion carried. Present in the closed session were Commissioner Withers, Commissioner Draper, Commissioner Jackson, Deputy Attorney Waddingham, Treasurer Dearden and Assessor Manis.

After the closed executive session the regular meeting reconvened at 12:22 p. m..

Commissioner Draper said that the Days of the Old West Rodeo will be held this weekend, June 8 through June 10, 2017.

WHERE UPON THE MEETING ADJOURNED

Commissioner Withers adjourned the meeting at 12:23 p.m..

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

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