

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 2nd DAY OF DECEMBER 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: Scott Corry Millard County Fire District
Chad Imlay Fillmore Fire Department
Russell Dewsnup Oak City Fire Department
Gayle Bunker Delta City Mayor
Bruce Curtis Delta City
Fred Johnson Utah Forestry, Fire, and State Lands
Marv Turner Utah Forestry, Fire, and State Lands
Howard Allred Utah Forestry, Fire, and State Lands
Lynn Ashby Delta Fire Department
Ed Zmitravich Citizen
Terri Cummings East Millard Swimming Pool
Kevin Morris Millard County Recreation Supervisor
Rick Bublitz Millard County Recreation
Todd Mullen Sunset View Golf Pro
James K. Slavens Public Defender
Ken Brown Western States Alliance

EXCUSED: Sheryl Dekker Millard County Planner

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN
PROVIDED TO

each member of the governing body, posted at the principal office of the
Millard County Commission, posted on the Utah Public Notice Website, and
provided to the Millard County Chronicle Progress, a newspaper of general
circulation within Millard County, as required by law, the following
proceedings were had:

PUBLIC WAS WELCOMED

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

OPENING STATEMENTS

Commissioner Smith read a quote from Benjamin Franklin. Commissioner Cooper said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

FOLLOW UP ACTION ITEMS FROM MINUTES OF NOVEMBER 18, 2008

There were none.

APPROVAL OF NOVEMBER 18, 2008 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held November 18, 2008 were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Walker made a motion to approve the minutes of November 18, 2008, as corrected. Commissioner Smith SECONDED the motion. The voting was unanimous and 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 November 26, 2008 to review and sign.

Auditor Grace said there have been several employees' spouses who are not covered by the County's insurance plan who would like to participate in the Apple program. After discussing the pros and cons of the issue, the decision was made that if an uninsured spouse of an employee wants to participate in the Apple Program to improve their health, the County will pick up the monthly fee (\$13.00) and the assessment fee (\$50.00) for them.

An application for an indigent burial had been turned in and the County's policy will be checked in regards to this situation.

Commissioner Smith made a motion to pay the invoices of \$75.00 and \$25.00 to the State Mental Hospital for the initial hearings that are the responsibility of

Millard County.

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

FRED JOHNSON, STATE FORESTRY, FIRE AND LANDS-FIRE SUPPRESSION BUDGET

Fred Johnson, Marvin Turner and Howard Allred from State Forestry, Fire and Lands were present. Fred Johnson said that they are here today to get approval of the wildland fire suppression budget. They understand there are some real concerns about the cost of the assessment and how the County is going to pay for it. It was questioned why the formula to create the assessment uses the portion FEMA is supposed to cover. It was suggested that the formula be created so that wildland fires are funded statewide. Commissioner Smith said in an effort to redefine the formula of calculating wild land fire suppression assessments a meeting is being set up with National Resources and legislators, also an advisory board of Commissioners has been set up to work on a solution. Millard County is in favor of a state wide assessment attached to real property to help pay for the wildland fire suppression fund.

Commissioner Smith made a motion to approve the agreement for the Wildland Fire Budget between Millard County and Utah Division of Forestry, Fire, and State Lands for calendar year 2009.

Commissioner Walker SECONDED the motion. A roll call vote was taken.

Commissioner Walker voted YES. Commissioner Smith voted YES.

Commissioner Cooper voted YES.

The amount of the 2009 budget is \$239,366.00. A copy of the agreement was given to the Clerk's Office and the Fire District for filing.

KEN BROWN-WESTERN COUNTIES ALLIANCE

Ken Brown from Western Counties Alliance came before the Commissioners with some updates regarding the Payments in Lieu of Taxes, ("PILT") and the Secure Rural Schools Payments ("SRS") including the projected county payments and the projected state payments.

Millard County's full funding for the 2008 PILT funds will be \$1,204,937.00.

Secure Rural Schools Payments (County Payment)

25% Forest Payments \$39,261.00 FY 2008

\$580,763.00 FY 2008

\$522,687.00 FY 2009

\$470,418.00 FY 2010
\$433,376.00 FY 2011
Total \$1,997,244.00
Secure Rural Schools Payments (State of Utah)
25% Forest Payments \$1,242,196.00 for FY 2008
\$16,252,337.00 FY 2008
\$14,627,104.00 FY 2009
\$13,164,393.00 FY 2010
\$11,847,954.00 FY 2011
Total \$55,891,788.00

Mr. Brown said that counties have needed full funding of PILT for a long time and that is one of the reasons the 2008 year was included in the five-year payment plan.

Mr. Brown said the way the SRS funds have been divided has been unfair. Mark Walsh, UAC, and Senator Reed from Nevada have worked hard to change the formula. These funds should be coming in January 2009.

The Commissioners explained that Millard County has chosen to divide its share of the SRS funds the following way:
Fifteen percent will go to the Fire District (\$40,000) from Title II and Title III funds.
One half of the remaining 85 percent will go to the Road Department (This is money that is not subject to PILT funding.)
One half of the remaining 85 percent will go to the School District (This is money that is unrestricted.)

Mr. Brown said that the offsets between the PILT and SRS funds are out there but there is a way to shield the funds through special districts. Work is being done to tweak the state law to include this program. The SRS money will be held until the amendment goes through the legislature. If it receives a 2/3 majority vote in the legislature then the Governor will sign it and it will go immediately into effect. The money will then be released. If the money is handled properly through an existing special service district and there is not more than one Commissioner on the board there will not be a PILT offset in 2009. Mr. Brown said that SRS funds and PILT funds have been separated to stand on its own which is a good thing.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON A ZONE CHANGE (MAP) APPLICATION BY JOHN L.

ANDERSON, FROM (“AG”) (AGRICULTURAL) TO (“HC”) (HIGHWAY COMMERCIAL) FOR PROPERTY LOCATED AT APPROXIMATELY 1500 SOUTH/HWY 6 & 50, DELTA, UTAH AND MORE PARTICULARLY DESCRIBED AS SW1/4, SW1/4, SECTION 14, T17S, R7W, SLB&M. 10 ACRES

Commissioner Walker made a motion to enter into a public hearing to take public comment on a zone change application by John L. Anderson, from AG to HC.

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The meeting began at 11:12 a.m.

Present were: Kevin Morris, Scott Corry, Russell Dewsnup, Gayle Bunker, Bruce Curtis, Lynn Ashby, Rick Bublitz, Todd Mullen, Tim Brown, Ed Zmitravich, Chad Imlay, Howard Allred and Brandy Grace. Millard County Planner Sheryl Dekker was excused.

Commissioner Smith reported that the Planning and Zoning Board had held a public hearing to discuss any concerns about the zone change. The Planning and Zoning Board gave the application from John L. Anderson a favorable recommendation.

There were no comments from the public.

Commissioner Walker made a motion to close the public hearing.

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The meeting ended at 11:14 a.m..

CONSIDERATION AND POSSIBLE DECISION FOLLOWING A PUBLIC HEARING REGARDING A ZONE CHANGE (MAP) APPLICATION BY JOHN L. ANDERSON, FROM AG (AGRICULTURAL) TO HC (HIGHWAY COMMERCIAL) FOR PROPERTY LOCATED AT APPROXIMATELY 1500 SOUTH/HWY 6 & 50, DELTA, UTAH, AND MORE PARTICULARLY DESCRIBED AS SW1/4, SW1/4. SECTION 14, T17S, R7W, SLB&M. 10 ACRES

Commissioner Smith made a motion to approve a zone change for John L. Anderson.

Commissioner Walker 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.

SCOTT CORRY, MILLARD COUNTY FIRE SUPPRESSION BUDGET

Scott Corry, Millard County Fire District Chairperson said that he had met with the Commissioners on Monday to discuss 2009 budget issues. At that meeting it came to light that there had been a communication problems between the Commissioners and the Fire District. Everyone agreed that they will try to do a better job of communication in the future. A public hearing will be held in December as part of the district's truth and taxation process and the budget hearing. If 2009 is a bad fire year, the district will not take away from the local communities to pay the suppression fund. The district plans to hold down costs as much as possible. The district will come back to the County if more funds are needed. Commissioner Cooper said that if the Fire District cannot afford to pay the suppression budget, the County will make it whole. Commissioner Smith said the Fire District is important to the health, safety, and welfare of the citizens and it will work together with the County to resolve the problems. Millard County has a lot of public land within its borders and 80 percent of the fires occur in this County. Fire suppression should be paid by more than just Millard County because the cost of fighting fires is astronomical.

The Commissioners thanked the Fire District, the local fire departments and Fire Warden Howard Allred for all the service they give to the County's citizens.

Commissioner Cooper reported that \$30 million had been spent on re-seeding the Milford Flat Fire area. Only about 1/3 of the seeds took hold. There are plans to possibly spent an additional \$60 million to re-seed the area.

Lynn Ashby, Delta City Fire Chief explained that volunteer firemen are very important to the fire safety in our County and they do a commendable job. Volunteer firemen are asked to take the same training for certification as the full time professional firefighters receive. They put in a lot of time and often their own money for this training. We are asking too much sometimes. At some point all fire departments may have to have paid or part time paid fire fighters. Firefighters' equipment according to NFPA is put on a schedule for:

a visual inspection by a certified person at three years

a visual inspection by a certified person at five years
be disposed of at ten years.

The equipment per fire fighter is around \$2,000. The cost is high for our small fire departments.

Commissioner Smith said that both the Commissioners and the fire departments need to give each other the benefit of the doubt to avoid future misunderstandings. The impact of the economy is affecting all the citizens and it is a juggling act to try and keep service in the County funded.

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

All three Commissioners have spent a lot of time working on the 2009 budget.

Commissioner Smith, Commissioner Cooper, Scott Corry, Howard Allred, and representatives from Sanpete and Juab Counties attended a meeting in Nephi. The current wildland fire suppression fund was discussed along with the problems the FEMA fire has created.

Commissioner Walker has recently accepted a two-year appointment to the UAC Board.

Clerk Norma Brunson reported that Oak City gave notification of a proposed annexation to the Clerk's Office. A copy of the proposed annexation will be given to Planner Sheryl Dekker to review for further processing.

Clerk Norma Brunson and the Commissioners set up the swearing in ceremony for the newly elected officials to be held at noon on Monday, January 5, 2008 in the Commission Chambers.

Attorney Waddingham said Byrant Anderson had suggested several minor changes to the Radio Maintenance Contract. Attorney Waddingham read the proposed changes to the Commissioners.

Commissioner Smith made a motion to approve the proposed changes to the Radio Maintenance Contract.

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

OTHER BUSINESS

Todd Mullen, Sunset View Golf Pro, presented a copy of a comparison of 2008 golf rates

between Sunset View, Cove View, Palisades, Paradise, Canyon Hills, Canyon Breeze and Gladstan of which Sunset View had the lowest fee.

New Rates for 2009 were proposed and discussed. The new rates will be

implemented on February 1, 2009. (See Exhibit A) A Resolution to increase fees at the golf course will be prepared by Attorney Waddingham for the December 16, 2008 meeting.

Kevin Morris, West Millard Maintenance Supervisor, brought before the Commissioners, a proposal for increases of the Millard County Facilities Rental/Use. The fee increases were discussed and several changes were suggested. Attorney Waddingham suggested that classifications could be made for the different types of activities and the fees be adjusted to that classification. The higher the risk for damages and security costs, the higher the deposit fees. The list will be adjusted to reflect the proposed changes and then Attorney Waddingham will prepare a Resolution for consideration at the next Commission meeting.

Mr. Morris showed a promotion packet made by Craig Stumph showing Rock Crawling in Millard County that is being shown at different shows.

Auditor Brandy Grace reported the Cache County and Wasatch County, who had the largest number of members, have opted out of the Utah Counties Insurance Pool ("UCIP"). The Commissioners and the Auditor discussed the pros and cons of Millard County staying in the pool with UCIP. They decided to notify Johnnie Miller, UCIP CEO, that Millard County plans to withdraw from UCIP and that the County will sign directly with PEHP Insurance. Three percent of the premium will go to the broker the County chooses. The cost of insurance is the same for the County.

Auditor Grace said a check in the amount of \$670.00 has been received from First Wind. Neither the Commissioners nor the Auditors knew what the check was for and it will be checked out before it is deposited.

MILLARD COUNTY CLERK NORMA BRUNSON PRESENTATION OF PROPOSED 2009 COMMISSION MEETING DATES

Clerk Norma Brunson and the Commissioners discussed the proposed dates for the 2009 Commission meetings.

January 6, 20 July 7, 21

February 3, 17 August 4, 18

March 3, 17, 31 September 1, 15, 29

April 7, 21 October 6, 20

May 5, 19 November 3, 17

June 2, 16, 30 December 1, 15

Commissioner Smith made a motion to approve the above proposed dates for

the 2009 Commission meetings.

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

PUBLIC INPUT

Ed Zmitravich gave the Commissioners a copy of a sample Grasshopper/Mormon Crickets Spraying Contract. He reported that only one spraying application from Frank and Ross Stevens had been sent in. He said it appears that the public needs to be notified of the availability of the spraying project. The cost to the private owner is 25 percent and the cost to the state is 75 percent. If the federal government participates then the cost will be divided in three equal parts. Mr. Zmitravich was thanked for his help in the matter.

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

There was none.

Commissioner Walker made a motion to recess for lunch.

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The meeting recessed at 1:05 p.m..

Commissioner Walker made a motion to reconvene the Commission meeting. Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The meeting reconvened at 2:30 p.m.. Attorney Waddingham was not present.

MEETING WITH JAMES K. SLAVENS, MILLARD COUNTY PUBLIC DEFENDER

Mr. Slavens had been given a copy of the proposed contract for him to review prior to the meeting. He asked for some compromises in some of the language of the document. After the negotiations had went on for a short while the following motion was made by Commissioner Smith for the County to offer Mr. Slavens a new one year contract for \$91,000 or a new three-year contract for \$84,000.

The motion died for lack of a second.

During further negotiations several changes in the language of the contract were suggested by James Slavens. The Commissioners made two phone calls to UAC Attorney Adam Trupp for legal advice. During the first phone call Mr. Trupp suggested the following language to the contract.

“At the end of the contract term the county will review the Attorney’s performance and if the County finds it to be satisfactory offer him first right to negotiate a new contract.”

After the second phone call to Mr. Trupp, the following language was accepted by both the County and Mr. Slavens.

“During the first Commission meeting in August 2011, the County will review the Attorney’s performance, if the County finds the review satisfactory, they will offer the Attorney the first right to negotiate a new public defender contract. Negotiations must be completed by December 1, 2011.”

Commissioner Walker made a motion to approve the public defender contract, with the new language included, for a period of three years at \$91,000 a year. Commissioner Cooper stepped from the chair and SECONDED the motion with discussion. Commissioner Smith said he would feel better with a one year contract for \$91,000 or a three-year contract for \$84,000. Commissioner Cooper said a three-year contract is all right. Commissioner Smith said he approves of the amended language to the contract and feels it is a good compromise. He called for the vote.

Commissioner Walker voted YES. Commissioner Cooper voted YES. Commissioner Smith voted NO. The majority of the votes were in the affirmative and the motion carried.

Mr. Slavens will give the Commissioners his answer concerning acceptance or denial of the contract before 7:00 p.m. tonight.

WHERE UPON THE MEETING ADJOURNED

Commissioner Smith made a motion to adjourn Commission meeting. Commissioner Walker SECONDED the motion. The voting was unanimous and the motion carried. The meeting adjourned at 4:30 p.m..

Attest: _____

Approved: _____