

·MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 16th DAY OF SEPTEMBER 2008
AT THE COURTHOUSE, FILLMORE, UTAH

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

Richard Waddingham County Attorney
Norma Brunson County Clerk
Janice Robins Deputy County Clerk

ALSO PRESENT: Bart Whatcott ATV Jamboree
Sheryl Dekker Millard County Planner
Brandy Grace Millard County Auditor
Klint Penney Millard County Maintenance
Robert Dekker Millard County Sheriff
John Hoopes and Chris Thompson Intermountain Health Care
Jim Beckstrand and Jackie Rhinehart Intermountain Health Care

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN
PROVIDED TO

each member of the governing body, the local news media and posted in three
public places or on the Millard County website, as required by law, the
following proceedings were had:

COORDINATION SESSION

The Commissioners scheduled events for the months of September and October
2008.

PUBLIC WAS WELCOMED

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

OPENING STATEMENTS

Commissioner Cooper offered the invocation. Everyone stood and said the
Pledge of Allegiance to the Flag.

FOLLOW UP ACTION ITEMS FROM MINUTES OF SEPTEMBER 2, 2008

There were none.

APPROVAL OF SEPTEMBER 2, 2008 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held September 2, 2008 were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Walker made a motion to approve the minutes of September 2, 2008, as corrected. Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried.

AUDITORS REPORT

Auditor Grace gave the Commissioners payroll reports from August 29, 2008 and September 12, 2008 and also the check edit report of September 12, 2008 to review and sign.

Auditor Brandy Grace gave the Commissioners an invoice from Millard County Soil Conservation for \$600.00 which was approved for payment by the Commissioners.

An invoice from Personnel Systems, Mike Swallow, for \$1,500.00 was approved for payment.

Auditor Grace has received the Dental Select renewal rates effective January 1, 2009 from Mikel Sharp. The rates will increase from \$30.10 to \$31.97 for employee coverage and from \$93.16 to \$98.95 for family coverage. He said this year the premiums have exceeded the claims by \$20,000. He would like the Commissioners to consider self-funding dental coverage.

Auditor Grace presented three hardships abatement applications to the Commissioners for consideration.

After reviewing the information and discussing the applications, Commissioner Walker made a motion to abate the property taxes for Myron Johnson 30 percent for extreme hardship, based on the information received and according to the County guidelines.

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

Commissioner Walker made a motion to approve a 30 percent abatement on property taxes for Linda Rowley with serial number F-176-1, based on the

information received and according to County guidelines for extreme hardship. Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried.

Commissioner Smith made a motion to abate the taxes 50 percent for Ronald Stephenson based on the County guidelines for income. But after further consideration and based on the fact that this is not a primary residence the matter was tabled and the motion rescinded.

Auditor Grace said that Board of Equalization will be held on September 17, 19, and 22 beginning at 8:30 a.m.

Auditor Grace said that preparations are being made for the surplus property auction that will tentatively be held on Saturday, November 8, 2008 at 10:00 a.m..

Commissioner Smith reported that there are more predator control vouchers submitted for payment and the predator control budget is over budget. Sportsmen for Fish and Wildlife said it will continue to cover the vouchers.

REVIEW AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR JARED POULSEN TRUCKING-OWNER JARED POULSEN

Commissioner Smith made a motion to approve a business license for Jared Poulsen Trucking-Owner Jared Poulsen.

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

CONSIDERATION AND APPROVAL OF ORDINANCE NO. 08-09-16, AN ORDINANCE OF THE MILLARD COUNTY COMMISSION AMENDING TITLE 6 OF THE MILLARD COUNTY CODE BY ENACTING A NEW CHAPTER 6 ENTITLED "REGULATION OF LARGE PUBLIC ASSEMBLIES"

Attorney Waddingham provided the Commissioners with a copy of the proposed ordinance two weeks ago. Attorney Waddingham said the ordinance is to address large public gatherings. The County wants to be able to control the gatherings and have participants comply with health and safety issues.

Commissioner Walker made a motion to approve Ordinance No. 08-09-16, An Ordinance of the Millard County Commission Amending Title 6 of the Millard County Code by Enacting a New Chapter 6 Entitled "Regulation of Large

Public Assemblies”.

Commissioner Smith **SECONDED** the motion. Clerk Norma Brunson called for a roll call vote. Commissioner Smith voted **YES**. Commissioner Walker voted **YES**. Commissioner Cooper voted **YES**. The ordinance will be effective after 15 days and publication.

CONSIDERATION AND POSSIBLE APPROVAL OF ORDINANCE NO. 08-09-16A, AN ORDINANCE OF THE MILLARD COUNTY COMMISSION REPEALING SECTION 1-6-3 OF THE MILLARD COUNTY CODE ENTITLED “BOND REQUIREMENTS” AND REPLACING IT WITH A NEW SECTION 1-6-3 ENTITLED “FIDELITY BONDS AND THEFT OR CRIME INSURANCE”

Attorney Waddingham said that this ordinance repeals the unnecessary language from the old ordinance and replaces it with a new ordinance. The Commissioners should approve the amount of each official’s bond and approve the premiums each year in a Commission meeting.

Commissioner Walker made a motion to approve Ordinance No. 08-09-16A, An Ordinance of the Millard County Commission Repealing Section 1-6-3 of the Millard County Code Entitled “Bond Requirement” and Replacing it with a New Section 1-6-3 Entitled “Fidelity Bonds and Theft or Crime Insurance”. Commissioner Smith **SECONDED** the motion. Clerk Norma Brunson called for a roll call vote. Commissioner Smith voted **YES**. Commissioner Walker voted **YES**. Commissioner Cooper voted **YES**. The voting was unanimous and the motion carried.

BID OPENING FOR ROOF ON PUBLIC SAFETY BUILDING-KLINT PENNEY, EAST MILLARD MAINTENANCE SUPERVISOR

After briefly discussing the roof project and associated bids, the decision was made to have the interested parties resubmit a sealed bid in an envelope and send references and proof of bonding in a separate envelope. Currently there is \$55,000 budgeted for repairs to the roof, however; the budget will have to be opened in order to cover the cost of replacing the roof.

The Commissioners thanked the East Millard Maintenance crew for getting the grounds ready for the State Riding Club meet.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON CONDITIONAL USE APPLICATION #Z-2008-019 BY ROBERT E. BLISS AND MICHAEL BLISS, HIGHLINE DAIRY, LLC.,

FOR AN ANIMAL FEEDING OPERATION (AFO) LLC., FOR PROPERTY LOCATED APPROXIMATELY 10 MILES SOUTHEAST OF DELTA, AND MORE PARTICULARLY DESCRIBED AS: SECTION 5, T18S, R5W, SLB&M. 640 ACRES)

Commissioner Smith made a motion to go into a public hearing.

Commissioner Walker SECONDED the motion. The voting was unanimous and the motion carried. The public hearing began at 11:00 a.m..

Present were: Bart Whatcott and Sheryl Dekker

Commissioner Cooper called the hearing to order. The application is for a level 4 AFO which allows 4,500 adult animals. When the second phase is completed 5,000 adult animals and 3,500 milking cows will be allowed. It received a favorable recommendation from the planning and zoning committee.

Commissioner Walker made a motion to close the public hearing.

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. Hearing ended at 11:02 a.m..

REVIEW AND POSSIBLE DECISION FOLLOWING A PUBLIC HEARING CONDUCTED SEPTEMBER 16, 2008, REGARDING CONDITIONAL USE PERMIT APPLICATION #Z-2008-019 BY ROBERT E. BLISS AND MICHAEL BLISS, HIGHLINE DAIRY, LLC., FOR AN ANIMAL FEEDING OPERATION (AFO) FOR PROPERTY LOCATED APPROXIMATELY 10 MILES SOUTHEAST OF DELTA, AND MORE PARTICULARLY DESCRIBED AS: SECTION 5, T18S, R5W, SLB&M. 640 ACRES

Commissioner Smith made a motion to approve the Conditional Use Permit for Robert E. Bliss and Michael Bliss, Highline Dairy, LLC., #Z-2008-019, as recommended by the planning and zoning committee, based on the following findings of fact:

The proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the county.

Such use will not, under the circumstances and conditions imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property or improvements of the immediate area or the county as a whole.

The proposed use will comply with the regulations and conditions specified in this chapter for such use.

The proposed use conforms to the goals, policies and governing principles of the county general plan.

That, for uses designated as accessory uses, the use will support and further the principal use of the property.

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

REVIEW AND POSSIBLE APPROVAL OF AN HOURLY WAGE ADJUSTMENT FOR PART-TIME SWIMMING POOL EMPLOYEES

Commissioner Walker said that a 75 cents an hour raise was approved for part time swimming pool employees at the last Commission meeting. After further reconsideration by all three Commissioners Commissioner Walker made a motion to reduce the raise amount to 50 cents an hour for part time swimming pool employees. The money is already within the pools' budgets.

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

OTHER BUSINESS

Wellness Committee Chairperson, Deb Arnold, reported that thirty two (32) employees/spouses participated in the Fill Up on Water contest. Winners of the twenty-five dollar (\$25.00) gas cards were: Cindy Iverson

Linda Beard

Diane Talbot

Jared Nez

There were five (5) participants in the Healthy Cooking contest. Winners of the twenty-five dollars (\$25.00) Visa cards were: Janice Robins

Cindy Iverson

Commissioner Cooper reported that a letter was received from Fillmore City requesting funds

from Millard County to pave a portion of the Sand Rock Ridge road.

Commissioner Smith went on to explain that Fillmore City claims 3/4 of the road and would like Millard County to pay for paving the remaining portion of the road up to June Brush hill. Millard County will stay with the precedent set by the County, when Scipio Town annexed land for Eagle's Landing and the County conveyed its easement interest in the road with the annexation. In the future when a parcel of land is annexed into a city the County would quitclaim its easement, if any, to the city/town or abandon any interest it may have in the road. Attorney Waddingham will contact Fillmore City about Millard County's decision on the road. When the County conveys its interest in the road, the County map will have to be changed to denote that the road no longer belongs to Millard County.

Commissioner Walker said that a telephone call log had been taken by the employees at the County Offices in Delta. There have been problems due to the Motor Vehicle Office being closed on Fridays.

Commissioner Walker made a motion to allow the County Offices in Delta to go to a four-ten work week on a trial basis beginning September 19, from 7:00 a.m. to 5:45 p.m. allowing 15 minutes to cash out the drawers.

Commissioner Smith SECONDED the motion with discussion. The County Building Inspector will work on Fridays from 8:00 a.m. until noon. The building will be locked, however; he will meet with people by appointment or telephone. The County Planner will go on the four-day work week. Justice Court will be open one hour on Fridays, with a Delta City Justice Court Clerk or a Millard County Justice Court Clerk covering the hour long shift. The voting was unanimous and the motion carried.

Commissioner Cooper stated that he had received a letter from the US Forest Service requesting all communication sites submit a certified statement with a category list of uses and tenants at each site. The request will be reviewed by Attorney Waddingham and then given to Captain Roper for processing.

Commissioner Walker received a letter from Richard Walje, Rocky Mountain Power President, soliciting the Commission's help in its efforts to either have a tax amount increased by the Public Service Commission ("PSC2") through a rehearing process, or work with them to reduce its property taxes to the level the PSC found appropriate in its original order.

Commissioner Walker recommended a written reply stating the Commission did not support a reduction in Rocky Mountain Power's property tax obligation, and they would remain neutral during negotiations with the PSC.

Commissioner Cooper received a letter from Jim Stevens expressing his appreciation for the handling of the State Riding Club meet that was held in Fillmore, Utah.

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

Commissioner Smith attended the road department's safety training on Tuesday, September 9, 2008.

On Wednesday, September 10, 2008, Commissioner Smith attended the Utah Counties Insurance Pool ("UCIP") harassment training for Millard County employees. The training was well attended and a roll was taken as it was a

mandatory meeting for all employees. Mark Brady, UCIP, was the trainer. The next sessions will be held in Fillmore on September 18, 2008.

Commissioner Smith attended the GIS meeting this morning with Adam Britt, Recorder Connie Hansen, Richard Beckstrand, Sheriff Robert Dekker and Captain Forrest Roper. Items discussed were:

Upgrade of the communication site at Cricket Mountain.

The beginning of the process to identify Class D roads that the County will claim and record.

The addressing system is approaching completion with a few more addresses needing verification.

Commissioner Walker reported that all three Commissioners attended a meeting with the Bureau of Land Management (“BLM”) on September 12, 2008.

- The BLM has twelve (12) wind farm applications (including two (2) decisions)
- Oil and gas quarterly lease sale is scheduled for November
- BLM has ninety-four (94) oil and gas sites, fifty-three (53) geo-thermal sites
- Compound trespass south of Flowell- BLM is working with Millard County to patrol the area
- BLM was pleased with the success of the ATV Jamboree, the work of the director and committee
- Trail work being done by Brady Judkins for a Boy Scout Eagle project
- BLM will install the trail markers, directional signs and the interpretive sign on the Pahvant Valley Heritage Trail by spring of 2009. The BLM and Millard County are doing the work together on this project
- At the Milford Flat fire 35,000 acres will be reseeded at a cost of 5 million dollars, with ten (10) miles of fence to be installed
- Millard County will help the BLM with the 2010 resource management plan

Commissioner Cooper attended the Six County AOG legislative review meeting in Gunnison. Representative Brad Winn and Representative Painter were the only two legislators attending.

Commissioner Cooper and Tony Dearden attended the fire suppression meeting, set up by the task force, where they gave a presentation regarding the Milford Flat fire. This fire was to be funded by FEMA at 75 percent, however; it has not paid the state yet. Millard County does not think it should be billed for the fire because the funds from FEMA have not be paid. They feel that if

the local fire departments had been dispatched some of the fires would not have reached such large proportions. Number 1 and Number 2 teams had started back burns in several areas and those fires were used in the calculations. The decisions made by the state should be paid by the state. They told the board that Millard County could not afford to pay \$250,000 to the fund this year. The board was sympathetic to Millard County's cause, but time will tell if it will do anything about the situation. There are a number of other counties that have a problem with the way the calculations were done.

Commissioner Cooper reported an aqua-culture study is going to be done in Utah. The state has enhanced its fish hatcheries and private hatcheries are struggling. Sevier County and Wayne County are putting money toward the study and would like Millard County to contribute money as there are three (3) private hatcheries in Millard County.

A letter was delivered to Governor Huntsman from Mark Ward, UAC, on behalf of Millard, Tooele, Juab, Salt Lake and Utah Counties to direct his team to heed the following values and principles when negotiating with Nevada: Negotiate for the maximum allowable amount of diverted water, not the minimum amount.

Insist on precise monitoring and mitigation measures that are plainly spelled out and enforceable.

Insist on monitoring wells placed reasonably close to each of SNWA's extraction wells and with sensitive triggering mechanisms for early detection of groundwater draw-downs.

Insist on monitoring equipment to adequately measure impacts to springs at strategically placed locations throughout Snake Valley.

The Utah Attorney General's Office should enforce the agreement if necessary. Protect against groundwater draw-downs that destabilize the soils and cause dust storms that impact air quality.

Attorney Richard Waddingham reported that Adam Trupp had been asked to review the public defender's contract and give his unbiased opinion. He reported that basically the contract is a good contract except for a few provisions and his comments are briefly summarized as follows:

A one year contract is appropriate under the circumstances, even though it is short term, it is not unheard of. It is personalized to a single individual so the evaluation of the performance and ability to modify the contract is an important provision for the County.

Provisions in the contract that require the County to negotiate for a new contract with the contracting attorney work a disadvantage for Millard County

and place the Commission in an awkward position should they believe the County is better served by opening the contract to a public bid. He also believes that such a provision creates a conflict with the provisions that require the County to use defined procurement processes. Mr. Trupp believes the County should remove this problematic provision from the contract.

There is a requirement of a unanimous vote of the Commission prior to terminating the contract for cause and a 180 day notice for such termination. Both of these provisions restrict the Commission too severely. There seems to be no reason for a unanimous vote when termination is for cause. There is no justification for a six month notice. It would be reasonable to modify this portion of the contract to provide for a majority vote instead of a unanimous vote and a minimum thirty days notice when terminating the contract for cause.

Attorney Waddingham says that Millard County's policy designates the County's employees as having "at will" status. Under this contract the independent contractor is given better status than County employees. He said that he disagrees with the recommendation to give thirty days notice when terminating the contract for cause because of the case load in the various county courts. Attorney Waddingham would recommend a sixty or ninety days notice to terminate for cause.

If the Commissioners want to put the contract out to bid that is their business not anyone else's business. Attorney Waddingham said he has told Mr. Slavens that it is not right to bind this Commission with the terms of the current contract. If Mr. Slavens receives the contract each year that is the Commissioner's call but the door should always be open that if the County wants to put the public defender's contract out for bid then there should not be anything in the contract to prevent that from happening. Attorney Waddingham said that with the Commissioners' consent, he will rewrite the contract taking into account Mr. Trupp's recommendations. He will provide a copy of the contract to Mr. Slavens. The current contract ends in 2008 but the County will have to follow the terms of the contract for this year and make Mr. Slavens a good faith offer and the County can decide each year to continue contracting with Mr. Slavens or put the contract out to bid.

PUBLIC INPUT

Shelley Tuescher representing First Wind said that there are three main processes for permitting.

The County
Bureau of Land Management

Public Service Commission

PSC requires a certificate of public convenience and necessity for the transmission line and a process for rate payer facilities. A hearing for Milford Wind Corridor will be on Monday, September 29, 2008. Mrs. Tuescher is asking for a letter of support from the County using the language found in the findings of the Conditional Use Permit. The County Commissioners felt a couple of points should be tweaked.

Commissioner Walker made a motion based on clarification of the suggestions from Milford Wind Corridor to write a letter to Public Service Commission. Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried.

JIM BECKSTRAND AND IHC REPRESENTATIVES-FINAL REPORT OF THE MILLARD COUNTY CARE CENTER

John Hoopes, Jim Beckstrand, Chris Thompson and Jackie Rhinehart representatives from IHC were present.

John Hoopes said that the contract between IHC and Millard County ended on March 1, 2008. At that time Traditions Health Care, Inc. took over the management of the care center. The transition is going very well and Traditions is doing a good job with the care center.

Chris Thompson went through the reconciliation process from January to August 2008 in regards to the Millard County Care Center. The balance according to IHC's books as of August 31, 2008 was \$70,980.02 and IHC will continue to try to collect the money by the end of the year. A detailed list of the transactions can be made available to Millard County if desired. See Exhibit A.

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

There was none.

WHERE UPON THE MEETING ADJOURNED

Commissioner Smith made a motion to adjourn the meeting. Commissioner Walker SECONDED the motion. The voting was unanimous and the meeting adjourned at 12:45 p.m..

A WORK MEETING TO DISCUSS THE APPROVAL AND RECORD KEEPING OF VOLUNTEERS IN MILLARD COUNTY WAS HELD AT 1:30 P.M.

Invited to the work meeting were all three Commissioners, Sheriff Robert Dekker, Captain Forrest Roper, Attorney Richard Waddingham and Auditor Brandy Grace.