

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 3rd DAY OF DECEMBER 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
Richard Jacobson and Robert Clark..... Millard County Sheriff’s Office
Kerry Ekker. Strike Force
Doug Anderson. Juab County Sheriff’s Office
Brooks Jackson. West Millard Recreation Supervisor
Adam Richins.. County Planner
Sheri Dearden..... County Treasurer
Bonnie Gehre..... County Auditor
Steven Maxfield, Mark Maxfield, Monica Christensen, Clark Christensen, David
Remkes, and Mike Holt..... Citizens

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 asked if anyone had an opening statement to give. Commissioner Draper quoted the following statement from Edmond Burke: “When the leaders choose to make themselves bidders at an auction of popularity, their talents, in the construction of the state, will be of no service. They will become flatterers instead of legislators; the instruments, not the guides, of the people.” Commissioner Warnick said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF NOVEMBER 19, 2019 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held November 19, 2019 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Warnick made a motion to approve the minutes of November 19, 2019, as corrected.

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

APPROVAL OF THE NOVEMBER 7, 2019 PUBLIC HEARING MINUTES

The proposed minutes of a public hearing held November 7, 2019 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Jackson made a motion to approve the minutes of November 7, 2019, as corrected.

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

FOLLOW UP ACTION ITEMS FROM NOVEMBER 19, 2019

Commissioner Draper said that there was a request for one of the Sheriff Office's trucks that is being replaced. Sheriff Jacobson said that there will be an answer on pricing very quickly.

DISCUSSION AND POSSIBLE APPROVAL OF 2020 COMMISSION MEETING DATES

Commissioner Jackson made a motion to approve the 2020 commission meeting dates.

Commissioner Warnick SECONDED the motion. The voting was unanimous and the motion carried. (See Attached)

SPECIAL RECOGNITION- SHERIFF'S OFFICE

Sheriff Jacobson said that due to the sensitivity of ongoing investigations, he will be keeping the names of those being recognized anonymous. He explained that in September 2019, a citizen provided information on a suspicious vehicle. Sheriff Jacobson said that this information triggered an investigation that resulted in a lot of intelligence being received, as well as, officials capturing a large amount of meth and making corresponding arrests.

Commander Ekker said that the citizen took a second step by contacting authorities when he/she noticed something suspicious. He said that law enforcement needs the help of citizens to combat crime in our areas. He said that he also wanted to recognize the relentless pursuit by his deputies.

Doug Anderson, Juab County Sheriff's Office, said that he is thrilled with the relationship that has developed between Millard and Juab Counties and the strike force. He said that this is a tough job and it is exciting when the public steps up to help combat the challenges in today's world.

DISCUSSION AND POSSIBLE APPROVAL OF A CELL PHONE AGREEMENT-SHERIFF'S OFFICE

Sheriff Jacobson said that this stipend is for the new dispatch supervisor, Chad Imlay. He said that this position qualifies for a \$60.00 per month stipend.

Commissioner Warnick made a motion to approve a cell phone agreement in the amount of \$60.00 per month for Chad Imlay - Sheriff's Office.

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

DISCUSSION WITH THE FIRE DISTRICT

Commissioner Warnick made a motion to strike this item from the agenda.

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

DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 19-12-03, A TEMPORARY LAND USE ORDINANCE OF THE MILLARD COUNTY COMMISSION ENACTING A MORATORIUM ON THE PERMITTING OF CONCENTRATED ANIMAL FEEDING OPERATIONS INVOLVING SWINE IN MILLARD COUNTY PENDING THE OUTCOME OF A PROPOSED CITIZENS' INITIATIVE

Attorney Finlinson said that a group of citizens made their intentions known for a referendum and initiative regarding confined concentrated animal feeding operations (CCAFO) and concentrated animal feeding operations (CAFO) at the last commission meeting. He said that the application was officially filed yesterday, December 2, 2019, and it is currently in his office for legal review.

Attorney Finlinson explained the time line of the process. He said that at some point, public hearings will be scheduled and that the Commission can't discuss this outside of a properly noticed public hearing.

Attorney Finlinson said that this is a temporary land use ordinance that doesn't require the involvement of the Planning and Zoning Commission. He said that if it is approved, it would be effective immediately.

Commissioner Draper asked if this would be put on the ballot at some point in time; specifically next fall. Attorney Finlinson said that statute reflects having this initiative on the general election ballot in November 2020.

Attorney Finlinson said that he would not recommend that the Commission discuss anything regarding the initiative.

Mr. Steven Maxfield said that the initiative process takes this issue to the vote of the people. He said that the temporary land use ordinance will stop any new CAFO or CCAFO applications from being processed. Mr. Maxfield asked if there is an automatic estoppel because the people are

exercising their superior legislative authority. He said that he thinks by common law there should be an estoppel. Mr. Maxfield said that at the bottom of the initiative it says that the citizens are formally undertaking to change the land use ordinance that would prohibit swine CAFOs or CCAFOs in any zone.

Attorney Finlinson said that this would be more of a “stay” or “suspension” issue; not an estoppel. He said that he can’t find any statutory automatic suspension that follows the proposal of an initiative. He said that it would come from common or case law and he isn’t sure if it exists.

Attorney Finlinson said that the only way to test it would be to deal with an application and have someone raise it in litigation. He said that the temporary land use ordinance would simply stay any future applications.

Commissioner Draper asked how this will impact any CAFO or CCAFO applications already in possession of the Planning Department if this ordinance is enacted. Attorney Finlinson said that this land use ordinance cannot be enacted retroactively and those will have to be processed.

Commissioner Draper read the proposed ordinance into the minutes and a brief clarification was made on the code listed.

Commissioner Draper said that there is a great desire by the people of the County to put this issue to rest. He said that this initiative process will put this issue on the ballot in November 2020 and let the citizens vote on the matter. Commissioner Draper said that in his opinion, he would like to see this initiative go forward and put on the ballot.

Commissioner Jackson asked about the six month period of the land use ordinance if the issue isn’t on the ballot until November. Attorney Finlinson said that an extension could be made, if necessary.

Commissioner Warnick said that the County has some good places for CAFOs and asked if this would stop the swine CAFOs down by Milford from moving forward.

Attorney Finlinson said that an initiative cannot divest someone of their vested property rights so those farms would become a prior non conforming use. He said that the actual initiative language will evolve over time, but if it were passed as it is written now, then future swine CAFOs would not be allowed.

Commissioner Warnick said that it has been previously discussed to find good places in the County to allow CAFOs.

Mr. Maxfield said that he believes that these discussions need to happen in the future.

Planner Richins said that this ordinance doesn’t impact whether the initiative goes forward or not. He said that the Ordinance states that the County recognizes that the initiative is happening and won’t interfere.

Commissioner Jackson made a motion to adopt Ordinance 19-12-03, an Ordinance of the Board of County Commissioners of Millard County, Utah, enacting a moratorium on the permitting of concentrated animal feeding operations involving swine in Millard County pending the outcome of a proposed citizens' initiative.

Commissioner Draper stepped from the chair and SECONDED the motion. Clerk Rowley called for a roll call vote. Commissioner Warnick voted NO. Commissioner Jackson voted YES. Commissioner Draper voted YES. The voting passed by majority vote and the motion carried.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON OPENING BUDGETS FOR THE 2019 YEAR. BUDGETS TO BE CONSIDERED TRANSFER ARE: CAPITAL TO GENERAL FUND FOR MCC&R LOAN

Commissioner Jackson made a motion to enter into a public hearing for the purpose of receiving public comment on opening budgets for the 2019 year. Budgets to be considered transfer are: Capital to General Fund for MCC&R loan.

Commissioner Warnick SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 10:53 a.m..

Present were: Auditor Gehre, Steve Maxfield, David Remkes, Mike Holt, Matt Ward, Planner Richins, Brooks Jackson, Sheriff Jacobson, and Treasurer Dearden.

Commissioner Draper said that Traditions Healthcare had a problem disbursements from the state of Utah and that they needed a bridge loan to continue operations. He said that funds will be moved from Capital Reserve to the General Fund.

There were no other comments made.

Commissioner Warnick made a motion to close the public hearing.

Commissioner Jackson SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at approximately 10:56 a.m..

The regular meeting reconvened.

RATIFY THE APPROVAL OF AN EMERGENCY BRIDGE LOAN WITH TRADITIONS HEALTHCARE IN THE AMOUNT OF \$200,000.00

Commissioner Jackson made a motion to ratify the approval of an emergency bridge loan with Traditions Healthcare in the amount of \$200,000.00

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

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 19-12-03, A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MILLARD COUNTY, UTAH, TRANSFERRING UNENCUMBERED APPROPRIATION BALANCES FROM ONE DEPARTMENT IN A FUND TO ANOTHER DEPARTMENT WITHIN THE SAME FUND

Attorney Finlinson said that this resolution covers the transfer between funds for the bridge loan and transfers between funds as it has been noticed.

Auditor Gehre said that funds for the 4th quarter health department assessment is short by approximately \$1,100.00 so this allows her to move funds from one department to another to cover that. She said that this has typically been done at the end of each year to cover any shortfalls.

Attorney Finlinson read the language of the resolution into the minutes.

Commissioner Warnick made a motion to approve Resolution 19-12-03, a resolution of the Board of County Commissioners of Millard County, Utah, transferring unencumbered appropriation balances from one department in a fund to another department within the same fund.

Commissioner Jackson 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 AND POSSIBLE ADOPTION OF RESOLUTION 19-12-03A, A RESOLUTION OF THE MILLARD COUNTY COMMISSION APPOINTING A REPRESENTATIVE AND AN ALTERNATE REPRESENTATIVE FOR THE UTAH COUNTIES INDEMNITY POOL ANNUAL MEMBERSHIP MEETING

Attorney Finlinson said that the language of the resolution appoints Commissioner Draper as the appointee with Commissioner Jackson as the alternate.

Commissioner Jackson made a motion to approve Resolution 19-12-03A, a resolution of the Board of County Commissioners of Millard County, Utah, appointing Commissioner Draper as a representative and Commissioner Jackson as an alternate representative for the Utah Counties Indemnity Pool Annual Membership Meeting.

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.

PUBLIC INPUT

Steve Maxfield showed an 18 second video he made on social media that has received over 10,000,000.00 views and he compared that to the amount of viewers that the County Seat program receives, which is much less. He said that this video didn't cost that much, if anything, to make and the County Seat program is asking for \$48,000.00. He said that the County's 10 year expenditure with the County Seat is approximately \$168,000.00. He said that they are offering something that doesn't have much value. Mr. Maxfield said that the County Seat is not reaching the demographic. He said that just because the County can, doesn't mean that they should, spend the money. He said that he is opposed to spending these funds.

OTHER BUSINESS

Mike Holt, Fillmore City Mayor, said that he would like the support of the County for the development of another opportunity zone on the north end of Fillmore. He said that it will work similar to the current RDA and the exact location is still being determined.

The commissioners said that they would like more information before offering any support.

West Millard Recreation Supervisor, Brooks Jackson said that he has three items to bring before the Commission. He said that the first one involves the recreation department taking over the soccer program in Delta. He said that he is proposing to handle it similarly to how the West Millard Baseball program is handled by handling the registrations and assisting in the creation of the schedule. He said that the County wouldn't lose any money doing this for the soccer community.

Auditor Gehre said that this doesn't take a lot of time in her office to process and the funds go through a pass through account.

Attorney Finlinson said that the County wouldn't have much, if any liability, since the organizations purchases its own insurance.

Commissioner Warnick said that she is in favor of this and asked if the County could charge \$1.00 per registration for handling.

Commissioner Jackson said that he is in favor of this as well.

Commissioner Jackson asked how well the Intergenerational Poverty (IGP) registrations worked out this year. Supervisor Jackson said that the IGP form hasn't been very helpful but believes he has approximately 5 referrals. Commissioner Warnick said that he could work with Denielle Johnson, the IGP Facilitator, to work out a better form.

Treasurer Dearden said that soccer community would need to create its own non-profit.

Commissioner Draper said that he is ok with this; however, wants the soccer community to be an autonomous organization.

Supervisor Jackson said that he would like to move his pool manager from an 8 to an 11 on the step and grade scale. A brief discussion was had on the step and grade scale and the process to make this change.

Supervisor Jackson said that he would like to move his recreation assistant's position from a part-time status to a full-time status. He said that he would be staying within his budget if this change is made.

Commissioner Jackson asked if hiring another part time employee would be acceptable. Mr. Brooks Jackson said that he would have to think about how that would work and will get back to the Commission.

Commissioner Draper said that he would like to recognize Treasurer Dearden for being voted "Treasurer of the Year" by the Utah Association of Counties and commended her for her work.

Auditor Gehre said that her office received a telephone quote invoice this morning in the amount of \$2,750.00 per month, worst case scenario. Commissioner Draper asked that this be put on the next agenda.

Attorney Finlinson said that they received the numbers back on the voter participation areas. He said that the areas need to be adjusted to make the areas substantially equal. He said that this will be on the next agenda for possible adoption.

DISCUSSION AND POSSIBLE APPOINTMENTS TO VARIOUS COUNTY BOARDS

Clerk Rowley said that Deputy Clerk Hair has replaced her on the County Wellness Committee

POSSIBLE APPROVAL OF APPLICATION(S) FOR SETTLEMENT OR DEFERRAL OF DELINQUENT PROPERTY TAX

Treasurer Dearden presented an abatement for parcel #D0-3331-1; John B. Jensen and said that he would have qualified for a circuit breaker if this application would have been received on time.

Commissioner Warnick made a motion to abate Parcel #DO-3331-1; John B. Jensen by 100%.

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

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

Commissioner Draper said that a meeting is scheduled with Attorney Tom Peters on December 12, 2019 in Salt Lake City at 2:00 p.m..

AUDITOR REPORT

Auditor Gehre presented the following reports:

Check Edits:

November 19, 2019 - \$200,000.00

November 22, 2019 - \$53,067.79

November 27, 2019 - \$85,519.78

VISA:

November 27, 2019 - \$24,704.71

Expense Register:

November 22, 2019 - \$436,065.62

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

Commissioner Warnick made a motion to enter into a BOE.

Commissioner Jackson SECONDED the motion. The voting was unanimous and the motion carried. The BOE began at 11:56 a.m..

Auditor Gehre presented a final report of all the abatements given. She said that each have already been approved individually by the Commission if they didn't qualify under the circuit breaker program. She said that the State will reimburse the County for the circuit breaker portion which is approximately \$48,340.95.

Auditor Gehre said that there are two fairly large state assessed clerical errors that have already been processed. She said that the revised valuation of Flowell Electric was \$714,820.00. She said that the original value was \$4,448,000.00 because the pump exemption was not given. She said that there is a statute that allows changing the tax rate for one year to try and recoup the lost revenue.

Auditor Gehre said that the County is approximately \$95,000.00 short on taxes due to these errors.

Treasurer Dearden said that these are not eligible for a judgement levy because they were found in the current year and because they were valuation errors made by the State Property Tax Division. She said that there is a provision in the code that states the next year's tax rate may be changed due to it being a clerical error. She said that it works similarly to a judgement levy.

Commissioner Warnick made a motion to close the BOE.

Commissioner Jackson SECONDED the motion. The voting was unanimous and the motion carried. The BOE closed at 12:03 p.m..

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

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

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

Commissioner Warnick SECONDED the motion. All three commissioners voted unanimously and the motion carried. Present in the closed session were Planner Richins, Commissioner Warnick, Commissioner Draper, Commissioner Jackson and Attorney Finlinson.

After the closed executive session the regular meeting reconvened at 12:39 p.m..

BUDGET HEARING

Commissioner Draper said that the budget hearing will be held here at 6:00 p.m..

WHERE UPON THE MEETING ADJOURNED

Commissioner Draper adjourned the meeting at 12:40 p.m..

Attest: _____

Approved: _____