

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 6th DAY OF FEBRUARY 2018
AT THE COURTHOUSE, FILLMORE, UTAH

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

Pat Finlinson. County Attorney
Marki Rowley. County Clerk
Jamie Hair Deputy Clerk

ALSO PRESENT: Barb Clark. Chronicle Progress
Brian Whipple & Farrell Marx..... Central Utah Counseling Center
Lynette Madsen & Karen Jordan. Auditor’s Office
Adam Richins..... County Planner/Building Inspector
Ronda Williams..... Hinckley Lions Club Demolition Derby
Sheri Dearden..... County Treasurer
Pat Manis..... County Assessor

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 Jackson to the public and Commission members.

OPENING STATEMENTS

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

APPROVAL OF JANUARY 16, 2018 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held January 16, 2018 were presented for consideration and approval. Commissioner Draper made a motion to approve the minutes of January 16, 2018, as presented.

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

FOLLOW UP ACTION ITEMS FROM JANUARY 16, 2018

There were none.

DISCUSSION AND POSSIBLE APPROVAL OF A BENEFIT PROTECTION CONTRACT WITH UTAH RETIREMENT SYSTEMS (URS) AND WORKERS COMPENSATION COVERAGE FOR TIER 2 EMPLOYEES

Chief Deputy Auditor Madsen excused Auditor Gehre from today's meeting.

Commissioner Withers made a motion to approve a Benefit Protection Contract with URS and Workers Compensation coverage for Tier 2 Employees.

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

DISCUSSION AND POSSIBLE APPROVAL OF A BENEFIT PROTECTION CONTRACT WITH UTAH RETIREMENT SYSTEMS (URS) AND LONG TERM DISABILITY COVERAGE FOR TIER 2 EMPLOYEES

Commissioner Withers made a motion to approve a Benefit Protection Contract with URS and Long Term Disability coverage for Tier 2 Employees.

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

DISCUSSION AND POSSIBLE APPROVAL OF AN INDIGENT BURIAL APPLICATION FOR FRANKLIN LYNN BAKER

An indigent burial application was presented for Franklin Lynn Baker.

Commissioner Draper made a motion to approve an Indigent Burial Application for Franklin Lynn Baker.

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

DISCUSSION AND POSSIBLE APPROVAL OF A BUSINESS LICENSE APPLICATION FOR CLEAR CREEK COUNSELING, OWNER - TERESA TURNER

A business license application was presented for Clear Creek Counseling, Owner - Tresa Turner. Commissioner Withers questioned if the Commission has the responsibility of verifying State licensing for certain types of businesses before approving a County business license. Attorney Finlinson clarified that it is not the Commission's responsibility, however, the County has asked for a copy of State licensing for certain types of businesses in the past.

After review of the application and finding all signatures in order, Commissioner Draper

made a motion to approve a business license for Clear Creek Counseling, Owner - Tresa Turner.

Commissioner Withers 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 an email received from Utah Counties Indemnity Pool (UCIP) stated that the County's policy is unchanged and will continue with the same terms and premium.

Treasurer Dearden said that the State Legislature approved the fidelity bond under the State Money Management Act, which now does not require the Treasurer to hold its own fidelity bond. Attorney Finlinson read the email for clarification.

Commissioner Withers made a motion to approve 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.

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

DISCUSSION AND POSSIBLE APPROVAL OF HIRING A CONSULTANT FOR THE LANDFILL DEPARTMENT

Commissioner Jackson said that after talking with a few people from Delta, Utah regarding the issues of the landfill fees, it was suggested to hire a consultant to see where the County fees should be.

Attorney Finlinson said that in the past, he suggested to have an outside entity come in and do a full audit of the Landfill Department, which would help ensure the County is compliant. He said that this would need to be done through a request for proposals (RFP), due to the ambiguous nature of it. He said that he will work with Mr. Richins and John Higgins, Landfill Supervisor, on the RFP.

Commissioner Jackson said that he received an email from Mr. Richins indicating that three individuals, who have experience with this type of work, have expressed interest in this position.

Mr. Richins said that the Landfill Department is looking for someone who has experience with the creation of municipal fee schedules. He said that this will need to also encompass more than just the financial aspect in order to be thorough. He said that there are a lot of people out there who specialize in this type of work and the three individuals mentioned, are among those

individuals with that type of experience.

Commissioner Withers questioned who would write the language for the RFP. Attorney Finlinson said that he would like to be involved with it, as well as Mr. Richins and Mr. Higgins to make it as precise and as clear as possible.

Attorney Finlinson explained the differences between a RFP and an invitation for bid. The RFP language will be brought back to a future meeting for possible approval.

Commissioner Draper made a motion to approve issuing a RFP for hiring a consultant for landfill fee and operation evaluations.

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

DISCUSSION REGARDING PAYING GREENBELT ROLLBACK TAXES

Commissioner Withers read a letter received from Mike Monroe requesting that the Commission review greenbelt rollback taxes.

Commissioner Withers explained the concern of the current process. He asked Assessor Manis to address the legal side of this situation.

Assessor Manis said that though he sympathizes with Mr. Monroe for his situation, State Code requires at least 5 contiguous acres for property to qualify for greenbelt. He said that Mr. Monroe purchased property back in 2010 from an individual who owned several acres, which qualified for greenbelt. He said that somehow that property did not get analyzed to see if it qualified for greenbelt at the time of purchase. He said that during this year's reappraisal process, it was discovered that Mr. Monroe's property did not qualify for greenbelt.

Assessor Manis said that as the Assessor, he does not have the authority to choose who he can rollback taxes for and who he cannot. He said that Mr. Monroe paid a substantial less amount in taxes than what he would have paid if his property would have been assessed correctly.

Assessor Manis said that Mr. Monroe has been informed that he still has time to appeal to the Board of Equalization (BOE), if he so chooses. He said that the purpose of a BOE is for the Commission to address issues such as this.

Attorney Finlinson said that this is clearly an issue for a BOE, however, there is also a broader issue in regards to the County policy. He said that the Commission would need to address the County policy. He said that his job, as the Attorney, and the Assessor's job would be to prescribe parameters to help the County identify and quantify the risk, but the Commission needs to make a decision regarding the policy.

Commissioner Draper asked Assessor Manis to address the issue of when property changes hands. Assessor Manis said that anytime property changes hands, the system the Assessor's Office currently uses is set up to send notification to his office. His office then sends out an application for the new owner to reapply for greenbelt. He said that once the application is received, his office will try to determine if it would even qualify for greenbelt. If the application is denied, the owner has the opportunity to reapply.

Assessor Manis said that once an application is received, it is recorded; however, he tries

to inspect the properties within 30 days of receiving the application. He said that if he feels that a rollback applies he will send out notice, giving the owner one year to bring it into qualification.

Commissioner Draper questioned how it would be handled if a property owner no longer uses the property for agriculture. Assessor Manis explained that if that were to happen, the County would be required to roll back the taxes five years. He said that a good title company would point this out to the buyer. However, not all purchases are made through a title company.

DISCUSSION REGARDING PURCHASING MINERAL RIGHTS FROM RED DOME

Commissioner Withers said that he was approached by the owner of the Red Dome located west of Fillmore. He said that Red Dome owns the mineral rights and is interested in signing over those mineral rights to the County. He said that he asked Brandon Winget, Road Supervisor, to see if purchasing those rights would be beneficial to the County.

Attorney Finlinson said that he thinks that Red Dome is wanting to sell the surface rights not the mineral rights, which is what is needed for sand and gravel.

Commissioner Withers said that the property belongs to Bureau of Land Management (BLM) and Red Dome owns the mineral rights.

Mr. Winget said that the County is running out of places to purchase chips for sand and gravel. He said that if the County were to purchase the rights from Red Dome it would save no less than \$250,000.00 a year. He said that the purchase price is \$500,000.00 and he feels that the County would be able to make its money back in about a year and one half. He also said that in his opinion, this purchase would offer a lifetime of material to the County. He said that it is good rock at a great value.

Commissioner Withers said that during a BLM meeting it was offered that the County would reclaim some of the Red Dome's portion to help alleviate its financial obligation, if they would offer the County a better deal on the purchase price.

Attorney Finlinson said that he will follow up on the legal issues.

DISCUSSION AND POSSIBLE REVISION OF ORDINANCE 17-12-19, AN ORDINANCE OF MILLARD COUNTY, UTAH ESTABLISHING A REVISED SCHEDULE OF LANDFILL USE FEES

Commissioner Withers made a motion to strike this agenda item.

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

INDEPENDENT AUDIT, CENTRAL UTAH COUNSELING CENTER (CUCC) - DIRECTOR BRIAN WHIPPLE & CFO FARRELL MARX

Mr. Marx went over the Independent Audit performed by Kimball & Roberts for the CUCC. He said that the Auditor's Opinion showed a good audit, with no major issues. He briefly discussed the revenue and expenditures and said that Medicaid, which is the main funding source of revenue has decreased about \$300,000.00 from 2016. He explained the Statement of

Net Position Proprietary Fund, as well as the Statement of Revenue Expenses.

Mr. Marx said that the CUCC's gross budget for revenue is \$8,123,435.00 and Medicaid match of State dollars is \$1,247,499.00. He explained the Combining Statement of Revenues, Expenses and Changes in Net Position. He said that it is required to get County contributions, which is required to receive the State match funds to receive the Medicaid match funds.

Mr. Marx said that it was brought to their attention that it is required to take a roll call vote during an executive session. He said that they were recording the meetings, but were not taking a roll call vote. He said that they will do that from now on.

Mr. Marx said that another issue was with two checking accounts that did not get reported to the State Auditor's Office. He said that they only used those accounts to deposit money within the State required time frame of three business days and then would transfer the money to the main account before the end of the year. He said that they have since reported those accounts to the State Auditor's Office and are now in compliance.

Commissioner Withers expressed appreciation for the good working relationship that CUCC has with the County, as well as the great work they do for the County citizens.

Mr. Whipple said that there are a few things that are happening with the State that will affect the County. He said that one of the bigger issues is with the attempts to settle a lawsuit against the State of Utah for forensic evaluations. Mr. Whipple and Attorney Finlinson discussed the impact it is having on the counties. Attorney Finlinson explained that this issue has been an ongoing battle. Suggestions were made as to what could be done to alleviate the frustrations at a State level.

DISCUSSION AND POSSIBLE APPROVAL OF THE COUNTY TAKING OVER THE HINCKLEY LIONS CLUB DEMOLITION DERBY

Commissioner Withers said that at the last meeting it was discussed that the Hinckley Lions Club would continue operations of the Hinckley Lions Club Demolition Derby for this year and then discuss the County taking it over in the future.

Ms. Williams said that she was under the assumption that Attorney Finlinson would look into the County carrying the required insurance for the derby, as well as the County offering a relief for the facility use rentals and reclaiming the arena.

Ms. Williams said that they struggle with man power of selling advanced tickets. Commissioner Withers suggested that she work with Treasurer Dearden to see if the County's online system would work for the derby. Treasurer Dearden said that there are additional fees associated with each ticket sold through the online system.

Commissioner Withers suggested to visit with Delta City to see if they would be willing to get involved with the derby. Ms. Williams said that in the past, the Delta City Mayor had said that there were no available funds to help with the derby.

Commissioner Withers said that there is a new Delta City Mayor and he may be willing to budget some funds for the derby. He said that he would like to see what Delta City would be willing to do before the County commits to anything.

REVIEW OF FINANCIAL REPORTS - TREASURER DEARDEN

Treasurer Dearden presented the financial reports for the month of January 2018. She said that the Pool Cash Report shows that the Auditor and Treasurer are in balance, the Treasurer Summary shows that funds will be released to the Fire District and that funds are still being held for the Mosquito Abatement District. Commissioner Withers said that he will contact the Mosquito Abatement District in regards to the reports needed for releasing their funds.

Treasurer Dearden said that she also included the Semi Annual Report of Deposits and Investments which is sent to the Money Management Council for compliance investing.

PUBLIC INPUT

There was none.

OTHER BUSINESS

Commissioner Draper said that the Central Utah Public Health Department (CUPHD) has presented an interlocal cooperative agreement for renewal. He expressed concern with the term of the agreement. He said that he sent the information to Attorney Finlinson for review and will discuss his concerns with the CUPHD at its February 21, 2018 meeting.

Commissioner Draper said that there is a meeting scheduled April 18, 2018 from 2:00 p.m. to 4:00 p.m. with the Utah Department of Transportation (UDOT) to discuss upcoming projects.

Commissioner Draper said that he asked Scott Barney, Millard Economic Development Association (MEDA) Coordinator to reschedule the February 13, 2018 meeting with the Governor to a date where all three commissioners could be present.

Commissioner Draper said that during a Planning Commission meeting, Magnum put forth several applications in hopes to proceed with their operations. He said that there were no favorable decisions made at that meeting, however, one of things discussed was that Magnum would pay an outside expert to review their proposals. He said that Attorney Finlinson has reviewed this and believes that it is in the best interest of the County to move forward with good assurance that all the factors involved will be looked at. He said that there would be no financial obligation to the County at all and he believes that the County would be able to choose the consultant.

Commissioner Draper said that Magnum also asked for a change in heavy industrial (HI) to allow wind and solar generation, etc. in HI areas. He said that this may not be in the best interest of the County since it would require a change in all HI zoning areas. He suggested that this idea be explored further to determine the best value to the County.

Mr. Richins said that Attorney Waddingham informed him that if the County wants a particular area examined the County would need to determine the scope of the third party review. He said that the County would determine who might be best to provide expertise, based on what

it wants looked at. He said that the cost recovery is typical, but the County might incur some reimbursable expenses.

Commissioner Draper said that some of the people with specific expertise are already engaged with Magnum, so the County would need to look at other parities.

Commissioner Draper made a motion to move forward with the offer made by Magnum to hire a consulting party to refine its proposal to what the County requires and make recommendations for the County to consider.

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

Commissioner Withers questioned why something was not on the agenda to discuss the J&J Swine pig farm. Mr. Richins said that there was not a quorum at the last Planning and Zoning meeting; unless it can be forwarded to the Commission without a recommendation, it would be heard at the next Planning and Zoning meeting and presented to the Commission thereafter.

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

Commissioner Draper attended a meeting in Salt Lake City, Utah, Friday February 2, 2018 with Congressman Bishop. He said that they discussed necessary changes within the Department of Interior; one of which, was to combine the three different agencies within that department to create one study.

Commissioner Draper said that landscape management was also proposed at that meeting. He said that it was enacted that all eight states would be managed under one manager; however, that was reversed after President Trump took office.

Commissioner Draper said that they are now looking at a revision at different departments of Government; under the Department of Interior they want to divide the United States up by echo systems. He said that the local BLM District Offices would still have jurisdiction over its own district.

Commissioner Draper will prepare and send a letter in hopes to correct some of the issues with boundaries located in the County that he feels are not correct.

Commissioner Draper said that they also discussed other issues that may need further education.

Commissioner Jackson attended a State Legislative meeting at the State Capitol Building in Salt Lake City, Utah. He said that Steven Lund, Sanpete County Commissioner, expressed a desire to meet with the Millard County commissioners to discuss the IPP situation.

Commissioner Jackson said that the Government of Economic Development (GOED) presented a plaque to Magnum at that meeting.

Commissioner Jackson said that he met with the Division of Wildlife Resources (DWR) to discuss fixing up the gun range located in Fillmore, Utah. He said that they were willing to

offer some financial support in that effort.

POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND/OR ACTION

Commissioner Withers made a motion to enter into a BOE.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried. The BOE began at 11:35 a.m..

Assessor Manis said that last April he asked the Commission to deny a charitable exemption application for Quality for Animal Life. He said that after the denial was granted, he did not hear from this company in regards to an appeal. However, recently he received a request from the State Tax Commission for the County to reconvene as a BOE. Apparently the Quality for Animal Life had appealed to the State Tax Commission rather than to the County.

Assessor Manis said that he presented information to Attorney Finlinson for his review. He said that Attorney Finlinson did not think that the Commission would be willing to go back and grant this, regardless of the changes made. Attorney Finlinson also told Assessor Manis that he felt like if the County were to convene, this company would go to the State after the County's decision and the State would pass down the same decision of denial.

Assessor Manis said that he did not see an advantage of taking this to District Court. He said that it has now come to a decision process for the County to either reconvene as a BOE, stipulate or stand with the decision. The commissioners expressed their desire to see more information before making a decision.

Assessor Manis will send notice to the State Tax Commission informing them that the Commission will reconvene and he will work with the Auditor's Office to set up a time to reconvene.

Commissioner Withers made a motion to close the BOE.

Commissioner Draper SECONDED the motion. The voting was unanimous and the motion carried. The BOE closed at 11:39 a.m..

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

Commissioner Draper said that Attorney Finlinson is nearing completion of the County's purchasing policy.

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

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

Commissioner Withers SECONDED the motion. All three commissioners voted unanimously and the motion carried. Present in the closed session were Commissioner Jackson, Commissioner Draper, Commissioner Withers, Treasurer Dearden and Assessor Manis.

After the closed executive session the regular meeting reconvened at 12:18 p.m..

WHERE UPON THE MEETING ADJOURNED

Commissioner Jackson adjourned the meeting at 12:19 p.m..

Attest: _____ Approved: _____