

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 5th DAY OF DECEMBER 2017
AT THE COURTHOUSE, FILLMORE, UTAH

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

Pat Finlinson. County Attorney
Marki Rowley. County Clerk

ALSO PRESENT: Sam Jacobson Chronicle Progress
Adam Richins Millard County Planner & Building Inspector
Jason & Jennifer Christensen J&J Swine
Matt Robinson Smithfield Foods
Steve Styler Styler Daniels PC
Bonnie Gehre 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 Draper read a quote from Thomas Jefferson: “Freedom of discussion unaided by power is sufficient for the propagation and protection of truth.” Commissioner Draper said that the opportunity to have discussion without political correction is something that should be protected.

Attorney Finlinson said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF NOVEMBER 21, 2017 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held November 21, 2017 were presented for consideration and approval. Following review and consideration of minor

corrections, Commissioner Draper made a motion to approve the minutes of November 21, 2017, as corrected.

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

FOLLOW UP ACTION ITEMS FROM NOVEMBER 21, 2017

Commissioner Draper reported on the Conger Horse Gather. He said that the BLM is making efforts to treat these horses by rounding them up in this particular herd management area in hopes to limit population through birth control measures. He said that a two year study will allow the BLM to address the problem with the horses still having a life span of 20 years. He said that this is not a proper method to control numbers under the Wild Horse and Burrow Management Act, however, without this study they cannot move forward and do the right thing.

DISCUSSION AND POSSIBLE APPOINTMENT OF LARS RASMUSSEN AS A MEMBER AND ACTING CHAIRMAN TO THE MILLARD COUNTY WATER CONSERVANCY BOARD DISTRICT 7

Commissioner Draper explained that the Millard County Water Conservancy Board District Number 7 is a special district formed under the State, to improve agriculture, and does not receive any funds from property taxes. He said that its operating fund was refunded to Millard County from former participation in the Central Utah project. He said that the board administers about \$1,000,000.00 in funds and any interest earned is used to pay for employees who work for the Natural Resources Conservation Service (NRCS).

Commissioner Draper said that the current board members have served for over 15 years and have asked to be replaced. They are now in the process of finding replacements for those members. He said that Mr. Rasmussen has agreed to serve as acting chairman, until a complete board is assembled and can choose its own chairman.

Commissioner Jackson made a motion to appoint Lars Rasmussen as a member and acting chairman to the Millard County Water Conservancy Board District Number 7.

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

DISCUSSION AND POSSIBLE APPROVAL OF A \$6,000.00 PAYMENT TO BALANCE RESOURCES FOR LEGAL ASSISTANCE WITH WEST DESERT GROUNDWATER PROTESTS

Commissioner Draper said that both Millard County and Juab County have been engaged in the Snake Valley ground water decisions and related litigation in Nevada. Most recently, action has been taken in the Spring Valley, which is located one valley west of Snake Valley on the Utah, Nevada State line. He said that Attorney Mark Ward presented the case for both counties at the hearings with the Nevada State Engineer.

Commissioner Draper said that Mr. Ward works for Balance Resources, which is a non-profit entity. He said that state code allows a non-profit entity to receive payment for services rendered

and Mr. Ward's service falls under that particular venue.

Commissioner Draper said that Mr. Ward's attorney fees are charged at a rate well under market value.

Commissioner Draper made a motion to approve a \$6,000.00 payment to Balance Resources for legal assistance with the West Desert Groundwater protests.

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

This payment will be taken from the West Desert Water fund.

DISCUSSION AND POSSIBLE APPROVAL OF AN INDIGENT BURIAL APPLICATION FOR DIANA HANSEN

Commissioner Draper said that he approved this application temporary, therefore, it would need to be ratified today.

Commissioner Draper made a motion to ratify the approval of an indigent burial application for Diana Hansen in the amount of \$1,560.00.

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

Commissioner Withers questioned if the death certificate had been received; it was later determined that it had been received.

DISCUSSION AND POSSIBLE APPROVAL OF AN INTERLOCAL AGREEMENT REGARDING FILLMORE LANDFILL

Commissioner Jackson said that it has been brought to his attention that the interlocal agreement with Fillmore City for lease of the landfill has not been renewed since August 18, 1997.

Attorney Finlinson said that the actual term of the agreement ran through December 31, 2007, and had been extended at various times throughout the years.

Attorney Finlinson said that eventually the County will be held to account for having the landfill, however, the Utah Department of Environmental Quality is not making an issue as of yet.

Commissioner Jackson made a motion to approve an interlocal agreement with Fillmore City regarding the Fillmore City Landfill.

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

DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 17-12-05, AN ORDINANCE OF MILLARD COUNTY, UTAH ESTABLISHING A REVISED SCHEDULE OF LANDFILL USE FEES

Attorney Finlinson said that he created the revised schedule by ordinance, since you cannot

amend an ordinance with a resolution. He said that as he started to gather documents, he realized that ordinances had been adopted, resolutions had been approved and inexplicably agreements had been made to address landfill use fees in the past. He said that state statute says that fees for use of a solid waste management facility can be established by a resolution or by an ordinance. He said that there may be some upset by this process, due to the invalidation of agreements made by past commissioners.

Commissioner Jackson said that there has been a financial loss in the landfill department, due to lack of fees being collected. He said that they would like to make the collection of fees level across the board.

Mr. Higgins explained that the residents pay \$11.00 per household, per month. He said that up to this date, it has been residents who have been flipping the bill for the landfill costs. He said that the commercial businesses are paying very little compared to what the residents are paying.

Mr. Higgins said that businesses produce a greater amount of trash than a resident, therefore, should pay a greater amount of fees. He said that he would also like to make it so that out of town entities who bring material into the County's landfill pay for that use.

Mr. Higgins said that doing away with all past agreements will also help.

Commissioner Draper questioned if Mr. Higgins used Maverick and the Flying J solely, as examples of an entire class.

Mr. Higgins responded in the affirmative that he was not singling out these businesses.

Commissioner Withers questioned if local businesses, such as Little Sahara, that contract with the County for garbage pickup, would be considered as out of County. Mr. Higgins clarified that was correct.

Commissioner Withers expressed concern with increasing the private business' rates and not increasing the residents' rates. He said that in his mind the residence rates should also be raised.

Mr. Higgins explained that he tried to base it on volume; those who produce less should pay less and vice versa.

Commissioner Jackson explained that the loss is coming from commercial businesses, due to the fact that they are not paying the portion that they should be. He said that they are trying to balance this out as evenly as possible.

Commissioner Withers said that he still has concern with the increase being applied only to businesses and not to residents.

Attorney Finlinson questioned how the base residential fees are being collected.

Mr. Higgins explained that the \$11.00 is collected by Fillmore City, who also charges a mandatory pick up fee. He said that outside city limits garbage is collected by the power companies.

Commissioner Withers said that he is fine with the other fees listed.

Commissioner Jackson said that they only need a little to balance out the system. He said that they will not pay anything unless it is over a pickup load.

Mr. Higgins said that hauling providers will be charged for using the facility and will more than likely pass that cost onto the residents.

Commissioner Withers said that he does not think that the sole burden should be placed upon

the businesses; residents should pay their fair share.

Commissioner Draper questioned how the fees are determined. Mr. Higgins explained that it would be based off their business type.

Commissioner Draper questioned how the classifications are determined and suggested to only look at an increase for the large industrial businesses, at this time.

Commissioner Jackson said that this needs to be done fairly quickly, due to the upcoming law change.

Commissioner Draper said that the fees have to be raised so that the County can continue to provide this service.

Commissioner Withers suggested to table this discussion and run the fee schedule in the paper to see if there is any public input; if no complaints, then to move forward.

Attorney Finlinson iterated that there will not be a public hearing, but rather an invitation for public input.

Commissioner Draper made a motion to table the adoption of Ordinance 17-12-05, an ordinance of Millard County, Utah establishing a revised schedule of Landfill use fees.

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

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 17-12-05, A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MILLARD COUNTY, UTAH, TRANSFERRING UNENCUMBERED OR UNEXPECTED APPROPRIATION BALANCES FROM ONE DEPARTMENT IN A FUND TO ANOTHER DEPARTMENT WITHIN THE SAME FUND

Auditor Gehre requested to transfer \$10,200.00 within the Capital Fund for the Rodeo Fairgrounds and \$8,500.00 within the General Fund for the Public Health Department and the West Desert Water.

Commissioner Draper made a motion to approve Resolution 17-12-05, a resolution of the Board of County Commissioners of Millard County, Utah transferring \$10,200.00 in funds of unencumbered or unexpected appropriation balances from one department in a fund to another department within the same fund. Clerk Rowley 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.

Commissioner Draper amended his motion as follows:

Commissioner Draper made a motion to approve Resolution 17-12-05, a resolution of the Board of County Commissioners of Millard County, Utah transferring unencumbered or unexpected appropriation balances from one department in a fund to another department within the same fund to include all transfers; not to exceed \$10,200.00 within the Capital Fund and \$8,500.00 within the General Fund.

Commissioner Jackson SECONDED the motion. Clerk Rowley 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.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 17-12-05A, A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MILLARD COUNTY, UTAH, AMENDING RESOLUTION 13-01-22 (ADOPTING MILLARD COUNTY'S STEP & GRADE POLICY) BY ADDING A PERMANENT PART-TIME POSITION FOR THE CLERK'S OFFICE IN THE STEP & GRADE SCALE AND ASSIGNING THE APPROPRIATE PAY GRADES TO THE NEW POSITION

Clerk Rowley explained that her intent is not to add a new position, but rather attempt to offer a part-time position to replace the full-time position for now.

Attorney Finlinson explained that this resolution will indeed be adding a new part-time position in her office and the full-time position will still exist. He said that Clerk Rowley will now need to get the Commission's approval before filling the full-time position.

This position will be assigned a Grade 8 within the Millard County part-time step and grade pay scale.

Commissioner Draper made a motion to approve Resolution 17-12-05A, a resolution of the Board of County Commissioners of Millard County, Utah, amending Resolution 13-01-22 (adopting Millard County's Step & Grade Policy) by adding a permanent part-time position for the clerk's office in the step & grade scale and assigning the appropriate pay grades to the new position.

Commissioner Jackson SECONDED the motion. Clerk Rowley 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.

Commissioner Withers thanked Clerk Rowley for her efforts in trying to save the County money by offering a part-time position in her office.

DISCUSSION AND POSSIBLE ACTION REGARDING THE EQUESTRIAN PARK CLEANING CONTRACT WITH TAMARA LANE

Commissioner Jackson said that Ms. Lane approached him regarding eliminating the Equestrian Park facilities from her contract. He said that she expressed her intent to keep all the other buildings in her contract, including the Landfill building.

Attorney Finlinson explained that Ms. Lane is contracted with the County to clean multiple County buildings. He said that it is up to the Commission to determine if they want to rebid only the Equestrian Park contract and re-contract with Ms. Lane for the remaining buildings, or rebid her entire contract.

Commissioner Jackson said that Klint Penney, East Maintenance Supervisor, informed him that his department would be able to clean the Equestrian Park facilities and requested it not be rebid.

Auditor Gehre questioned if the intent is to discontinue the Landfill contract as well.

Commissioner Jackson said that Mr. Higgins indicated to him that he would like to eliminate the cleaning contract for the Landfill building.

Attorney Finlinson said that the County would need to renegotiate the contract with Ms. Lane if it is choosing to eliminate the cleaning of the Landfill building.

Commissioner Jackson will discuss this option with Ms. Lane.

Commissioner Withers questioned the amount of the Landfill contract. Auditor Gehre said that she will get the Commission the amounts for both the Landfill and Equestrian Park contracts.

Commissioner Draper made a motion to table this agenda item.

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

REVIEW OF THE NOVEMBER FINANCIAL REPORT - TREASURER DEARDEN

Treasurer Dearden presented the financial reports for the month of November for the Commission's review.

Treasurer Dearden said that the full cash reports show the Auditor and Treasurer are in balance. She went over the summary of property tax collection: overall all entities reflected 96.24% of the \$126,000.00 tax dollars collected and 92.49% for the number of parcels. She said that they will be mailing out 1,200 delinquent notices tomorrow. The delinquent listing will be published December 27, 2017.

Treasurer Dearden said that Assessor Manis informed her that Paul Bredthauer with the Utah State Tax Commission, questioned why the County had not agreed to the ENEL settlement. She questioned if the Commission was still in agreement with the earlier decision regarding this. The Commission affirmed they were still in agreement.

PUBLIC INPUT

There was none.

OTHER BUSINESS

Commissioner Jackson said that the County needs to change its contact for Landfill to John Higgins with the State. He said that he will take care of this.

Commissioner Jackson said that he hand delivered the contract to the National Guard for the Armory Building, last week.

Commissioner Jackson said that so far, nobody has shown interest in the Miss Millard Director position. Commissioner Withers suggested to keep it budgeted for 2018, in hopes that the position will be filled.

Commissioner Draper said that Devon Peterson approached him in seeking an abatement on

his taxes. He said that Mr. Peterson still needs to do some things for consideration of an abatement, including replace documents that were misplaced by Commissioner Draper. He said that this abatement would be considered as part of this year.

Attorney Finlinson said that Commissioner Draper disclosed this information to him, and he is comfortable with giving Mr. Peterson the benefit of his timely application for consideration this year.

Commissioner Draper said that he was contacted by the State Division of Forestry and Fire regarding the in-kind work expected with participation on fire suppression. He gave a brief history of how the costs are calculated.

Commissioner Draper said that agreements were signed with the municipalities in the County to do in-kind, so there would be no cash payments. He was told that the County's responsibility would be between \$30,000.00 to \$40,000.00. He said that this would be handled by the Fire District.

Commissioner Draper said that he will invite the County Fire Warden and his superior with the State, Fred Johnson, to the next commission meeting to discuss this further. He said that it is his opinion, that since the County pays 50% of the fire warden's salary, that a great amount of the in-kind should be covered by that.

PUBLIC HEARING FOR A ZONE CHANGE ON APPLICATION #Z-2017-027 ON A ZONE CHANGE FROM AG (AGRICULTURE)/AG 20 (AGRICULTURE 20) TO AI (AGRICULTURAL INDUSTRIAL) FOR PROPERTIES LOCATED APPROXIMATELY 2 MILES NORTH OF FLOWELL, FOR THE PURPOSE OF DEVELOPING A CONCENTRATED ANIMAL FEEDING OPERATION (CAFO). PETITIONERS - J&J SWINE, LLC & A-TEAM EQUIPMENT SERVICES, LLC. OWNER - SWALLOW AG LLC. 80.0 ACRES

Commissioner Jackson made a motion to enter into a public hearing for the purpose of receiving public comment on a zone change for Application #Z-2017-027 from AG/AG 20 to AI for properties located approximately 2 miles north of Flowell, for the purpose of developing a Concentrated Animal Feeding Operation (CAFO). Petitioners - J&J Swine, LLC & A-team Equipment Services, LLC. Owner - Swallow AG, LLC. 80.0 Acres

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

Present were: Adam Richins, Bonnie Gehre, Sheri Dearden, Sam Jacobson, Deric Despain, Jason and Jennifer Christensen, Steve Styler and Matt Robinson.

Commissioner Withers called the public hearing to order at 11:02 a.m..

Mr. Christensen said that he and his wife Jennifer are representing J&J Swine. He said that their intent is to develop a concentrated animal feeding operation. He said that they are looking at having 8,800 animals; two 4,400 head facilities. He said that they would own the facility, but will contract with Smithfield Hog Production to raise their hogs.

Mr. Christensen said that Kelby Swallow is part owner of the property. He said that J&J Swine is currently under contract with Mr. Swallow, pending approval they will purchase the

property from him.

Commissioner Withers questioned the recommendation for the property from Smithfield and if they want to add animals in the future.

Mr. Christensen said that Smithfield Hog Production has indicated that they would like at least one half of a mile between each operation. He said that with the 80 acres, they would be able to add one more facility in the future, but they are not anticipating adding anymore than the 8,800 at this time.

Mr. Christensen indicated that the barns should be elevated above the ground.

Commissioner Withers said that he thinks this is a good operation and wished the Christensen's well.

County Planner/Inspector, Adam Richins, informed the Commission that this is only the rezone process and that any other uses that are permitted in this zone will also be permitted. The zoning designation will take the permitted uses and anything else within this zone will go along with this requested zone change.

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 11:06 a.m..

The regular meeting reconvened.

REVIEW AND POSSIBLE APPROVAL OF APPLICATION #Z-2017-027 ON A ZONE CHANGE FROM AG/AG 20 TO AI FOR PROPERTY LOCATED APPROXIMATELY 2 MILES NORTH OF FLOWELL, FOR THE PURPOSE OF DEVELOPING A CAFO. PETITIONERS - J&J SWINE, LLC & A-TEAM EQUIPMENT SERVICES, LLC. OWNER - SWALLOW AG LLC. 80.0 ACRES.

Commissioner Draper made a motion to approve Application #Z-2017-027 on a zone change from AG/AG20 to AI for property located approximately 2 miles north of Flowell, for the purpose of developing a CAFO. Petitioners - J&J Swine, LLC & A-Team Equipment Services, LLC. Owner - Swallow AG, LLC. 80 acres.

Commissioner Jackson SECONDED the motion. The voting was unanimous and the motion carried. **Needs to be recorded**

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

Clerk Rowley said that she received a more formal quote from ES&S for the election equipment in the amount of \$92,269.00. She said that there is an annual maintenance cost of \$10,765.00, in addition to the election equipment.

Attorney Finlinson said that Lesli Shields, former Deputy Clerk, has taken a position in his

office and requested the Commission's approval for this transition. The commissioners approved the transfer.

Commissioner Withers said that Ms. Shields did a great job in the Clerk's Office and is sure that she will do a great job in the Attorney's Office as well.

Commissioner Jackson said that the Conservation Crew will be used at the National Guard every Monday.

Commissioner Draper said that there will be a public hearing held in the BLM Fillmore Field Office on Tuesday, December 12, 2017 at 6:00 p.m. regarding the use of helicopter and motorized vehicles in gathering wild horses. He said that this has been a hot topic amongst several people. He said that there are potential gathers in the State of Utah, none of which will be held in Millard County. He said that there will be a gather on the Blonde Wash Herd Management Area in Beaver County. He said that this is where the horses are starving to death and the use of motorized equipment could affect that.

Commissioner Draper said that the Governor's Office of Economic Development (GOED) will hold its Rural Day at the Legislature for County Elected Officials, Friday, February 2, 2017. The registration fee is \$35.00.

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

The meeting adjourned at 11:13 a.m..

Attest: _____

Approved: _____