

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 13th DAY OF MARCH 2006  
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Kathy Y. Walker ..... Chairman  
Daron P. Smith..... Commissioner  
John C. Cooper. .... Commissioner  
  
LeRay Jackson . .... County Attorney  
Norma Brunson ..... County Clerk  
Janice Robins..... Deputy County Clerk

ALSO PRESENT: Brandy Grace, Forrest Roper, Dean Draper, Scott Damron, Justin Taylor,  
Brent Berkley, G. LaVar Cox and Cecil Garland

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.

COORDINATION SESSION

The Commissioners scheduled events for the months of March and April 2006.

PUBLIC WAS WELCOMED

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

OPENING STATEMENTS

Commissioner Walker asked if anyone had an opening statement to give? Commissioner Smith read a quote from Abraham Lincoln and then he said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

FOLLOW UP ACTION ITEMS FROM MINUTES OF FEBRUARY 27, 2006

There were none.

APPROVAL OF THE AMENDED MINUTES OF FEBRUARY 27, 2006

Commissioner Cooper made a motion to approve the amended minutes of February 27, 2006. Commissioner Smith SECONDED the motion. 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.

Auditor Grace gave the Commissioners the Check Edit Report of March 10, 2006 to review and sign. The Payroll Report of March 3, 2006 was given to the Commissioners to review.

Auditor Grace reported she had talked to former Sheriff Phillips who said he was aware the in-car videos would go over budget and the additional money should be taken out of the Sheriff Equipment Budget.

## JUSTICE COURT JUDGE RONALD HARE-HIRING A JUSTICE COURT CLERK

Millard County Justice Court Judge Ronald Hare gave the Commission a copy of a packet that he had put together containing the Justice Court Operational Standards, the total of Millard Justice Court case filings for 01/01/05-02/28/06 with documentation. Judge Hare said that with the additional UHP speed patrol in Millard County the filings or cases in his office have increased his work load considerably. The Justice Court Standards Committee uses these standards when they review a Justice Court during a recertification review. For a Class 1 Court with 501 or more citations filed per month, at least three full time clerks are required. He explained that with the work load and the requirements to stay a certified justice court he would like to hire one new clerk. He would advertise the position in-house first. The money for an additional clerk had been in his 2005 budget but at budget time his budget was reduced but was told the Commissioners would consider it later.

Commissioner Cooper made a motion that the Commissioners approve Judge Hare's request to hire an additional Justice Court Clerk. An additional clerk is needed to stay a certified court site and handle the increased workload.

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

Judge Hare said that he thought the Drug Court was looking better and there have been more positive results. He is impressed with the changes made by Chief Deputy County Attorney Brent Berkley.

## APPOINTMENT OF JUSTIN TAYLOR TO SERVE ON THE DAYS OF THE OLD WEST RODEO COMMITTEE

Scott Damron, Chairman of the Days of the Old West Rodeo Committee said that Justin Taylor has a desire to serve on the rodeo committee and he has been approved by the committee members. Justin was born in the Delta and participated in high school rodeos. He now works in the Fillmore area and has a desire to be involved with the Days of the Old West Rodeo.

Commissioner Cooper made a motion to appoint Justin Taylor to serve on the Days of the Old West Rodeo Committee.

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

The next rodeo meeting will be held on March 22, 2006 at 7:00 p.m. in the Millard County Posse Building. They would like to get other community activities going during the same time as the rodeo and they would appreciate any suggestions to help get more people involved with the rodeo.

The Commissioners complimented Scott Damron and the rodeo committee for the great job they are doing.

#### APPOINTMENT OF YOGI EVANS TO SERVE ON THE SUNSET VIEW GOLF COMMITTEE

Commissioner Smith made a motion to appoint Yogi Evans, the chairman of the men's golf league to the serve on the Sunset View Golf Committee.

Commissioner Cooper SECONDED the motion. The voting was unanimous. The motion carried.

#### MILLARD COUNTY TREASURER JOHN HANSEN - TAX WRITE OFF FOR ASOMA UTAH INC.

Millard County Treasurer John Hansen said that ASOMA (UTAH) INC. a mining property out on the west desert has delinquent taxes from the years 1998 to 1999. This a centrally assessed property that filed for a bankruptcy several years ago and the county has been waiting for a settlement. A note in Mary Day's file showed the penalty and telephone number of the company in Austin, TX. Nothing had happened since the note was written. Treasurer Hansen called the State Tax Commission and talked to the person over mining. He said the state has had no contact with ASOMA (UTAH) INC. and as far as they know there are no assets. The company had filed a bond when it filed for a mining claim. The state had executed the bond and there wasn't even enough for the clean up at the mining site and the state had done what they could to reclaim the site. When Treasurer Hansen asked them if there was any value in trying to wait for a settlement, the gentleman said in his opinion there are no assets and the county should write it off. Treasurer Hansen thinks that it should be taken off Millard County's records as it can't be recovered and it is seven and eight years delinquent. It is just an entry on the books that cannot be recovered.

Commissioner Smith made a motion to write off the delinquent property taxes for the years 1998-1999 for ASOMA (UTAH) INC. a mining claim accessed by the State of Utah and take it off the books.

Commissioner Cooper SECONDED the motion. The voting was unanimous. The motion carried.

Treasurer John Hansen said that they are doing the finishing touches for the upcoming tax sale. They are doing the publication and the final notice to the tax payers. He said that there are a few people who are making small payments toward their delinquency but they are not even close to the amount owed and they have not contacted the Commissioners to ask for some consideration. In the interest of the property tax payer, Treasurer Hansen doesn't like taking their payments when

there is not enough being paid to keep it off the tax sale, however, he cannot legally refuse payment. The owners have been notified that if partial payments are made and they don't appear before the Commissioners, the property will go to tax sale. The Commissioners agreed that the Treasurer should continue to accept any payments made even though it doesn't do anything to remove the property from the sale.

#### PUBLIC HEARING- TO TAKE PUBLIC COMMENTS ON CHANGES TO THE MILLARD COUNTY ORDINANCES AND THE MILLARD COUNTY LAND USE CODE (ZONING ORDINANCE)

This item will be rescheduled after April 5, 2006.

#### POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR COVE FORT SERVICE INC-OWNER JIMMY HODGES

The Commissioners reviewed the application for a business license for Jimmy Hodges, Cove Fort Service Inc.

Commissioner Cooper made the motion to approve the business license for Cove Fort Service Inc. - Owner Jimmy Hodges contingent upon Health Inspector Wade Tolbert's approval.

Commissioner Smith SECONDED the motion. The voting was unanimous. The motion carried. The business license was signed, but will be held until it is cleared by Wade Tolbert at the Health Department.

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

Commissioner Walker attended an open house on March 2, 2006 for Travis Jones who is leaving the area. Mr. Jones was instrumental in getting the Snow Goose Festival started. The Millard County Economic Board went in half of the cost of the plaque that was presented to him.

All the Commissioners attended the NACO Conference in Washington D.C. from March 3-8, 2006. They attended several of the NACO workshops, Public Lands, Immigration and Agriculture on Saturday and Sunday. One Monday and Tuesday the Commissioners met with Senator Hatch, Congressman Chris Cannon, Congressman Rob Bishop and Congressman Jim Matheson on items related to Millard County, specifically on the Millard County Land Use Bill and water issues. The Commissioners appreciated Robert Weidner for setting up some of the meetings with Congressional Delegates in Washington.

Commissioners Smith said they appreciated Randy Johnson being in Washington with the Commissioners. Mr. Johnson is helping with the Millard County Land Use Plan. They were very interested on the progress of Washington County's Land Use Plan as their results will affect the Millard County Land Use Plan's success.

Commissioner Smith attended the Agricultural and Rural Development meeting that was both interesting and frustrating at times. There has been a big push to have the US label bio mass products that are produced by agriculture as a way to promote domestic products. They had been

given a priority in buying US domestic products. The US Trade Commission changed the definition to say that not only domestic products but any contract party that the United State has trade agreement with. This definition defeats the whole purpose of the original plan.

Commissioner Smith thought the trip was very worthwhile and enjoyed being united on the southern Nevada water issue with the other Commissioners.

Commissioner Cooper said that he appreciates the united effort of the county commissioners in addressing the things that are very important to Millard County at the NACO Conference. They found it really makes a difference by visiting with the national leaders and you can change their opinion. They gained some support on the water issue with state of Nevada.

Commissioner Cooper is a member of the Public Lands Steering Committee. President Bush's plan to decrease the PILT payment to 195 million dollars from 236 million dollars would have a big impact on Millard County. It is hoped that this will turn around before PILT payments are made and they are trying to educate others of the importance of the PILT payments to counties with a lot of federal lands within its borders. The endangered species act was discussed and they want to encourage Congress to make an endangered act that is not prohibitive of improvement and growth.

Commissioner Cooper complimented Commissioner Smith on the great job he did on the mediation with WCA and WIR. He also complimented Commissioner Walker for her leadership at the conference.

The Commissioners attended a Home Land Security talk by Michael Chertoff. The meeting with the Forest Service was a very good meeting.

Commissioner Cooper and Commissioner Walker attended an immigration meeting at the conference. In the USA there are an estimated 11-12 million illegal aliens that are taxing the resources of the tax payers. The USA is facing a very difficult situation with its southern borders being insecure. There are 8-10 thousand illegal aliens crossing the Arizona border each month. A solution needs to be found to solve this problem. If a wall was to be built across Arizona it would cost between 90-100 million dollars.

The Commissioners visited a local serviceman, Braxton McCoy who was injured in Iraq and is recuperating in Walter Reed Hospital. He is from Scipio and will be moved to a hospital in Utah shortly.

Commissioner Walker said the application for the Class I Landfill in Delta has been completed and sent.

All the Commissioners attended the retirement party for Sheriff Ed Phillips on February 28, 2006. Sheriff Phillips had served as the Millard County Sheriff for 27 years. Thanks was given to Commissioner Walker for helping to put the celebration together.

Commissioner Smith reported the county is submitting to the state a map showing the area where Millard County wants to have the enhanced 1 foot digital imaging done. The state needs a ballpark figure of area to be done. It will then be bid out and then a contract will be signed. The cost is estimated at \$150.00 a square mile with a minimum of a 20 square mile block. The county has four blocks proposed to cover the populated areas of the county. Most of the cities have

agreed to share the cost with Millard County of their area.

Commissioner Cooper attended the Millard County CERT Conference on Saturday, March 11, 2006 in Fillmore, Utah. He complimented the success of the conference to Garth White, Janet Lindquist, Steve Kimball, Paul Fowles, Sheriff Robert Dekker and Forrest Roper and the others who helped. The conference was well attended and valuable skills were taught and practiced at the break out sessions. Thanks to the many people who volunteer their time to participate in CERT.

Commissioner Cooper attend the Millard County Planning and Zoning meeting where he gave a presentation on county's planning process and the aerial photography proposal. There has been a language update done on the Millard County General Plan.

## OTHER BUSINESS

Treasurer John Hansen asked some questions about capital projects and the repairs on the West Millard Swimming Pool mentioned in the commission minutes of February 27, 2006. He said there are funds available in both the West & East Millard Recreation Capital budget that have been accruing interest. This money could be used for repairs but it seems money is always being taken out of the Capital Project budget for these types of projects. The Commissioners said they were not aware of the funds. He would like to discuss this item with the Commissioners.

Treasurer John Hansen asked for some clarification on the check to Bob Weidner. When a remake of a check is done, there should be a stop payment on the first check and a fee is charged for that service. Treasurer Hansen asked for permission to charge the canceled check fee to the account issuing the check. The Commissioners authorized Treasurer Hansen to do this.

Treasurer Hansen and Auditor Grace will meet and discuss capital and related items at Commission Meeting on April 3, 2006.

Treasurer Hansen asked some questions about the proposal to put up an jeep rodeo obstacle course at the fair grounds at an estimated cost of \$30,000. Is this money, to come out of county funds or are the people going to pay for the construction of the course? If the county is trying to do cut backs then why they would offer future commitment? The Commissioners said that they are supportive of the project. Project materials and labor will be donated. Kevin Morris will oversee the construction. The events held at the jeep rodeo should increase the TRT funds.

Lt. Forrest Roper from the Millard County Sheriff's Office had a copy of the contract for the E911 System Phase I which would allow cellular calls to be tracked to the towers and Phase II would allow the tracking of cell phones within 50 meters. Lt. Roper said that at least half of the emergency calls that come in are from cell phones. If they hang up or a call is lost there has been no way to trace the call. The grant will help pay for the cost of most of the material for the upgrade in the county's E911 System.

Commissioner Smith made a motion to sign the grant application on the E911 System.

Commissioner Cooper SECONDED the motion. The voting was unanimous. The motion carried.

Commissioner Smith reported that Sheryl Dekker had sent over the Title V application for a transportation and utility systems and facilities on federal lands. The existing route from Delta to Oak City on Hwy 125 is 5.7 miles. The new proposed route would be 2.9 miles. The existing route is cost prohibitive to the Millard County Solid Waste budget. Only a small section of federal land is crossed, a total of .05 miles. The cost of construction would be \$50,000 or less. They are applying for a right-of-way across BLM land for a road from the Oak City dump site to the highway.

Commissioner Smith made a motion to sign the Title V application for a transportation and utility system across federal lands and send it to the BLM.

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

Commissioner Smith made a motion to sign the Resolution No. 06-03-13, a Resolution by the Millard County Commission authorizing the application for transportation and utility systems and facilities on federal lands.

Commissioner Cooper SECONDED. Clerk Norma Brunson called for a roll call vote. Commissioner Cooper. YES. Commissioner Smith. YES. Commissioner Walker. YES. The voting was unanimous. The motion carried.

Commissioner Smith said that each year Millard County signs a contract with the USDA Forest Service for maintenance on roads going into the campground areas.

Commissioner Smith made a motion to sign the project agreement for road maintenance between Millard County and the Forest Service.

Commissioner Cooper SECONDED the motion. The voting was unanimous. The motion carried. The document was signed and will be sent to Dan Bond in the Richfield Office. The motion will be ratified at Commission meeting on March 27, 2006. A copy will be on file at the Clerk's Office.

The Commissioners approved the payment of \$865.00 for KW Electric for work done at the Millard County Care Center putting heaters in the bath areas. The specifications had been faxed down by Garth Shaw and the job was bid out by West Millard Maintenance Supervisor Kevin Morris. The heaters have now been installed. Because the heaters in the bath area were left off because of a design error, the bill will be sent to Garth Shaw to try and collect the money. In the meantime the Commissioners approved the payment to be made to KW Electric and it was signed by Commissioner Cooper.

Commissioner Smith received a letter from UDOT stating that their meeting with Millard County will be held May 16, 2006 from 2:00-4:00 p.m. at the Millard County Courthouse .

Commissioner Cooper made a motion to ratify the signing to waive half of the fee on the Request for Commission Waiver for Sportsmen for Fish and Wildlife Banquet that made by Bryce Pilling for their dinner and fund raiser.

Commissioner Smith SECONDED the motion. The voting was unanimous. The motion carried. Max Wood will be notified of this decision.

Attorney LeRay Jackson said Waddingham and Peterson have requested a date be set for

a public hearing to hear public comment on the Millard County Drainage District Nos. 1-4 annual budget report. The date was set for April 10, 2006 at 11:00 p.m.

Commissioner Cooper talked with Asa Neilson at Baseline Data an archeological investigation company based in Orem, Utah. They are doing work on YUBA Dam and re-mediation for that area. He will be told to contact DMAD an irrigation company involved with YUBA.

The signed copy of the Millard County Bookmobile contract was given to the Clerk's Office for filing.

Commissioner Walker reported she had two requests for funds through Millard County Tourism. There were three members present to the tourism meeting and they approved the two requests for funds and the requests have been sent to the Commissioners approval. Millard County Tourism funds are to be used to promote tourism in Millard County.

The first request was for \$2,250.00 for the annual ATV Ride for Life Poker Run that is sponsored by the Lions Club, the Committee of Hope and the Sandrock Ridge Riders. The proceeds of the event will go to the Huntsman Cancer Research Foundation. They need money for T-shirts, stamps, advertising. They are expecting three hundred people to attend.

Commissioner Smith made a motion to approve the request for funding(\$2,250.00) for the Ride for Life Poker Run.

Commissioner Cooper SECONDED the motion. The voting was unanimous. The motion carried.

The second request was for \$1,400.00 for the Paradise Ladies Golf Tournament. The request was reviewed and discussed. The portion that qualified for promotion of Millard County will be approved.

Commissioner Cooper made a motion to fund \$500 for promotion materials for the Paradise Ladies Golf Tournament.

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

Commissioner Walker was contacted by Delta City Mayor Bunker who would like to negotiate the use of a one acre parcel owned by Millard County on Hwy 50. Delta City wants to put a welcome sign on the property. (The Commissioners have discovered that the county doesn't own the property.)

Commissioner Walker said that she received a letter from Congressman Cannon's Office in regards to his opposition to Wild and Scenic River (W&SR) designation of a river segment within Millard County, Fishlake Fillmore District that was sent to Mary Erickson, Forest Supervisor. He does not believe Corn Creek is suitable for Wild and Scenic River designation. A copy of the letter will be on file at the Millard County Clerk's Office.

Commissioner Cooper attended the Six County AOG meeting in Richfield. In March a meeting will be held with the Congressional Think Tank, The Center For The New West. Ideas



will be received on public land issues and recommendations of what the government should be doing. Representative Chris Cannon is on the Center of the New West's board.

Commissioner Walker received a letter and the interim ruling from the Nevada State Engineer on groundwater applications along with a list of the applicants who proceed and those that are to be held in abeyance.

A letter was also received Western Environmental Law Center complaining about how the applications were being handled.

#### PUBLIC INPUT

There were none.

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

There were none.

#### LAVAR COX - ORDINANCE PRESENTATION

LaVar Cox and Cecil Garland came before the Commissioners to discuss some ideas they have for a groundwater protection ordinance to regulate groundwater locally. They have met with the Governor's Office and with Juab County to share this idea and they have plans to meet with Beaver County in the near future. They feel it is important that the counties take the lead in this ordinance and they could share in the expenses, because it would be the same ordinance for all four counties. The are four counties involved are Beaver County, Juab County, Millard County and Tooele County. This ordinance was started in Millard County some time ago but it was never finished. The ordinance is to protect the source supply as well as contamination of the source called sustainable water use of an aquifer. Only Mother Nature could affect it adversely. Aquifers across the nation are being pumped down and not being recharged. Some aquifers are at 50 percent of their capacity. During the last drought, some wells in our area have to be lowered 85 feet. A source protection ordinance was written for the Kanosh area a few years ago that would only allow homes in certain areas.

Mr. Cox said the ordinance comes out of the Clean Water Action Plan as it allows you to keep your aquifer sustainable and gives standing under the law automatically, but if you are pumping water you stop at a predetermined level with exemption for agriculture. . The level is based on a normal recharge. The level would be set through the state engineer's office by determining where the pump should be set in the well. You have the right to curtail usage of necessary.

If an ordinance is written then it will affect everyone in the county. Surface water could be protected by this same ordinance.

The Clean Water Action Plan and the Clean Water Act need to be studied and then the ordinance built. If there are any questions, it is better to do it any way and then let the court determine if it is legal. It is going to take an expertise in water law to help write this ordinance.

Mr. Cox said Millard County Ordinances need to be codified in order to have standing in

court. It is critical that the codified ordinances are approved and adopted. If a ground water source protection ordinance is passed then it will need to be codified and put with the other ordinances. It is critical to get them approved and adopted. The General Plan gives a government entity the power in court. It will put the counties in a position of challenge SNWA if it is constitutional right. Someone else would have to bear the burden of proof not you. Attorney Jackson said that the ordinance's codification has been done and will be voted and adopted on sometime after April 5, 2006.

Cecil Garland said that if your only defense is defense then your going to lose, sooner or later you have to come out in front. He said it is going to be tough to keep the water in the western valley and it will go all the way. He said that there is power for the SANWA pipeline project as far as Washington, D.C. If an ordinance is going to be built, some good legal expertise would need to be found. He has been in contact with the Western Environmental Law Foundation. He does question where they get their money and where do they plan to get their money.

Commissioner Cooper said that Millard County is the only county protestant in the hearing in SNWA. The Commissioners went to Governor Huntsman and he has offered expertise help but not legal help in the fight with SNWA. The county has some other options that they are working on and they have been referred to the Constitutional Defense Council. The Commissioners feel there is support from the Utah Congressional Delegation. Six County AOG has a retainer with Bud & Fallens Law Firm.

WHERE UPON THE MEETING ADJOURNED

Commissioner Cooper made a motion to adjourn the meeting.

Commissioner Smith SECONDED the motion. The voting was unanimous. The motion carried. The meeting adjourned at 2:30 p.m..

Attest: \_\_\_\_\_

Approved: \_\_\_\_\_