

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 17th DAY OF AUGUST 2021
AT THE COURTHOUSE, FILLMORE, UTAH

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

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

ALSO PRESENT: Sierra Dickens. County Recorder
Brooks Jackson. West Recreation Supervisor
Richard Jacobson, Shane Brunson, and Lindsay Mitchell. Sheriff’s Office
Kim Rowell. Millard County Ambulance
Sheri Dearden.. . . . County Treasurer
Bonnie Smith. County Auditor
Kevin Orton and Dennis Alldredge. Fillmore City
Patrick Mullen. Utah Association of Counties
Matt Ward. Chronicle Progress
Jason Burningham. LYRB-ARES Mining
Molly Stevens. Signature Real Estate
Clinton Brown, Erick Ordaz, Stephan Watson,
Jim and Cynthia Kaufman. 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 referred to the works of Cicero where he described the difference between things which are right and things that are an advantage to a society as a whole. Cicero stated: “Expediency therefore

must be measured by the standard of moral retribution in such a way to that these two words shall seem in sound only to be different, but in real meaning, to be one and the same.” Commissioner Draper said that if there is an advantage it must be right and if it is right, there must be an advantage to the whole; not to an individual. Commissioner Warnick said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF AUGUST 3, 2020 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held August 3, 2021 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Wright made a motion to approve the minutes of August 3, 2021, as corrected.

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

FOLLOW UP ACTION ITEMS FROM AUGUST 3, 2020

There were none.

RATIFY THE APPROVAL OF THE COMMISSION MEETING DATE CHANGE FROM OCT. 5, 2021 TO OCT. 12, 2021

Commissioner Warnick made a motion to ratify the Commission Meeting date change from October 5, 2021 to October 12, 2021.

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

INTERIM SUCCESSORS

Interim Successors were presented for the Sheriff’s Office.

DISCUSSION AND POSSIBLE APPROVAL OF CELL PHONE AGREEMENTS FOR THE SHERIFF'S OFFICE

Lindsey Mitchell, Sheriff’s Office, said that some cell phone agreement amounts need to change and there are three new hires who need cell phone agreements. She said that they are requesting the following:

- Tony Pedersen and Nathan Tingey - Change from \$80.00 to \$60.00.
- Mike Blad and Pat Bennett - change from \$40.00 to \$60.00.
- Three new hires with an allowance of \$40.00 - Jennifer Wade, Dalton Monroe, and Siobhan Christensen.

Commissioner Wright made a motion to approve the cell phone allowance changes and the three new hire cell phone agreements in the amounts discussed.

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

DISCUSSION AND POSSIBLE APPROVAL OF THE POOL RESURFACING AGREEMENT

Brooks Jackson said that he has a contract signed by Deep Blue and it just needs Commission approval and the Chair's signature.

Attorney Finlinson said that this agreement was already approved by Commission but a change has been made to remove the performance bond requirement and replace it with a structured payment. He said that this is typical for contracts of this size and Deep Blue won't receive the final payment until the work is complete.

Commissioner Wright asked if this was a performance incentive. Attorney Finlinson said that the value of the contract increases if they have to buy a performance bond. He said that if the contract is structured in a way that they don't receive a final payment until the work is complete; which serves as an incentive.

Commissioner Warnick made a motion to approve the pool resurfacing agreement.

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

DISCUSSION AND POSSIBLE APPROVAL OF A DIVING INSTRUCTOR AGREEMENT FOR THE WEST RECREATION SWIMMING POOL DIVING LESSONS PROGRAM

Stephan Watson said that he approached Recreation Supervisor Brooks Jackson about starting a diving program knowing that the equipment at the pool is in good condition.

Supervisor Jackson explained the structure of the classes and said that they need to decide on a way to compensate Mr. Watson.

A brief discussion was had on how to set this up and it was decided to set Mr. Watson up as a per-event employee.

DISCUSSION REGARDING JOB DESCRIPTION UPDATES AND POSSIBLE SALARY SURVEY

Deputy Clerk Hair said that budget season is coming up soon and she can continue to work on job descriptions while a possible salary survey is being done. She said that she would prefer to send out RFPs to companies for an independent update and review of the step and grade, but it is up to the Commission to make that decision.

Commissioner Draper said that the step and grade needs to be reviewed and he believes an independent professional opinion needs to be applied to the process; therefore, he supports sending out an RFP.

Commissioner Warnick agreed with Commissioner Draper and asked Deputy Clerk Hair if she has come across specific problems that we need to address. Deputy Clerk Hair said that the County is in a good position because we know what problems we want to avoid and/or eliminate in

an updated step and grade system.

Commissioner Wright said that he likes the solutions that Deputy Clerk Hair has come up with and thinks they've solved a lot of the problems already, but he supports getting a professional to look at this.

Auditor Smith said that she supports getting an independent professional opinion and it could possibly cost less if some of the ground work is already complete.

After a brief discussion it was decided to send out an RFP for a salary survey.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 21-08-17, A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MILLARD COUNTY, UTAH AMENDING SECTION X-F OF THE MILLARD COUNTY POLICIES AND PROCEDURES MANUAL BY ADDING JUNETEENTH AS A DESIGNATED PAID HOLIDAY AND AMENDING SECTION VIII-H OF THE MILLARD COUNTY POLICIES AND PROCEDURES MANUAL REGARDING EMPLOYEE TRANSFERS

Deputy Clerk Hair said that Juneteenth was adopted by the Biden Administration as a new federal holiday and that the Commission can decide whether to add this to the County's paid holiday list. Auditor Smith said that paid holidays cost the County approximately \$22,805.00. After a brief discussion, it was decided to wait until budget season to make a decision on adding Juneteenth to the paid holiday list.

Deputy Clerk Hair said a proposed change has been made to section VIII paragraph H regarding employee transfers. She said that the change removes the two year minimum for interdepartmental transfers and states that if an employee desires to transfer within one year of hire, both department heads need to approve the transfer.

Commissioner Wright made a motion to approve Resolution 21-08-17, a resolution of the Board of County Commissioners of Millard County, Utah, amending section VIII-H of the Millard County Policies and Procedures Manual regarding employee transfers.

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

MONTHLY FINANCIAL REVIEW

Treasurer Dearden presented the financial reports ending in July 2021 and said that the Financial Review Committee met this morning.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 21-08-17A, A RESOLUTION OF THE MILLARD COUNTY COMMISSION AUTHORIZING THE FILING OF CROSS-APPEALS TO 2021 APPEALS FILED BY TAXPAYERS SUBJECT TO CENTRAL ASSESSMENT

Treasurer Dearden presented the list of tax payers who have filed appeals and the values. She

said that the State Legislature protects the financial information of private businesses, but the potential loss of tax revenue is over \$7,000,000.00.

Commissioner Draper said that the County will be filing cross appeals on the following businesses:

- Ash Grove Cement Company
- AT&T Inc.
- Century Link, Inc.
- Graymont Western US, Inc.
- Frontier Communications Corp.
- Enel Cove Fort, LLC
- Intermountain Power Agency
- PacifiCorp, Inc.
- UNEV Pipeline, LLC
- Union Pacific Railroad Company

Commissioner Wright made a motion to approve Resolution 21-08-17A, a resolution of the Board of County Commissioners of Millard County, Utah, authorizing the filing of cross-appeals to 2021 appeals filed by taxpayers subject to central assessment.

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

DISCUSSION AND POSSIBLE ACTION REGARDING ECONOMIC DEVELOPMENT CONTRACT WITH UAC AND PAYMENTS ASSOCIATED WITH EXTENDING SAID CONTRACT

Auditor Smith said that the contract with UAC for Economic Development ended last quarter and it needs to be discussed whether to extend it or not. NEED COPY

Commissioner Draper said that he would like it extended until the fiscal year is up so that it will be on that schedule.

Patrick Mullen, Utah Association of Counties Economic Development, said that their intent would be to agree to a new contract when the fiscal year is up if the Commission moves to do so.

Commissioner Draper said that this is already budgeted for. Mr. Mullen said that he will get the extended contract to the County.

Commissioner Warnick made a motion to extend the contract to the end of 2021.

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

DISCUSSION AND POSSIBLE APPROVAL OF A C-2 CONDITIONAL USE PERMIT APPLICATION # Z-2021-006 FOR AN ELECTRICAL TRANSMISSION RIGHT-OF-WAY ON

PROPERTY LOCATED APPROXIMATELY 13 MILES WEST OF COVE FORT AND WITHIN SECTIONS 16 & 21, T25S, R9W - CLINTON BROWN, APPLICANT

Clinton Brown said that, as per state code, that was amended last year, regardless of Class B or D, the County has sole discretion to issue right-of-ways. He said that the road has already been named and is asking that the right-of-way be approved so they can move forward with their project.

Attorney Finlinson said that the new code doesn't address the fact that a Class D road is a prescriptive road which is a road that didn't result from any formal dedication but resulted from public use. He said that there is a long history of cases that support the fact that the public can't enlarge that easement. Attorney Finlinson said that the question is whether the County would be enlarging the prescriptive easement by granting access for someone to put utilities along the easement. He said that it's the County's obligation to protect public access across the road. He said that the County could defend it at a cost but it may not win because the statute is unclear.

Mr. Brown said that there is an electrical dedication on Black Rock Road and he thinks that should allow him access to that electrical by way of the Class D road from his property. Attorney Finlinson said that the electrical easement ends at the end of Black Rock Road.

Commissioner Wright questioned the purpose of the property. Mr. Brown said that they are putting in a solar farm.

Planner Richins explained the process that happens with a formal road dedication and said that with a prescriptive easement, the public is only allowed surface use of the road. He said that utility companies will usually require a utility specific easement.

Mr. Brown said that the road is being maintained at the taxpayers expense and if it is not clear to allow a utility right-of-way, it needs to be stated. He asked how the County can designate an area as a energy zone and not allow access to utilities. Mr. Brown explained how things are done in California. He said that he has reached out to Mr. Kauffman and he wasn't very neighborly.

Commissioner Wright said that Mr. Brown didn't anticipate that this would be a problem and asked why he didn't work this out before they got started.

Commissioner Draper said that it appears Mr. Brown did not do his due diligence.

Commissioner Draper said that Utah has it's own set of laws and what another State does has no bearing on what Utah does. He said that this is not the first entity seeking some kind of use on a Class D road.

Commissioner Wright said that he will need to look into this further and is not prepared to make a decision today.

Commissioner Warnick said that it would be prudent for Mr. Brown to reach out to Mr. Kauffman and she isn't prepared to make a decision on this today.

Commissioner Draper said that this will have to be brought back to a future meeting.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 21-08-17B, A RESOLUTION OF THE MILLARD COUNTY COMMISSION REGARDING ARES STRATEGIC MINING, INC. APPLICATION REGARDING TAX-EXEMPT INDUSTRIAL REVENUE BONDS THROUGH THE STATE OF UTAH PRIVATE ACTIVITY BOND BOARD

Commissioner Draper said that he received an email from Lewis and Young regarding

private activity bonds. He said that the State Board will be meeting on August 26, 2021 and there was only three days notice of this to the Commission. He said it isn't enough time to properly comb through all the details, but he put it on the agenda today to begin the discussion.

Jason Burningham, Lewis Young Robertson and Burningham, said that the company didn't realize the full process and apologized for the time line. He said that his company was approached a month ago by ARES to consider financing for a location in Delta. He said that ARES has been pursuing some incentives from the State and are interested in private activity bonds. He said that the first step is getting a initial intent resolution from the governing entity. Mr. Burningham gave some examples of private activity bonds and explained the certain types of projects that qualify. He said that the State needs the application submitted by August 26, 2021. Mr. Burningham said that there was no financial risk to the County and that the County can reject the final resolution that will come back to the Commission.

Patrick Mullen, UAC Economic Development, said that the timing is unfortunate. He said that there is a reputational risk to the County and it is beneficial to understand the project before agreeing to anything.

Mr. Burmingham said that the inducement resolution lists some of the indemnifications.

Attorney Finlinson said that the County's liability on a default will be low, but if there is fraud on the applicant's part and negligence on behalf of the County there is a risk to general revenue. He said that the County should be really careful and know what this company is doing before making a decision.

Commissioner Draper since this is an inducement resolution; however, the company hasn't been able to introduce their project. The Commission is in an uncomfortable position because they don't want to inhibit this company, but they don't know anything about the project.

Mr. Mullen said that the State will be kind of like an underwriter and they will ask very specific questions including financial details. He said that this is the beginning step and a public hearing will be necessary and the company could prepare information and answer potential questions.

Commissioner Draper said that he would like the company to present their project.

Treasurer Dearden said that due diligence needs to be done before enabling this project.

Attorney Finlinson said that he's not overly concerned that its binding the County to anything but he would like time to look at it as well.

Commissioner Warnick made a motion to schedule a special meeting on August 24, 2021 at 10:00 a.m.

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

PUBLIC INPUT

There was none.

OTHER BUSINESS

Clerk Rowley said that she was contacted by Auditor Smith regarding a requirement that the Auditor's Office do a check to see if businesses are registered with the State Tax Commission and have a proper sales tax number before a business license may be approved. Therefore, Clerk Rowley has updated the business license application to include the Auditor's signature to show compliance.

Auditor Smith said that they are running a check with the Utah State Tax Commission to make sure all of the County business licenses have sales tax licenses with the State.

Commissioner Wright asked where mineral lease funds go. Treasurer Dearden said that it goes directly to the Special Service District #8 and the amount of those funds don't fluctuate much from year to year. Commissioner Draper who serves as an advisor to the Special Service District said that the funds have historically been used to augment and construct roads in the County.

Commissioner Wright asked about a letter that the County received on well water rights. Commissioner Draper said that the County receives those often and it just needs to be resubmitted.

Commissioner Wright proposed asking supervisors and elected officials to come to budget meetings with a budget approximately 90% of this years budget . Commissioner Draper agrees that the revenue coming in is lower, but he isn't sure that 90% is the right number. Auditor Smith went over the annual process for budgets and said that historically the Commission has asked the department heads to propose areas that can be cut. Commissioner Warnick said that each year, they have been asked to lower their budgets by a percentage and the Commission counts on the department heads to look at their budgets and be thrifty.

Commissioner Warnick said that the Department Head meeting needs to be changed from October 20, 2021 to the week of October 25-29th. It was decided to schedule it on October 26, 2021 starting at 12:00 p.m. and ending at 2:00 p.m..

Assessor Manis said that the Central Assessment Committee is wanting to meet to discuss this year's assessments and asked if there is a date/time to invite them to come meet. It was decided to meet with them on October 19, 2021 at 9:00 a.m.

Commissioner Draper said that a discussion needs to be had on the Emergency Service Vehicle in Fillmore because it is aging. He said that \$3,000.00 had been appropriated to fix it in the past, but that only gave them more time to figure out a better solution. He said that replacing Fillmore's fire truck is low on the Fire District's priority list. Commissioner Draper said that the question is how to approach this issue. He said that some of the options could include having the Sheriff's Office get a truck and handle extractions, share costs with the Fillmore Fire Department, or tell the Fillmore Fire Department that it is their responsibility. He said that the emergency responders on the fire truck that do extractions have drawn a hard line and are requiring a pay of \$25.00 per hour with a two hour minimum per call in order to continue this service. He thinks this discussion needs more due diligence before making a decision on the truck, but a numeration for the workers could be ironed out before hand. Auditor Smith said that this would require a resolution.

Commissioner Warnick said that the billing needs to be updated.

Sheriff Jacobson said that the billing is periodically reviewed but there is a State standard that they stay within. He said that a billing agency is being used and is concurrent with the State's standards. A brief discussion on what can be billed. Commissioner Draper said that a meeting will need to be held with the towns regarding the new laws and how to approach the new emergency services. Sheriff Jacobson said that he supports an increased compensation. He said that budget considerations need to determine what critical functions of each department are.

Commissioner Draper said that he would like to address this at the special meeting next week.

Commissioner Wright said that recognition and respect for what they do needs to be a part of this conversation as well. He said that the money isn't the only thing to be considered.

Kim Rowell, EMS Director, said that she is concerned that the pay increase for the extraction crews will discourage the EMS crews because they are not making as much.

Lindsey Mitchell said that the ambulance budget will not keep up with wage increases.

Commissioner Draper outlined a couple options that may contribute to the ambulance budget.

Shane Brunson said that EMS and the Rescue Team get along great. He said that his has been a tough battle for the crews and they are not required to do extractions but do it because it needs to be done. He said that Fillmore isn't required to run the freeways and that is why the compensation is wired into this.

DISCUSSION AND POSSIBLE APPOINTMENTS TO VARIOUS COUNTY BOARDS

There was none.

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

There was none.

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

There was none.

AUDITOR REPORT

Accounts Payable:

August 6, 2021 - \$189,692.29

August 13, 2021 - \$138,514.81

Payroll:

August 13, 2021 - \$195,516.90

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

There was none.

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

Commissioner Draper adjourned the meeting at 1:38 p.m..

Attest: _____

Approved: _____