

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 8th Day of AUGUST 2005
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: John C. Cooper Chairman
Daron P. Smith. Commissioner
Kathy Y. Walker. Commissioner

LeRay Jackson County Attorney
Norma Brunson County Clerk
Janice Robins. Deputy County Clerk

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN PROVIDED TO each member of the governing body, the local news and located on the front and back doors of the County Courthouse as required by law the following proceedings were had.

ALSO PRESENT: Brent Berkley, Shellie Dutson, Dean Draper, Paul Robison, Dale Whipple, Brent Bennett, Connie Hansen, Robert Sanderson

COORDINATION SESSION

The Commissioners scheduled events for the months of August & September 2005.

PUBLIC WAS WELCOMED

The meeting began at 10:00 a.m. after a brief welcome by Commissioner Cooper to the public and Commission members.

OPENING STATEMENTS

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

FOLLOW UP ACTION ITEMS FROM MINUTES OF AUGUST 1, 2005

There were none.

APPROVAL OF THE AMENDED MINUTES OF AUGUST 1, 2005

Commissioner Smith made a motion to approve the amended minutes of August 1, 2005 and Commissioner Cooper stepped from the Chair and SECONDED. The voting was unanimous. The motion carried.

AUDITORS REPORT

Auditor Brandy Grace gave the Commissioners various invoices to review and approve for payment through the Auditor's Office. On August 1, 2005 Auditor Grace received a request from Millard County Fair Chairman to cut a check of \$250.00 for a deposit for the mud racer's event.

Auditor Grace gave the Commissioners the Check Edit Report of August 5, 2005 to review and sign.

Auditor Grace said that Mary Moore has put in a request for some consideration on her property taxes. The application will be reviewed and discussed at next week's Commission Meeting.

Auditor Grace reminded the Commissioners that she is still holding the invoice for the Book Mobile Library Contract with Millard County. Commissioner Walker reported that she had sent a letter to the State Library Board requesting their help in getting another county to share in expenses. The State Library Board sent a response saying they did not have anything specific to report at this time, but they will continue to look at other options.

The IHC Financial Report from Intermountain Health Care was given to Commissioner Walker to review.

RATIFY THE SIGNING OF THE APPROVAL FOR ON SIGHT PHOTO - OWNER DEBBIE JENSEN

Commissioner Smith made a motion to ratify the signing of approval for a business license for On Sight Photo - Owner Debbie Jensen. Commissioner Cooper stepped from the Chair and **SECONDED**. The voting was unanimous. The motion carried.

RATIFY THE DECISION TO APPOINT GAYLE CLUFF TO THE MILLARD COUNTY TOURISM BOARD TO FILL THE UNEXPIRED TERM OF KILEY CHASE

This item was tabled.

DECISION ON REQUEST FOR USE OF INDOOR ARENA FOR OLD CAPITOL ARTS & LIVING IF INCLEMENT WEATHER

Millard County Attorney LeRay Jackson advised the Commissioners that according to the Millard County's Donation or Contribution Policy Number 5 states that after first taking formal action or holding a public hearing, the County may provide services or give other non-monetary property or assistance to or waive fees required to be paid by a nonprofit entity, whether or not the County receives consideration in return.

The request to use the indoor arena facility in case of inclement weather by the Old Capitol

Days Celebration and have the fees waived was discussed.

Commissioner Walker made the motion to waive the rental fee to use the indoor arena by Old Capitol Days. The deposit fee will be required as well as the cost of rolling the arena.

Commissioner Smith SECONDED. The voting was unanimous. The motion carried.

DECISION ON WHETHER OR NOT TO ACCEPT DONATED PROPERTY FROM MARGARET PUGSLEY

Millard County Attorney LeRay Jackson said that Mrs. Pugsley's property is located west of Kanosh in the Lake Enchantment area. The Millard County Assessor has assessed the property at @\$500 an acre. Attorney Jackson proposed two options Mrs. Pugsley would have:

1. To quit paying the taxes on the property and let it be sold at the tax sale. Any costs over and above the costs at the time of the tax sale will be sent to the state as unclaimed property.

2. To donate the property to Millard County directly.

Commissioner Walker made a motion to authorize Attorney Jackson to write Margaret Pugsley a letter informing her of these two options. Commissioner Smith SECONDED. The voting was unanimous. The motion carried.

CHIEF DEPUTY COUNTY ATTORNEY BRENT BERKLEY - IPP CONDITIONAL USE PERMIT LETTER

Chief Deputy County Attorney Brent Berkley said that on July 6, 2005 in the Millard County Planning and Zoning meeting Reed Searle IPSC gave a time line on the construction of the third unit. Mr. Searle asked whether or not the current conditional use permit for 1981 could be used or would they need to apply for another permit? Their position as to why the old permit should be used is that the permit was granted to the Intermountain Power Project and the IPA is a successor of IPP.

Attorney Berkley said that the way the new unit would be set up would not make IPA the successor or transferee. IPA would be the manager by contract of the unit 3 but not the owner. The County Attorney Office suggests that a new conditional use permit would be in order. The old permit is twenty-four (24) years old and there are some unnecessary things in the old permit and some new things that need to be included in the new permit up to avoid future litigation.

The Commissioners gave authorization for the County Attorney's Office to write a letter to Reed Searle to outline the County's position of why they think a new permit should be issued and to indicate which entities should be invited to the negotiations to discuss other issues needed to avoid future litigation.

DISCUSSION WITH DALE WHIPPLE ON TOURISM ISSUES AND OTHER CONCERNS

Dale Whipple thanked the Commissioners for the opportunity to speak to them and discuss his concerns about tourism related items. He gave a brief history of tourism issues in Millard County as he sees it.

- Mr. Whipple purchased the Gazette in 1978.

- In 1980 the Gazette published a special section on tourism that went out to county residents only. The staff took care of the section.
- At the request of subscribers the paper was asked to print a Discovering Millard County again.
- A couple of years later Mr. Whipple took the assignment to do a tourism section and began to study tourism in Millard County.
- Mr. Whipple found there wasn't a tourism program in the County. The TRT tax was collected, but there were no local programs at all. The funds were being used by a parent organization called Panorama Land that consisted of six counties. Two counties were on the west side of I 15 and four counties on the east side of I 15. Capitol Reef and Fish Lake were promoted in the publication, but Millard County was not promoted. He was concerned about their lack of promoting anything in Millard County.
- He made a point of saying that the money sent to Panorama Land was actually counter productive because the people receiving the flyers were actually enticed away from the county to other locations.
- Mr. Whipple pointed out that tourism in Millard County has been promoted by the private sector. He has visited with Fillmore City, Delta City, Juab County and the Millard County Commissions and told them of his concerns about the area not being promoted. Glen Swalberg began the movement to get out of Panorama Land and use the money to develop Millard County.
- Through that period the Gazette continued to do a section on Discovering Millard County. A Millard County Tourism Board was started. The Board members were all from the private sector, Glen Swalberg was from the private sector. The board members were not experts but they soon became experts in what they were doing. The board does have role where private and government sectors meet. Tourism is a private industry not a governmental industry.
- Discovering Millard County then became an annual publication. Glen Swalberg asked to have color put into the publication. Funds were needed to do so. Tourism agreed to pay for the color and color separation and requested an additional 500 extra copies to be handed out. That is when and where the cooperation started.
- Because of the positive response the next year they were asked to print 4,000 more copies with more color photos. The Millard County Gazette agreed to print them as long as Tourism paid the cost.
- The tourism publication was a success. Millard County Chronicle Progress took an interest in the subject and printed up a white publication with less copy and fewer articles in it but it was printed on glossy paper and it looked nicer. They wanted their publication to be considered an official piece for the County. Millard County Gazette had concentrated on more articles and a much wider distribution.
- The County was torn between the two publications and one year they did chose the Chronicle's article as the official publication for the County. Mr. Whipple said he felt obligated to his advertisers so he printed one anyway, so there were two publications out there that year.
- Discovering Millard County from Millard Publishing (Gazette) was preferred by the

advertisers and Tourism Board and was again voted as the official publication for the County. It began a cooperative effort from then on with the agreement to continue providing the copies to Millard County at cost and as many copies as they wanted, but the paper would continue to do the leg work, take photos, pay the salaries and the board would determine how many they wanted distributed and pay part of the cost of distribution.

- From that time out it continued to grow and was distributed to the Visitors Centers in Utah and became the favorite publication to put out especially in St. George, Utah.
- From then on y continued to increase the printing and distribution of the publication.
- Two or three years ago some people thought Millard Publishing (Gazette) was getting a break somehow on the publication. A complaint made to State Auditors Office and they could see nothing wrong.
- The question then became how do you bid out a private publication?

Mr. Whipple said he would like answers to why people are saying they have preferential treatment and have everything cleared before he leaves the meeting. He would like to see the power and authority of the tourism board retained. Prior to the work of the Tourism Board there was nothing being done in the County. The board should act as a checks and balance for the spending of the TRT money. The County Commission should also act as a checks and balance over the money. His understanding of the changes being made would take away the majority of the Tourism Board's power and put back in the hands of the Commissioners. They have been told that they would just be an advisory board. There are many rumors going around.

Attorney LeRay Jackson said the TRT statute requires a five-member board or more in order for the TRT money to be spent.

Dale Whipple asked Commissioner Walker what her concerns were about Discovering Millard County and where are the rumors coming from?

Commissioner Walker said she had no concerns and nothing had come from her. She asked if he had any specific questions.

Dale Whipple asked if she believes Millard Publishing has been given preferential treatment?

Commissioner Walker said she did not say that and that she would not give any preferential treatment to any individual.

Dale Whipple said "Good."

Commissioner Walker said she had some questions for him. As far as the changes made to the tourism committee, does he know what they were?

Dale Whipple replied that he probably did not, but the effect has been felt in many ways.

Commissioner Walker said before the changes were made all the Commissioners were aware and in agreement of them. The request form approved on December 15, 2004 was not changed. An evaluation form was added.

Dale Whipple said he was not aware of the change because he was excluded from the very meeting that was it was introduced.

Commissioner Walker said he was told it was a work meeting and they were not hearing requests.

Dale Whipple said you said word for word, "This is a closed meeting and you're not to be here."

Commissioner Walker said, "I did not tell you that you were not allowed in there."

Dale Whipple said "That is news to me then."

Attorney LeRay Jackson said that it was a meeting where the agenda was sent out and Mr. Whipple came in and according to my recollection he was among the others that were there. If he had asked, he would have been told it was an open meeting and he could have stayed.

Dale Whipple said that if that was all there is then he has no problem. He said he was not here trying to cause a problem, but if this is the method in which the private sector is going to be treated in the future then he was here for the fight. If this is simply a misunderstanding perhaps even on his part.....

Interrupting Attorney Jackson said he thinks it is a misunderstanding and stated that he had been involved with the changes with the Commissioners. He thinks a big deal is being made out of nothing because the end effect will not be a bit different. He said, "I told you that I thought it was rude as a journalist not to interview the person you are writing about." "You didn't do it and I'll stick by it."

Dale Whipple said "I appreciate your opinion. I did interview her three times before(Commissioner Walker said, "You didn't publish any of the answers.") "Three times Kathy we met and I was assured that you didn't hold any personal grudges against Discovering Millard County and the very next thing you did was pull out a copy of Discovering Millard County marked with red x's all the way through it."

Commissioner Walker said she had one time suggested that he could delete or reduce some of the copy to include some of the County owned facilities that the Commissioners had talked about wanting to be included in the magazine. She said she only brought it one time and he said it was his magazine and didn't want to change anything.

Dale Whipple Which pieces are you talking about? You asked to have anything outside the County taken out of the magazine and that would have included Great Basin National Park and others.

Commissioner Walker said as for her being accused of being against Discovering Millard County, she had signed the Tourism Committee agreement to publish the magazine and that he was paid \$21,435.41. She said that if she had something against the magazine personally, she wouldn't have authorized that for this year. She asked if the magazine was ready for distribution?

Mr. Whipple said it was ready to go to press.

Commissioner Walker said they were to be ready by June 20, 2005

Dale Whipple said he had told the Tourism Committee it would be ready to go to press before last years copies ran out and it will be done.

Commissioner Walker said on December 15, 2004 the Tourism Board approved 36,000 copies for \$17,640.00 at that time and you said publication would begin in April with distribution in May. In April you said mid June and in July you said it wouldn't be out until August.

Dale Whipple said that this is the way it has happened every year. It has been a mutual agreement between the Tourism Board and him to not go out for printing until all the ads had been turned in and all changes made. Yes, the goal has always been to get it out by Memorial Day.

Auditor Brandy Grace asked, "What is it Millard County is paying for?"

Dale Whipple said that point has been discussed and it was defined that they would be buying copies. Prior to that it was a cooperative effort. We agreed to do this and they agreed to do that.

Auditor Grace said that payment should have not been released until there was something delivered on these publications. It is against Millard County Policy to issue a check until copies are delivered.

Attorney Jackson said that in years past it was not possible to go back and see what action was taken by the Tourism Board but with the new changes the forms will be available as a record of transactions and also minutes of the meeting will be available.

Commissioner Walker said a new evaluation form from the new Utah State Office of Tourism was added. So basically all the changes are the evaluation form requiring how money is spent and the results. The other change was a formula that had been developed by other counties how best to determine what the funding would be based on the number of nights stayed and number of meals. Those two changes are the only changes. All other things were already in place. The current chairman signs off and the Commissioner over that department signs off all invoices. This is the same policy that is followed by all the County Departments.

Commissioner Smith said they met in a work meeting with the Tourism Committee because the committee had asked for some direction. The Commissioners gave them suggestions gathered from other counties and the state. It is up to the board to decide whether they will accept those procedures or not that the Commissioners had suggested. And that is what he thought was

happening. We need to let the Tourism Board work.

Dale Whipple said if indeed that is the situation then he had no problems. If the power is still in the hands of the Tourism Board then there is not a problem, whatever form is in place. But as a private citizen who has been involved with Tourism for so long, when he was told by the current Tourism Chairman and other people that they wonder if there is any reason for the Tourism Board. Since then he has talked to the chairman and he tried to clarify that statement but that was what he had been told at first. If there is a whole bunch of misunderstanding and even if some of them are on his own part then he said he apologized for them, but he said he is not the only one with misunderstandings. Let's clear this up.

Commissioner Smith explained that the Tourism Board has the power to decide what their procedures are, except for what the purchasing policy is because every department in the County has to follow that policy. If it is the policy that the County can't pay for anything before delivery as the Auditor had mentioned, then the board will have to follow that policy. The Commissioners had given some direction and process to follow. If they want to follow the suggestions and find out they don't work then they can change to something else that works. There is a process for the private sector to make decisions as in the past.

Auditor Grace's comments inaudible on tape.

Commissioner Smith said the Tourism is an industry as stated before. The State of Utah is a little behind in advertising our state as other states are now doing. Millard County is in competition with other counties in the state and nation for tourism trade. The Tourism Board had asked the Commissioners what the focus for Millard County would be and this topic was discussed.

Dale Whipple said he heard there would be a similar tourism publication done by the County. Commissioner Walker read the minutes from the Tourism meeting and to verify it was not said.

Commissioner Cooper said let's set the record straight now. The situation is that the Millard County Tourism Board will function and will make decisions independent of the Commissioners. At the time the Millard County Commissioners will have to sign off on the financial decisions. We have not trumped their decisions in the past nor will we do so in the future. The Commissioners may still have suggestions once in a while that can be considered. It is not anyone's desire to take over the Tourism Board and make them puppets. Whatever happens will be through their decisions and the state guidelines talked about by Commissioner Walker will be followed. Commissioner Cooper said he didn't really see a problem here and the Commission will be pleased with the results.

Dale Whipple said that comment addresses his concerns of the Millard County Tourism Board being able to function as it did in the past. In the discussion of Discovery Millard County with the board, there are always questions and requests and he has no problem working with them to solve them.

Commissioner Cooper said Commissioner Walker has taken a special interest in Tourism. The

two changes suggested made by Commissioners were adopted by the board and they thought they would help the program. They were not meant to trump anyone. The Commissioners had looked at the concerns and discussed it and do not feel there has been a desire to disrupt the business of the Tourism Board.

Commissioner Walker asked what direction he (Mr. Whipple) thought the board was going? The board is still going in the same direction and you were told about the changes that were made and suggestions given at the work meeting based upon the new of State Office of Tourism and other counties.

Dale Whipple said his concerns were expressed and have been addressed. If the Commissioners had a specific question for him, he would answer it. He feels assured that the power is not being taken out of the board's hands.

Attorney LeRay Jackson said that he feels in the past, other than not keeping minutes and publishing an agenda and giving \$2,000 to Van's Hall every thing done by the board has been legal and nobody has said that it has not. He anticipates that everything in the future will be done right also. Donations given to the private sector are legal and he has stated to be careful where you draw the line. As to the allegations about Commissioner Walker having a conflict of interest. He stated that even if she was still be an employee of the Millard County Chronicle Progress, which she is not, there would not be an inherited interest under Utah law. There is no automatic conflict by law, if there is a conflict then it is declared and the person recuses themselves from voting or they vote. Attorney Jackson cautioned Mr. Whipple to be careful of liability toward Commissioner Walker and if it continues he recommends her to seek an attorney.

Dale Whipple asked if he was being accused of libeling Commissioner Walker?

Attorney Jackson said he thinks a big deal was made out of nothing.

Dale Whipple says that he and others don't agree with that statement.

Commissioner Walker said she has a list of what has been paid by the County to the Chronicle Progress and most of it is for public notices, ordinances and to her knowledge nothing has come out of tourism to the Chronicle Progress.

Attorney LeRay Jackson asked if this was a Chronicle/ Gazette issue?

Shelly Dutson said she had talked to Tooele County about brochures and how they went about getting county materials printed. She went to Millard County and gave them a bid for different types of brochures. One time the Chronicle Progress had printed a tourism book and she believes they received \$5,000.00 for it. They dropped out of the bidding because of lack of money and man power at the paper. However, she is ready to throw their hat into the ring again. She asked if the tourism paper is a county publication or are they purchasing Mr. Whipple's magazine?

Attorney Jackson said the State Auditor was told it was not bid out because it is a sole source provider.

Dale Whipple asked if the County was going to consider printing their own magazine? He felt that comments made at the last meeting hinted that this may happen. He said private enterprise should be protected from government.

Attorney Jackson said there was too much emotion in this issue.

Dale Whipple said if the other paper wants to print a tourism publication, let them take up the other issues, Discovery Millard County touches on some of the areas, there are many more subjects they could write about.

Commissioner Walker clarified that there are no controversies and the Commissioners are in support of all the changes that were made and were aware of the changes prior to them being suggested.

Dale Whipple said that he accepts the Commission's clarification and hopes they accept his clarification. As long as the Tourism Board has that power, he's happy. As long as the County is not planning on doing their own publication next year and competing with private industry, he's okay with it. The rest will be racked up to misunderstandings.

Other people who have previously been in those positions have a right to be concerned with the direction the board is taking.

Robert Sanderson said that when he was the Tourism Chairman, Commissioner Draper was in office and kept him informed on what was going on a State level. After his term ended there was no word trickled down to the Tourism Board.

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

Commissioner Smith reported he attended a Region 4 meeting in Richfield, Utah. They met with representatives from the State Office and the Transportation Task Force Committee to discuss the proposal to transfer roads from the state to the counties. The state feels the upkeep on the road is \$6000 a linear mile of road and the county says it costs more than \$13,000 per linear mile. Throughout the state all the counties are against the idea, with only one city being agreeable to the transfer. Commissioner Smith mentioned several reasons why Millard County is against the transfer:

- Cost to have to purchase more equipment
- Cost to hire more personnel

Commissioner Smith talked with Mr. Hansen who said for over a year he had not been able to get a death certificate for his daughter because the state wouldn't release one. Attorney Jackson was asked to check into this matter.

Commissioner Smith visited with people from the NARCS about being able to get ownership information for projects they are doing. The information would be very beneficial for them and it would be kept confidential. Recorder Connie Hansen said that some information has been released to the NARCS but the County will not release uncomplete information.

Commissioner Smith attended a post construction meeting the Hwy 99 Cheese Plant Intersection Project which is now complete. Millard County will chip the road next year which was an item taken out of the bid to reduce project costs. Zane Pentz, project engineer said the project is \$16,000 under the projected amount. Millard County had committed to the State another twenty four-thousand dollars (\$24,000) that could have been put up if needed. A request will be made to release the money back to the county.

A plan was proposed to ask the state extend the lane a little further past the Maverick Store with the County's help in the near future.

Commissioner Cooper attended the Six County AOG meeting in Richfield, Utah and the Six County Economic Development meeting. Commissioner Cooper talked with AOG John Harja project overseer. The water project is on hold for now. There is a proposal from the state to drill thirteen test wells in Snake Valley and Spring Valley. It will take six years to gather information for a project like that.

Commissioner Cooper and Janice Robins, Commission Secretary attended a meeting with Lt. Gary Herbert, his assistant Ed, and Michael Cragun State Elections Office, to discuss election voting machines. The Federal Government has mandated the Help America Vote Act, HAVA. and has put up some one time money to help in the purchase of new voting machines. The state is allocating 92 percent of the money for voting machines and supplies to the counties.

The Millard County Commissioners are interested in participating in the state's plan and feel it is in the best interest of the County. Millard County Attorney Jackson was asked to read over the contract.

The following on going costs will become the county's responsibility.

- Storage
- Travel
- Repairs and maintenance
- Any additional machines purchased

The life span of the machines is fifteen years

Commissioner Cooper was able to discuss the West Deseret/ Southern Nevada water situation with Lt. Herbert and thanked him for the governor's support.

Commissioner Smith attended the Millard County Planning and Zoning meeting and it went well. He reported that two more people will need to be appointed the Millard County Planning and Zoning Board.

Commissioner Cooper talked with Chris Sanders about the 4-H Extension in Millard County.

OTHER BUSINESS

Commissioner Walker presented a proposal from Barbara Spencer in Sutherland for Request for an Abatement of Millard County Landfill Fees. She would like a refund for the seven years that she has paid a land fill fee for a business she didn't have during those years. The amount of the refund is estimated at \$632.00. The landfill fees have been billed by Utah Power. Sheryl Dekker said there has never been money refunded before.

The request will be reviewed and a decision will be made at Commission meeting on August 15, 2005.

Commissioner Cooper reported that Public Lands Policy Coordination Office is new organization that was organized by the legislature. San Juan County Commissioner Lynn Stevens is the Director, with council members being Mike Nowell, Kanab, Garfield County Commissioner Maloy Dodds, Millard County Commissioner John Cooper, and Lt Governor Gary Herbert. The first meeting will be held on August 31, 2005 at the State Capitol. The items to be discussed:

- Per diem for council members
- Frequency of meetings
- Road Litigation Status
- Office initiatives on road maintenance agreements
- Ample initiative legislation
- Bear River Wildlife Refuge
- Update on BLM RMP process
- USDA Forest Service Management Plan Revision and Road Less Areas
- Grazing/Wildlife interface policy
- Wilderness proposal status
- Department of Interior policy change considerations
- County transportation plans as part of the land management plan
- Utah/Nevada border water issues

Commissioner Cooper said that Commissioner Smith and Commissioner Walker will serve in an advisory capacity with him.

POSSIBLE CLOSED MEETING PURSUANT TO UTAH CODE ANNOTATED SECTION 52-4-4&5

Commissioner Walker made a motion to go into a closed executive session. Commissioner Smith SECONDED. The voting was unanimous. The motion carried.

WHERE UPON THE MEETING ADJOURNED

Commissioner Smith made a motion to adjourn the meeting. Commissioner Walker SECONDED. The voting was unanimous. The motion carried.

The meeting adjourned at 12:15 a.m..

Attest: _____ Approved _____

THE COMMISSIONERS MET WITH THE SHERIFF'S OFFICE FOR AN UPDATE ON THE
NEW COMMUNICATION SYSTEMS