

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 7th DAY OF OCTOBER 2008
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Kathy Y. Walker Chairperson
Daron P. Smith Commissioner

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

ALSO PRESENT: Sheryl Dekker Millard County Planner
Dean Draper Chronicle/ Progress Reporter
Krista Iverson Fillmore City Council
Deaun Bean & Lori Roper Fillmore City Beautification
Brandy Grace Millard County Auditor
John Hansen Millard County Treasurer
Paul Robison Citizen
Scott Corry, Bruce Curtis, John Adams Millard County Fire District
Burtis Quarnberg Scipio Town Mayor
Gayle Bunker Delta City Mayor
David Christensen Fillmore City Mayor
Byrant Anderson Commercial Business Radio LC
Terry & Takoko Scottom Citizens
Howard Allred Forestry Fire State Lands
John L. Adams Kanosh Fire Department
Krista Kisch First Wind
Bruce Parker PDS
Rick Viveiros, Lorena Viveiros, Joe Viveiros Good Shepherd Farms
Chad Imlay Fillmore Fire Department
Shelli Richardson, Amanda Camp, Joshua Camp & Jessica Wall 4-H Teen
Council

EXCUSED: Commissioner John C. Cooper

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 month of October 2008.

PUBLIC WAS WELCOMED

The meeting began at 10:00 a.m. after a brief welcome by Commissioner Walker who served as Chairperson for the meeting.

OPENING STATEMENTS

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

FOLLOW UP ACTION ITEMS FROM MINUTES OF SEPTEMBER 30, 2008

There were none.

APPROVAL OF SEPTEMBER 30, 2008 COMMISSION MINUTES

This item was tabled.

CAPTAIN FORREST ROPER-REVIEW AND POSSIBLE APPROVAL OF THE COURT BAILIFF CONTRACT BETWEEN THE STATE OF UTAH, ADMINISTRATIVE OFFICE OF THE COURTS AND COUNTY SHERIFF OF MILLARD COUNTY

Captain Forrest Roper presented four copies of the court bailiff contract which provides

bailiff and court security services for District and Juvenile Courts.

Commissioner Smith made a motion to approve the contract with the State of Utah, Administrative Office of the Courts and County Sheriff of Millard County.

Commissioner Walker stepped from the chair and **SECONDED** the motion. The voting was unanimous and the motion carried.

AUDITORS REPORT

Auditor Grace gave the Commissioners the Check Edit Report of October 6, 2008 to review and sign.

An invoice from NACO in the amount of \$400.00 for membership dues was approved for payment by the Commissioners.

A meeting date was set for October 7, 2008 where the insurance benefit plans for 2009 will be discussed.

A mandatory meeting given by the Utah State Tax Commission was held at the courthouse in September. Auditor Grace reported that very useful information was given to those in attendance.

Commissioner Smith made a motion to convene as the Board of Equalization (“BOE”).

Commissioner Walker stepped from the chair and **SECONDED** the motion. The voting was unanimous and the motion carried. The BOE meeting began at 10:16 a.m..

Present were: Dean Draper, Krista Iverson, Deaun Bean and Sheryl Dekker. Auditor Grace said that there were 820 protests to the taxes this year. 661 were adjustments from the Assessor’s Office. A protest master log was provided to the Clerk for filing.

Commissioner Smith made a motion to approve the action taken by the BOE. Commissioner Walker stepped from the chair and **SECONDED** the motion. The voting was unanimous and the motion carried.

Commissioner Smith made a motion to close the BOE meeting.

Commissioner Walker stepped from the chair and **SECONDED** the motion. The voting was unanimous and the motion carried. The BOE meeting ended at 10:18 a.m.

BRYANT ANDERSON-RADIO MAINTENANCE CONTRACT PROPOSAL

Bryant Anderson, Commercial Business Radio LC, went through the proposed maintenance contract with the Commissioners. The contract is very similar to last year’s contract. The old equipment has been removed from the list and the out of warranty equipment was added to the list. The contract will be reviewed by Sheriff Dekker and Attorney Waddingham and be brought back for approval at the next Commission meeting.

REVIEW AND POSSIBLE APPROVAL OF THE PUBLIC DEFENDER CONTRACT

Commissioner Smith made a motion to strike the approval of the public defender contract.

Commissioner Walker stepped from the chair and **SECONDED** the motion. The voting was unanimous and the motion carried.

FILLMORE CITY PRESENTATION

Krista Iverson, Deaun Bean and Lori Roper representing Fillmore City came before the Commissioners to give the County an update on the proposed Fillmore City Main Street Beautification project. The Committee would like to create a pleasant walk way along Main Street by planting honey locust trees, install benches and add new street lights. They have sought expert advice about what type of trees to plant and the best method to water them. A water truck will be used to water the trees rather than install a sprinkler line. A short film strip was shown that explained the benefits to the citizens and business owners when improvements of this nature are done in a community. They said that almost all of the comments about the beautification project are positive. However, a few businesses are concerned about their business being hidden by a tree. They are working on a grant to help finance the project and are willing to take donations. UDOT is helping with the street light project.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON A CONDITIONAL USE PERMIT FOR AN ANIMAL FEEDING OPERATION (AFO) BY GOOD SHEPHERD FARMS, (JOE AND HAZEL VIVEIROS AND RICK AND LORENA VIVEIROS) FROM A (AGRICULTURAL) TO AI (AG INDUSTRIAL) FOR PROPERTY LOCATED AT 2599 SOUTH 1000 EAST, DELTA, UTAH, AND MORE PARTICULARLY DESCRIBED AS:

SERIAL # DO-4000-1: SW1/4 OF NW1/4 OF SECTION 29, T17S, R6W (40 ACRES);

AND SERIAL # DO-4000-2: SW1/4 OF NW1/4 OF NW1/4 OF SECTION 29, T17S, R6W, SLB&M. (10 ACRES). 50 ACRES TOTAL.

Commissioner Smith made a motion to enter into a public hearing to receive public comment on a Conditional Use Permit for an Animal Feeding Operation by Good Shepherd Farms.

Commissioner Walker stepped from the chair and **SECONDED** the motion. The voting was unanimous and the motion carried.

The public hearing began at 11:00 a.m. when Commissioner Walker called the public hearing to order. Present were: Sheryl Dekker, Dean Draper, Krista

Iverson, Rick Viveiros, Lorena Viveiros, Joe Viveiros, Krista Kisch and Bruce Parker.

Commissioner Smith made a motion to close the public hearing for lack of public comment.

Commissioner Walker stepped from the chair and **SECONDED** the motion. The voting was unanimous and the motion carried. The hearing ended at 11:02 a.m..

REVIEW AND POSSIBLE DECISION FOLLOWING A PUBLIC HEARING CONDUCTED OCTOBER 7, 2008, REGARDING A CONDITIONAL USE PERMIT (“CUP”) APPLICATION BY GOOD SHEPHERD FARMS, JOE AND HAZEL VIVEIROS AND RICK AND LORENA VIVEIROS), FOR AN ANIMAL FEEDING OPERATION (AFO) FOR PROPERTY LOCATED AT 2599 SOUTH 1000 EAST, DELTA, UTAH, AND MORE PARTICULARLY DESCRIBED AS:

SERIAL # DO-4000-1: SW1/4 OF NW1/4 OF SECTION 29, T17S, R6W (40 ACRES);

AND SERIAL # DO-4000-2: SW1/4 OF NW1/4 OF NW1/4 OF SECTION 29, T17S, R6W, SLB&M. (10 ACRES). 50 ACRES TOTAL.

Commissioner Smith made a motion to approve a Conditional Use Permit for Good Shepherd Farms, upon the favorable recommendation of the Millard County Planning and Zoning Committee and based upon the findings of fact required for granting a CUP within the County.

Commissioner Walker stepped from the chair and **SECONDED** the motion. The voting was unanimous and the motion carried.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC INPUT WITH RESPECT TO INCREASING THE MILLARD COUNTY FIRE SERVICE DISTRICT TAX LEVY FROM .000312 TO .000500 AND THE POTENTIAL ECONOMIC IMPACT THE TAX LEVY WILL HAVE ON THE PRIVATE SECTOR

Millard County Fire District Chairperson Scott Corry briefly explained the purpose for the proposed tax mill increase of .000500 which has to be done by an election. The district was formed in 1986 and the mill levy was set at .000200. Through the years some tax increase errors occurred that were found in an audit showing the district had exceeded its original tax levy. The State Tax Commission authorized a maximum tax levy at .000312. With the increased wildland fires throughout the years the expenses have increased

drastically while at the same time revenues have declined from IPP and others. The 2008 fire budget was around \$500,000 and it is taking in only about \$427,000 leaving a deficit. The deficit is being made up by the state treasury reserve fund which will be depleted in a few years. A major budget increase is expected by the State Division of Forestry and Lands and with the Milford Flat fire included the amount assessed to Millard County could be \$250,000 and that is why the tax increase has been proposed.

Commissioner Walker said that the tax increase on a primary residence home worth \$100,000 would be: Tax Rate Tax Increase

.000215 = \$11.83

.000312 = \$17.16 (this could be done through truth & taxation w/o election)

.000500 = \$27.50

On a \$100,000 business the tax increase would be:

Tax Rate Tax Increase

.000215 = \$21.50

.000312 = \$31.20 (this could be done through truth & taxation w/o election)

.000500 = \$50.00

Commissioner Smith made a motion to enter into a public hearing to receive public comment on increasing the Millard County Fire Service District tax levy from .000312 to .000500 and the potential economic impact the tax levy will have on the private sector.

Commissioner Walker stepped from the chair and **SECONDED** the motion.

The voting was unanimous and the motion carried.

Present were: Scott Corry, Dean Draper, Krista Iverson, Sheryl Dekker, Brandy Grace, Bryant Anderson, Deaun Bean, Paul Robison, Burtis Quarnberg, Bruce Curtis, Mayor Gayle Bunker, Howard Allred, John L. Adams, Chad Imlay, Mayor David Christensen, Terry Scottorn and Takoko Scottorn

Commissioner Walker called the public hearing to order at 11:05 a.m..

John L. Adams from Kanosh: He apologized to Scott Corry because he is the assistant fire chief in the Kanosh Fire Department under Scott, but he is opposed to this tax increase or any kind of tax increase in the County at this time. People should cut costs or do without.

Terry Scottorn from Fillmore: He too apologized to his good friends on the fire district. He knows the value of their service. He said that we are in deep financial trouble everywhere including counties, cities and states. People are in

deep trouble as well. He said that he does not understand all the details of this tax increase right now and he is against all tax increases right now.

There were no further public comment.

Commissioner Smith made a motion to go out of the public hearing. Commissioner Walker stepped from the chair and SECONDED the motion. The voting was unanimous and the motion carried. The hearing ended at 11:10 a.m..

Commissioner Walker clarified that the tax rate increase is for the fire district and is not a tax increase that would go into the Millard County General Fund.

CONSIDERATION AND POSSIBLE APPROVAL OF ORDINANCE NO. 08-09-30A, AN ORDINANCE OF THE MILLARD COUNTY COMMISSION REPEALING TITLE 1, CHAPTER 8 OF THE MILLARD COUNTY CODE, ENTITLED "PROPERTY DISPOSAL" AND REPLACING IT WITH A NEW TITLE 1, CHAPTER 8, ENTITLED "ACQUISITION, MANAGEMENT AND DISPOSAL OF REAL AND PERSONAL PROPERTY"

At the request of Attorney Waddingham, Commissioner Smith made a motion to table the ordinance until October 21, 2008. Commissioner Walker stepped from chair and SECONDED the motion. The voting was unanimous and the motion carried.

REVIEW AND APPROVAL OF A VOLUNTARY ASSISTANCE AGREEMENT-MILFORD WIND CORRIDOR, PHASE I, LLC.

Bruce Parker, Millard County Consultant said that the substance of this agreement is that Milford Wind Corridor, Phase I, LLC will make a financial contribution to the County in the amount of \$58,500.00 within five days of receiving the building permit. And a second financial contribution of \$40,000.00 will be sent to the County on or before February 1, 2010. This agreement needs to be linked with the original CUP.

Commissioner Smith made a motion to accept and approve the Voluntary Assistance agreement with Milford Wind Corridor Phase I. LLC and to authorize the County Chairperson to sign the agreement after minor changes are made by Attorney Waddingham. Commissioner Walker stepped from the chair and SECONDED the motion.

The voting was unanimous and the motion carried.

REVIEW AND APPROVAL-ROAD MAINTENANCE AGREEMENT-MILFORD WIND CORRIDOR PHASE I, LLC.

Bruce Parker explained briefly that this agreement requires that prior to construction of the transmission line a third party civil engineer will do a condition report on the designated roads Milford Wind Corridor Phase I will use during the construction phase of the project. A video log and pavement condition report of the roads will serve as a baseline conditions report of their existing condition when it starts, monitor the conditions during construction and at the end of construction. MWC will put the road back to the same or similar condition after construction. MWC will then use any road for maintenance of its operations just as anyone would use it.

Commissioner Smith made a motion to approve the road maintenance agreement between Milford Wind Corridor Phase I, LLC and Millard County upon the review, approval and minor changes by County Attorney Waddingham. The County Chairperson is authorized to sign after proposed adjustments are done.

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

REVIEW AND APPROVAL-SITE RECLAMATION PLAN-MILFORD WIND CORRIDOR PHASE I, LLC.

Krista Kisch said that part of its CUP is for MWC to show proof of a surety bond for the facilities located on private land when if in the future the County does decommission the lines and towers. The BLM surety requirement covers the facility and has a bond in place to cover the transmission line on public and private land in Millard County. An agreement has been reached for the amount of private land that the transmission line crosses in Millard County and a letter of credit with the minimum amount of \$100,000 will be put in place. MWC will notify the County on an annual basis of the cost to decommission the line and the value of the scrap materials. The letter of credit will be adjusted to cover any shortfalls plus the \$100,000 letter of credit. Based on MWC's analysis it believes the cost to sell the scrap value currently is more than the cost of labor to remove the towers from the land and has a \$60,000-\$65,000 scrap value in profit to the County plus \$100,000. If the life of the line is thirty years and if the values fluctuate then the letter of credit will be adjusted to cover any shortfall. The plans have been adjusted based on Attorney

Waddinghams's concerns about covering the cost of inflation and making sure there is \$100,000 above the estimate of any shortfall. It meets a requirement of the CUP and is ready upon the approval of the county attorney.

Commissioner Smith made a motion to approve the site reclamation plan for the Milford Wind Corridor Phase I, LLC to meet the requirement of the CUP pending minor clarifications if necessary.

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

REVIEW BUILDING PERMIT ISSUES, PRIVATE PROPERTY OWNER NOTICING, STATE AND FEDERAL PERMITS, PRE-CONSTRUCTION MEETING, PROCESSING FEES AND CHARGES, AND OTHER ISSUES RELATED TO ELECTRIC TRANSMISSION RIGHT-OF-WAY (MAJOR)-MILFORD WIND CORRIDOR PHASE I, LLC.

A pre-construction meeting will be held on October 14, 2008 at 1:00 p.m. in Delta with Derrell Owens, building inspector, Commissioner Smith, Thayne Henrie, road department, Scott Corry, fire district, Richard Waddingham, county attorney, Bruce Parker and MWC representatives. Someone from MWC will report monthly at Commission meeting on the progress of the construction project. The ground breaking ceremony will be held sometime in November with the BLM and others. Invitations will be sent to the County when the date is set.

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

Commissioner Smith reported he participated in a conference call with the MWC, Sheryl Dekker, Bruce Parker and Darrell Owens about the cost of the building permits and the fee schedule.

MWC will put up a retainer that the County will draw against. They agreed on \$75.00 per hour for Mr. Owens to review the inspections done by the MWC inspector.

Commissioner Cooper, Commissioner Smith, Steve Bonner, BLM, Mark Ward, UAC, Dean Draper, Chronicle /Progress participated in an ATV ride to review the trail heads, the signs that are down and the east boundary of the Conger Range. They talked about WSA and the RMP process.

Commissioner Smith said that Millard County will receive some benefits of the bail out that Congress just passed as it will provide full funding for Payment in

Lieu of Taxes (“PILT”).

All three Commissioners have been working with the elected officials and department heads with their 2009 budgets.

Commissioner Walker reported that all three Commissioners have been working on the step and grade salary structure.

Commissioner Walker attended Senator Hatch’s Women’s Conference in Salt Lake City. She thought the conference work sessions were very moving, inspiring and informative.

Clerk Norma Brunson said that early voting will be held in the Clerk’s Office in Fillmore from October 21 through October 31, 2008.

OTHER BUSINESS

Commissioner Smith said that Millard County will be paying hotel and airfare expenses for Mark Ward, UAC Attorney, while he represents the County at the December 12, 2008 meeting in Nevada regarding the SNWA.

PUBLIC INPUT

4-H Teen Council Officers, Shelli Richardson, Amanda Camp, Joshua Camp, and Jessica Wall presented each member of the Commission with a special home baked treat in recognition of 4-H Bake and Take Week to express their thanks for all the Commission’s support of the 4-H program.

Krista Iverson requested information on how close political signs could be from a voting location. The information was given to Mrs. Iverson from Clerk Norma Brunson “signs have to be 150 feet away from the polling location.”

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 stepped from the chair and **SECONDED** the motion.

The voting was unanimous and the meeting adjourned at 11:53 a.m..

Attest: _____

Approved: _____