

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 19th DAY OF February 2019
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Dean Draper..... Chairperson
Wayne Jackson..... Commissioner
Evelyn Warnick..... Commissioner

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

ALSO PRESENT: Matt Ward..... Chronicle Progress
Corey Woods and Tom Huffer..... Millard County Landfill
Byron Kroeger..... Millard Care and Rehabilitation
Miriam Waddingham and Beverly Dewyze..... American Legion Auxiliary
Sheri Dearden..... County Treasurer
Bonnie Gehre..... County Auditor
Adam Richins..... County Planner
Sheriff Jacobson..... Millard County Sheriff's Office
Kevin Morris..... Millard County Recreation
Todd Macfarlane..... Citizen

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 Draper to the public and Commission members.

OPENING STATEMENTS

Commissioner Draper gave an opening statement and said at the beginning of an official's term, they take the oath of office. He then read a quote from Abraham Lincoln at his first inaugural address which states, "In your hands my dissatisfied fellow countrymen and not in mine is the momentous issue of civil war. The government will not assail you. You have no oath registered in heaven to destroy the government while I shall have the most solemn one to preserve, protect, and defend it." Commissioner Draper said that those sworn into office have the most solemn oath to preserve, protect, and defend the interests of Millard County and that is what they will do today and

in future meetings. Commissioner Warnick said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag. Commissioner Draper thanked Commissioner Jackson and Warnick for taking care of business at the last commission meeting in his absence.

APPROVAL OF February 5, 2019 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held February 5, 2019 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Jackson made a motion to approve the minutes of February 5, 2019, as corrected.

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

FOLLOW UP ACTION ITEMS FROM February 5, 2019

Commissioner Jackson said that at the last commission meeting he mentioned that the water banking issue was thrown out at the legislature. He said that the issue is now back on; however, it doesn't include our area or the Sevier River.

Commissioner Draper said that since last commission meeting, a modified medicaid bill has been passed and this bill supercedes the initiative put forth to voters. He said that it is highly dependant upon federal funds and we currently don't know how much it will impact Millard County.

Commissioner Draper said that the commissioners will be attending a meeting put on by the National Association of Counties in Washington, D.C. He said that this will be held the first weekend in March; therefore, the next commission meeting will be held Tuesday, March 12, 2019.

Clerk Rowley said that the March 12, 2019 commission date was approved with all 2019 commission dates at the end of December 2018 and has been advertised and posted.

PAYMENT FROM MILLARD CARE AND REHABILITATION -BYRON KROEGER

Byron Kroeger, Millard Care and Rehabilitation (MCCR), gave a brief history of the loan which was granted in December to help MCCR avoid stiff penalties and fines. He said that they paid the County \$130,000.00 a few weeks ago and then presented a check to the Commission for the remaining balance.

Commissioner Draper thanked Mr. Kroeger for the timely manner in which the money was returned.

DISCUSSION AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR SETH JAMES SORENSON LLC, OWNER - SETH JAMES SORENSON

A business license application was presented for Seth James Sorenson, LCC , Owner - Seth James Sorenson, a business that inseminates cows for local dairies. After review of the application and finding all signatures in order, Commissioner Warnick made a motion to approve a business

license for Seth James Sorenson, LCC , Owner - Seth James Sorenson.

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

DISCUSSION AND POSSIBLE APPROVAL OF A REIMBURSEMENT REQUEST OUTSIDE OF THE SIXTY DAY WINDOW FOR SCOTT BARNEY, MEDA

Commissioner Draper said that the reimbursement policy was amended to accommodate reimbursements outside of the normal sixty day window. He said that the reimbursement amount for Mr. Barney is over \$5,000.00 and the new policy states that this has to be approved in an open meeting. Commissioner Draper said that the desire of the County isn't to operate on employees' money. Commissioner Warnick said that she agreed but it should be encouraged to submit these reimbursements within the sixty day time-frame.

Commissioner Warnick made a motion to approve the reimbursement request outside of the sixty day window for Scott Barney, MEDA

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

DISCUSSION AND POSSIBLE RATIFICATION OF REINSTATEMENT OF EMPLOYMENT STATUS OF LANDFILL EMPLOYEES

Attorney Finlinson said that this item is a little unusual and explained that two landfill employees had their employment terminated after items were taken from the landfill and then taken to one of the retail stores in Delta where they tried to exchange those items for warranty value. He said that those terminations were appealed and reviewed by his office. Attorney Finlinson said that he determined that the County can't support the terminations and he recommends that their employment be reinstated and put on the agenda for ratification. He said that the county's policy requires that the appeal should be heard by the full Commission, however, he felt that this should be acted upon quickly and notified Commissioner Warnick. Attorney Finlinson said that a letter was also sent to the employees and their attorney and they were invited to attend today's meeting.

Todd Macfarlane, Attorney for Mr. Huffer and Mr. Woods, thanked the Commission and Attorney Finlinson for the quick and appropriate handling of this situation and said that he was happy to address any questions that the Commission may have.

Attorney Finlinson advised Commissioner Jackson to abstain from voting since the Landfill falls under his administrative function. Commissioner Jackson said that he will abstain from voting.

Commissioner Warnick made a motion to ratify the reinstatement of employment status of Landfill Employees.

Commissioner Draper stepped from the chair and SECONDED the motion. Commissioner Jackson abstained. The motion carried by majority vote.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 19-02-19, A RESOLUTION OF

THE BOARD OF COUNTY COMMISSION ENACTING A POLICY FORBIDDING THE REMOVAL OF ITEMS FROM THE MILLARD COUNTY LANDFILL AND ASSOCIATED TRANSFER STATIONS BY MILLARD COUNTY EMPLOYEES

Attorney Finlinson said that there isn't a policy specific enough regarding this issue and he has put together a general resolution to address this. He read a portion of the resolution that he created and asked the Commission for input.

Commissioner Jackson said that he wants to make sure that this resolution doesn't restrict the outside contractors they hire to come in and remove steel from the landfill.

Commissioner Draper said that there is a prominent sign by the landfill that states, "no scavenging without permission". He said that "permission" is the key word. This sign is for the general public, as well as employees but perhaps acquisitions of discarded property with approval from landfill management should be considered.

Attorney Finlinson said that there should be clear standards stated for the managers to decide who can take items. He said that there is a State code that says items are the property of the State once they are in a landfill; however, the code doesn't address transfer stations or transit.

Mr. Macfarlane said that he had to search through the State's administrative rules to find anything that applied to this issue. He said that Millard County currently has a policy that says there shall be no scavenging anywhere within the boundaries of Millard County. He said that this is unconstitutionally vague and over broad and it also doesn't define scavenge or solid waste. Mr. Macfarlane said that the State of Utah defines scavenging as any unauthorized taking of solid wastes which leads you back to the issue of permission.

Mr. Macfarlane said that his concern is that county landfill employees will be more restricted than members of the general public. He said that, in his opinion, the landfill policy has been that if any person went to the landfill and saw something they wanted, they would ask permission of one of the landfill employees to scavenge that item. He said that in the past, permission has been granted by request on a regular basis. He said that landfill employees have had the opportunity to scavenge themselves, as well as give authorization to the general public.

Mr. Macfarlane said that if something is changed it needs to be done on a broader base and it shouldn't be any more restrictive for Millard County employees than it is for the public. He said that the County should also make sure that the public and employees know the policy.

Attorney Finlinson said that the current County's policy mentioned by Mr. Macfarlane is actually an ordinance. Attorney Finlinson read a portion of the ordinance and said that it is broad. He said what they are talking about here is a resolution to enact a policy that really wouldn't have general applicability, although, the Commission certainly can. He said that it would be more of a process to amend an ordinance rather than enact a policy restricting behavior for employees; however, that is why this is an agenda item because he is looking for some guidance.

Commissioner Warnick said that more time is needed to make sure this is properly handled.

Commissioner Jackson agreed and asked for clarification on the current ordinance regarding permission. Attorney Finlinson said that the term permission is used in the regulation. He said that the County needs to define what permission means.

Commissioner Jackson made a motion to table this agenda item.

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

carried.

DISCUSSION AND POSSIBLE APPROVAL OF FUNDING FOR THE AMERICAN LEGION LADIES AUXILIARY GIRLS STATE - MIRIAM WADDINGHAM

Miriam Waddingham said they have had some financial help the last few years to allow girls to attend Girls State. She said that the benefit of attending is amazing and that the girls come back able to present to a group and communicate better than they did before attending. Ms. Waddingham said that the cost has gone up and it is hard for families to come up with funding. She said that they have eight girls attending this year and they are asking the County to pay half of the \$400.00 for each girl in the amount of \$200.00 each totaling \$1,600.00. Commissioner Draper asked how the other \$200.00 was to be raised by the participating girls. They answered that the girls were responsible for obtaining that \$200.00 individually so that they have a stake in the game.

Commissioner Jackson said that this is a great program and he appreciates what the ladies are doing. He said that last year girls received a large amount of scholarship money.

Ms. Dewyze said that all the girls received a scholarship last year and also earned three college credit hours in the week they attended. She said that they could come back with the girls in the summertime and have them present what they have learned to the Commission. Ms. Dewyze said that the girls have to come up with the other half of the funds because it becomes more meaningful if they have to put something into it. Commissioner Warnick said that she knows how valuable this experience is to these girls.

Commissioner Jackson made a motion to approve funding for 8 girls to attend the American Legion Ladies Auxiliary Girls State in the amount of \$1,600.00

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

DISCUSSION AND POSSIBLE APPROVAL OF A CREDIT INCREASE FOR MIKE MONROE AND BRANDON WINGET-ROAD DEPARTMENT

Brandon Winget, Road Department, said that they purchase necessary parts on the internet and they can only purchase a couple parts a month with the current credit amount.

Commissioner Draper asked Mr. Winget what a reasonable limit would be. Mr. Winget said that a \$3,000.00 limit per person will enable them to accomplish what they need to do and will allow them to get away from buying parts from businesses that overcharge.

Commissioner Draper asked if \$5,000.00 for the supervisor and \$3,000.00 for the mechanic would be sufficient. Mr. Winget said that it would.

Auditor Gehre said that there wasn't a problem with increasing the limits to these amounts.

Commissioner Jackson made a motion to approve a credit increase for Mike Monroe, Road Department Mechanic, to \$3,000.00 and for Brandon Winget, Road Supervisor, to \$5,000.00.

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

DISCUSSION AND POSSIBLE RENEWAL OF THE LEASE AGREEMENT WITH ADULT PROBATION AND PAROLE

Attorney Finlinson said that he reviewed the lease agreement and he doesn't have any concerns. He also mentioned that AP&P has a great relationship with the County.

Commissioner Draper read a portion of the lease and said that the annual rent is \$5,964.00 and the lease term is 5 years, which totals \$29,820.00.

Commissioner Jackson questioned whether five years is what has been done in the past. Attorney Finlinson said that five years is a standard time frame.

Commissioner Warnick made a motion to approve the renewal of the lease agreement with Adult Probation and Parole in the amount of \$29,820.00.

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

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 19-02-19, A TEMPORARY LAND USE ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MILLARD COUNTY, UTAH, ENACTING A 6 MONTH MORATORIUM ON THE PERMITTING OF CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO) IN MILLARD COUNTY.

Commissioner Draper said that Millard County currently has three categories for CAFOs and the State has four categories, which has become a problem. He said that the Planning and Zoning Commission have asked for some time to make sure applications would be properly handled and situated in the County.

Attorney Finlinson said that Land Use Ordinances are usually handled by Planning and Zoning; however, the County Commission can initiate it because it is only temporary.

Planner Richins said that there was a Planning and Zoning work meeting where this issue was discussed and a moratorium was requested until the discrepancies can be resolved. He said that they have studied how this has been handled elsewhere and it is still being drafted to meet Millard County's needs. He said that this issue will be continually addressed by the Planning and Zoning Commission until it is resolved and then he will bring forth a recommendation to the Commission.

Attorney Finlinson said that the ordinance has a maximum life of six months, but can be terminated prior to that. Attorney Finlinson read a portion of the ordinance which states "Any application to establish a CAFO shall not be accepted, processed, reviewed, or approved by a Millard County Zoning Administrator, Planning Commission, Board of Adjustment, and/or County Commission during the effective period of this Ordinance."

Commissioner Jackson asked if this includes current applications or anyone who is currently in the process. Attorney Finlinson said that anything filed prior to the date of this ordinance shall be processed.

Commissioner Warnick said that she knows the Planning Commission is pushing forward and working hard to resolve this in a timely manner and said that it may not take the entire six month period. Planner Richins said that this issue will be addressed rapidly and resolved as soon as possible.

Commissioner Jackson made a motion to adopt Ordinance 19-02-19, a Temporary Land Use Ordinance of the Board of County Commissioners of Millard County, Utah, enacting a 6 month moratorium on the permitting of concentrated animal feeding operations (CAFO) in Millard County.

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

DISCUSSION OF POSSIBLE TRANSFER OF HUMAN RESOURCES FUNCTION FROM THE COUNTY ATTORNEY'S OFFICE TO ANOTHER COUNTY OFFICE OR DEPARTMENT

Commissioner Draper said that this item is for discussion only and action will not be taken today. Attorney Finlinson said that he appreciates the opportunity to start this discussion in a commission meeting and gave a brief history of when and how the Human Resource (HR) functions came to be in the Attorney's Office. He said that having HR responsibilities in his office has created workload problems from the beginning because the amount of time HR functions require each week is unpredictable and big criminal cases don't allow for workload flexibility.

Attorney Finlinson said that it also creates a problem when employees' employment is terminated because the Attorney's Office is HR. He said that had the landfill employees' appeals moved on to a formal hearing, his office couldn't advise the Commission or manage it from a litigation standpoint.

Attorney Finlinson said that one discussion has been to move HR responsibilities to the Clerk's Office, which currently has a part-time employee; however, this is the very beginning of the conversation just to get the conflict out of the Attorney's Office.

Commissioner Draper said there is an overwhelming need to move HR from the Attorney's Office so they can be more efficient with their work and to remove conflict. He said that he spoke with Clerk Rowley who said that there isn't money currently in the budget to expand hours in her office.

Commissioner Draper said that if a combined position was created, the step and grade would need to be modified. He said that a precedent to do this has previously been set when the County Planner and Building Official positions were combined. He said that the Commission has the ability to make personnel adjustments in order to meet the County's needs.

Commissioner Draper said that one consideration would be to move a part-time employee up to the limits of part-time at 29-30 hours a week. He said that another consideration would be to increase a part-time employee's hours to 32 hours per week which would change their status to full-time. He said that if an employee were to be considered full-time they would then be eligible for benefits. He said that this would also include the need to open the budget. Commissioner Draper said that the Clerk Rowley has expressed concerns and doesn't want to lose an employee in the process of restructuring this.

Commissioner Draper said that he would like to pursue this in an administrative meeting at another time to figure out details and then bring this back to Commission if and when they are ready to act on anything. Commissioner Warnick said that she sees a great need for this and thinks an administrative meeting is a good idea. Commissioner Jackson agreed and said that he would like to move forward with the discussion.

Auditor Gehre said that there is an option to take some funds from the personnel budget. She

said that part of the personnel budget fund was set aside for the policy update and if that person were to take on part of that project there would be a cost savings.

Clerk Rowley said that she would like more information before making any decisions.

TREASURER FINANCIAL REPORTS

Treasurer Dearden presented the financial reports ending in January 2019 and said that a thorough review was held between her, Auditor Gehre, and Commissioner Draper on February 13, 2019. She referred to the treasurer's fund balance report which shows the collections for January 2019. Treasurer Dearden then referred to the disbursements to entities and said that some entities request disbursements monthly and others request it quarterly. She said that the pool cash report shows that the Treasurer and Auditor are in balance and the third page reflects voided checks that they were able to clear out which enabled them to be able to close the Wells Fargo account.

Commissioner Draper asked Treasurer Dearden to explain the County's history and status with Zions Bank. Treasurer Dearden said that Zions Bank approached the County prior to the closure of Wells Fargo in hopes to get the County to use their company for the primary account. She said that she explained that after telling Zions the deal that Wells Fargo was giving the County, Zions Bank stated that they couldn't match that deal and didn't give a quote.

Treasurer Dearden said that once they heard Wells Fargo was closing, State Bank of Southern Utah contacted her and expressed interest in getting the County's business and said that they could provide a great deal which was basically no fees. She said that Zions Bank contacted her again as well and agreed to match what State Bank had offered. Treasurer Dearden said that the County went with Zions Bank, but each month she has had to fight to remove those fees that they agreed not to charge. She said that the latest bill was \$3,800.00 and that Zions eventually reversed the fees, but it has been an ongoing battle.

Treasurer Dearden referred to the Open Payable Report which was blank because there was nothing outstanding and then referred to the Fund Summary Report which shows all the funds' activity in January and that the funds are in balance.

Treasurer Dearden informed the Commission that the State Auditor's Office will release its report tomorrow.

PUBLIC INPUT

There was none.

OTHER BUSINESS

Commissioner Jackson said that Fillmore City is holding a meeting tonight at 6:40 p.m. at the city offices regarding a new hanger at the airport. He said that the National Guard has expressed interest in holding trainings at the airport this summer.

Attorney Finlinson said that he mentioned, at a previous meeting, the possibility of entering into an inter local agreement with Meadow Town to handle its justice court. He said that it won't be a separate court and the fines will be Millard County fines. Treasurer Dearden said that this should

be fine. Attorney Finlinson said that this was done with Hinckley Town in the past.

Commissioner Draper said that Central Utah Health has located a potential building in the Delta area to move its office. He said that after looking at all available buildings, they discovered that the builders who are building the new office on the site of the old Sportsman's Center are willing to build another building wherein three government entities could lease offices for \$1,200.00-\$1,500.00 per month. Commissioner Draper said that Central Utah Health is currently paying \$900.00 a month at their current location. He said that Central Utah Health wants to know if Millard County would consider supporting the increased lease amount on an ongoing basis. Commissioner Draper said that this is currently not in the budget; however, they need to know if the County would consider the increase so that they can begin to negotiate a building process. He said that the building would be built somewhere between the new office building and the Days Inn.

Commissioner Jackson said that there isn't much choice and that Central Utah Health has searched for a building for a long time now.

Commissioner Warnick asked if this would fall into the next budget cycle. Commissioner Draper said that it is unknown, but thinks they would be moved in close to the end of the year.

Sheriff Jacobson suggested building a new county building that includes a substation for the Sheriff's Office. He said that he had planned on bringing up this topic at some point in the future, but that the need currently exists and is worth exploring.

Commissioner Draper said that he will contact Central Utah and ask what the term on the lease agreement for the new building would be.

Commissioner Draper said that the County recently purchased the mineral rights for Red Dome, but it has been found that property taxes are owing for 2019. Treasurer Dearden said that those taxes can be prorated for the month and a half that is owed. Attorney Finlinson said that the taxes will probably have to be waived. It was agreed to bring this item back to the next commission meeting as a BOE.

Sheriff Jacobson presented some payroll changes for signatures and explained some of the Sheriff's Office personnel changes. He said that they are continuing efforts to fill vacancies. He said that they are working to fix the step and grade to address disparities and noted that one first year sergeant is earning more than a 4 year sergeant under the current step and grade.

Sheriff Jacobson said that they had received bids on an ambulance vehicle; however, two were not sealed and were sent through email. He said that they delivered these original emails to the Auditor's Office in hopes that they can accept the email as a bid.

Auditor Gehre asked if these bids need to be started over or if the emails could be considered.

Attorney Finlinson said that this could cause trouble if the County's policy isn't followed. He said that he could talk to litigation counsel to see if the County could possibly defend accepting those bids. He said that the other option would be to reject all of bids and ask the bidders to resubmit them.

Sheriff Jacobson said that he doesn't like to see the lowest bid thrown out because it wasn't properly submitted and that he will communicate with UnaRae to see if they can find out why these bidders didn't follow the instructions.

Commissioner Draper said that he would prefer not to address this until those communications are made.

DISCUSSION AND POSSIBLE APPOINTMENTS TO VARIOUS COUNTY BOARDS

Commissioner Draper said that JoAnn Campbell and Nick Killpack have agreed to accept a position on the Millard Care and Rehabilitation Board.

Commissioner Jackson made a motion to appoint JoAnn Campbell and Nick Killpack to the Millard Care and Rehabilitation Board

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

Commissioner Draper said that Roger Killpack has been elected as the Chairperson for the Millard Economic Development Board (MEDA) and this appointment needs ratification from the Commission.

Commissioner Warnick made a motion to ratify the appointment of Roger Killpack as Chairperson for the MEDA board.

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

Commissioner Warnick said that Ken Fowles has asked to step down from Drainage District #3 and asked if this has been posted. Clerk Rowley said that she believes it has been posted and she is currently awaiting applicants.

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

Commissioner Jackson said that Sarah Dziuk has accepted the secretary position at the pool in Delta and that they had a lot of good applicants apply.

AUDITOR REPORT

There was none.

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

There was none.

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

WHERE UPON THE MEETING ADJOURNED

Commissioner Jackson adjourned the meeting at 11:28 a.m..

Attest: _____

Approved: _____