

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 3rd DAY OF MARCH 2009
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Kathy Y. Walker Chairperson
Daron P. Smith Commissioner
Bart A. Whatcott Commissioner

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

ALSO PRESENT: Rex Williams Fillmore Racing
Jer'E Brinkerhoff Fillmore Racing
Ed Zmitravich Citizen
Connie Hansen Millard County Recorder
John Peck Citizen
Frank Bringard Citizen
John and Marilou Heath Citizens
Wade Garrett Congressman Jason Chaffetz's Office
Gary Perea White Pine County Commissioner

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:

COORDINATION SESSION

The Commissioners scheduled events for the month of March 2009.

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 Whatcott read a quote from Abraham Lincoln. Commissioner Smith said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

MILFORD WIND CORRIDOR, LLC PROJECT PROGRESS AND CONSTRUCTION UPDATE

John Pelczar was not present.

REVIEW AND POSSIBLE DECISION OF FILLMORE HORSE RACING ASSOCIATION PROPOSAL ON THE STALL RENTAL UNITS AT THE FAIRGROUNDS IN FILLMORE

Jer'E Brinkerhoff and Rex Williams came before the Commissioners with the following suggested "Rules for the Fairgrounds".

- No parking in the road ways.
- No drinking on fairground property, except on event days. (County policy does not allow alcoholic beverages on County properties.)
- No driving across the track, around the track or into the saddling paddock, with the exception of maintenance vehicles.

Also suggested were the following stall rental fees:

1. \$50.00 a month for the covered stalls, payable the 1st of every month. (Later this was changed to the 10th of the month.)
2. \$30.00 a month for the outdoor stalls.
3. \$10.00 for overnight stays.
4. Stalls need to be vacated for scheduled events.
5. All damage to stalls is the responsibility of the renter.
6. All damage to the horse walker is the responsibility of the user.
7. All renters must use sawdust in the stalls. Sawdust bales will be available for sale on sight. (The current cost of a sawdust bale is \$8.00.)
8. Any major painting or repairs will be done by the jail work crews.
9. Maintenance of the track will be performed by Fillmore Racing.
10. Fillmore Racing to receive compensation for collecting the stall rental fees and will use it to pay expenses for the race meets. (The suggested amount of compensation was \$4,000.00 a year.)

Mr. Brinkerhoff said this is a good way for the County to increase the revenues it collects for the stall rentals. He said the stalls are in good shape with the exception of the bucket hangers and the ceiling boards chewed on by the horses. He suggested treating and/or replacing the damaged boards. Mr. Brinkerhoff said he would proceed with registering the association as a

nonprofit organization. Attorney Waddingham will develop an agreement with the racing association if it is possible.

Mr. Brinkerhoff said the owner of the horses being housed in the stalls would like to stay until a new agreement is approved. (The Commissioners said they will be allowed to stay for the first ten days of March conforming with County policy.)

REVIEW AND POSSIBLE APPROVAL OF CONTRACT BETWEEN THE AUTOMATED GEOGRAPHIC REFERENCE CENTER (“AGRC”) AND MILLARD COUNTY FOR GRANT FOR SURVEYING CORNERS - RECORDER CONNIE HANSEN

Millard County Recorder Connie Hansen presented copies of the contract with AGRC for funding reimbursement for collection and delivery of Public Land Survey System section corner data to the state. Three copies were requested to be signed by the Commission Chairperson. The grant amount has been reduced from \$30,000 to \$6,240.00 because of federal budget cuts. Recorder Hansen said that 80 percent of the section corners have been completed in Millard County with the exception of the Garrison and Gandy areas. Recorder Hansen said that Millard County does a good job in getting its data to the state. Commissioner Smith made a motion to approve a cadastral mapping grant between the AGRC and Millard County.

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

REPORT ON GRASSHOPPER/CRICKET MEETING IN SALT LAKE CITY - ED ZMITRAVICH

Ed Zmitravich reported some interesting facts from the February 12, 2009 Mormon Cricket/Grasshopper meeting in Salt Lake City. He said the presence of the African Bee has been reported in Washington County, Utah. Residents have been advised to approach all bees with caution. The time to kill the crickets and grasshoppers is as soon as they are just hatched. New regulations for spraying near streams and lakes have been set.

He provided a copy of the current State of Utah Contract for spraying grasshoppers /Mormon crickets. The contracts are due to the Utah Department of Ag and Food by August 31, 2009. The policy for state reimbursement is:

- The cost share is \$3.00 for individuals and \$9.00 state share for a total of \$12.00 per acre.
- The cost share is \$3.50 for individuals and \$10.50 state share for a total of \$14.00 per acre. The cost includes the ground rig, labor, and chemical.

- Price for state 50/50 cost share cricket/grasshopper bait is \$30.00 per 50 lb. Bag (\$15.00 state share). Effective date May 1, 2009.

REVIEW AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR DELTA MUFFLER, OWNER JOHN PECK

Deputy Clerk Janice Robins explained that the business license application for Delta Muffler, Owner John Peck had previously come before the Commissioners for approval on September 30, 2008 and it was denied because the business didn't fit the zoning regulations for a cottage business. Mr. Peck went through the process of getting approval to change the zone from Agricultural (AG) to Light Industrial (LI). A letter from the Millard County Planning Commission approving the zone change is attached to the application. Today, Mr. Peck is requesting consideration for approval of the business license.

Commissioner Smith made a motion to approve the business license for Delta Muffler, Owner John Peck.

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

POSSIBLE ADOPTION OF RESOLUTION NO. 09-03-03, A RESOLUTION OF THE MILLARD COUNTY COMMISSION TO SET A BUILDING FEE SCHEDULE

Attorney Richard Waddingham said that the Commissioners have determined that an increase in building fees is necessary to cover increasing costs. The Building Valuation Data and the Millard County (Utah) Building Fee Schedule were attached to the resolution.

Commissioner Smith made a motion to adopt Resolution No. 09-03-03, A Resolution of the Millard County Commission to set a building fee schedule.

Commissioner Whatcott **SECONDED** the motion. The fee increase brings Millard County more in line with surrounding counties. All fee increases are done by resolution. Clerk Norma Brunson called for a roll call vote.

Commissioner Whatcott voted YES. Commissioner Smith voted YES.

Commissioner Walker voted YES. The voting was unanimous and the motion carried.

OPEN BIDS FOR MAGCHLORIDE FOR MILLARD COUNTY ROAD DEPARTMENT - SUPERVISOR THAYNE HENRIE

Attorney Richard Waddingham opened a MagChloride bid from Dust Busters

Inc. for \$39.50 a Ton.

Eskdale Stateline Delta Fillmore

Freight \$28.00@ Ton \$23.00@Ton \$20.00@Ton \$21.00@Ton

Delivery Cost \$67.50@ Ton \$62.50@Ton \$59.50@Ton \$60.50@Ton

Commissioner Smith made a motion to accept the bid from Dust Buster Inc. upon review and approval from Millard County Road Supervisor Thayne Henrie.

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

POSSIBLE APPROVAL TO REPEAL RESOLUTION NO. 09-01-06, A RESOLUTION OF THE BOARD OF COMMISSIONERS OF MILLARD COUNTY, STATE OF UTAH, AMENDING THE WEST MILLARD SWIMMING POOL AND EAST MILLARD SWIMMING POOL FACILITIES AND EQUIPMENT FEES

County Attorney Richard Waddingham suggested that this item be tabled.

Commissioner Whatcott made a motion to table the agenda item.

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

POSSIBLE APPROVAL TO REPEAL RESOLUTION NO. 09-01-06A, A RESOLUTION OF THE BOARD OF COMMISSIONERS OF MILLARD COUNTY, STATE OF UTAH, AMENDING THE MILLARD COUNTY FACILITIES FEES

Attorney Richard Waddingham suggested this item be tabled.

Commissioner Whatcott made a motion to table the agenda item.

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

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

Commissioner Smith made a motion to go into a closed executive session to discuss the character, professional competence or physical or mental health of an individual.

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

After the closed executive session the regular meeting reconvened at 11:40

a.m..

OTHER BUSINESS

Commissioner Smith said a letter had been received from the Division of Environmental Air Quality (“DEAQ”) for closure of compliance action of an underground storage tank. Millard County had participated in the removal of a storage tank lying partially in the roadway at 4505 South 4000 West, Deseret, Utah. At the time of the removal, there was an agreement stating Millard County would be held harmless with no liability if there was leakage from the tank. The cost of a cleanup was addressed in a bond left by the West Millard Coop when it was dissolved. Millard County will not participate in any cleanup. Commissioner Smith will send a reply to the DEAQ.

Commissioner Smith received a letter from Utah Department of Transportation (“UDOT”) stating the annual meeting with the local cities and county will be held April 15, 2009 from 2:00 -4:00 p.m. The Commissioners will be at the UAC Conference that day so other arrangements will need to be made.

Commissioner Smith said that every effort has been made to contact employees and their spouses to make sure they understood the requirements of the Apple Program. A two-week grace period was granted so pay roll changes will not be made until the next pay period.

Commissioner Whatcott reported that Kanosh Town still has cricket bait on hand that could be used in case of an emergency.

Commissioner Whatcott said that Micky Robison has started the janitorial position with the County. She is still catching up on the cleaning in both buildings. The Commissioners are considering expanding Tammy Lane’s contract to work on Micky’s days off or on other days as needed.

Commissioner Whatcott said he had talked with Bruce Costa, Central Utah Public Health Department, (“CUPHD”) who reported that the space in the CUPHD office in Fillmore is inadequate for the type of procedures performed there. Mr. Costa said that the office is the smallest in the state. Commissioner Whatcott said he would like the County to pursue applying for grant money to help make improvements to the office.

PUBLIC INPUT

Wade Garrett from Congressman Jason Chaffetz's Office introduced himself. He would like to represent any concerns or questions that Millard County has to the Congressman.

The County Commissioners addressed some of the following issues with Mr. Garrett:

- Commissioners want an appointment with Congressman Chaffetz while they are in Washington D.C. this month.
- Congressman Chaffetz was invited to the ATV Jamboree on June 22 through June 27
- Commissioners asked if there is mining money available to repair roads
- Millard County supports the BLM and the Forest Service but is concerned that the fire suppression crew is being relocated from Richfield to Salt Lake City or Cedar City:
 1. This will add to the response time
 2. Most of the fires are in Central Utah (Millard County)
 3. They would like Congressman Chaffetz's support to keep fire resources in a more central location
- Millard County would like Congressman Chaffetz's help and support with the Snake Valley water issue

Commissioner Smith made a motion to recess for lunch.

Commissioner Whatcott **SECONDED** the motion. The voting was unanimous and the motion carried. The meeting recessed at 12: 05 p.m..

NOON BREAK

Commissioner Whatcott made a motion to reconvene the meeting.

Commissioner Smith **SECONDED** the motion. The voting was unanimous and the motion carried. The meeting reconvened at 1:45 p.m..

FOLLOW UP ACTION ITEMS FROM FEBRUARY 17, 2009

There was none.

APPROVAL OF THE MINUTES OF FEBRUARY 17, 2009

The proposed minutes of a regular County Commission meeting held February 17, 2009 were presented for consideration and approval. Following review and consideration of minor corrections

Commissioner Whatcott made a motion to approve the minutes of February 17,

2009, as corrected.

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

TREASURER'S REPORT

Treasurer John Hansen said that since the last meeting where he discussed the two state centrally assessed tax appeals, he has obtained the breakout sheet for Questar. The amount Millard County will pay back to Questar for 2006 is \$4,608.59 and this amount was considerably less than originally thought. Treasurer Hansen said that the state tax commission had told him that Questar and Kern River and several others had been appealed to district court and could be delayed. The County was advised to pay the appeal amount due now and if anything happens in court, it will be adjusted from there. Treasurer Hansen said the County is holding \$423,000 of the Fire District's money because the reports have not been filed. Commissioner Whatcott will give Scott Corry a reminder to file the report so the money can be released. Treasurer Hansen reported geo-thermal leases have sent a deposit of \$1,023,013.46 to Millard County. There are meetings scheduled on May 12 in Cedar City and on May 14 in Salt Lake City to talk about the requirements of geo-thermal lease money. Treasurer Hansen will attend the Salt Lake City meeting.

AUDITOR'S REPORT

Auditor Brandy Grace gave the Commissioners via e-mail the Payroll Report of February 20 and would like a copy with their signatures faxed to her office. She gave the Commissioners the February 27 Payroll Report for review and approval.

Auditor Grace reported that she received the executive reports from PEHP showing the utilization of the health insurance for the County.

The Commissioners' purchasing card limits need to be temporarily increased to cover expenses for the Washington D. C. trip and to cover rodeo expenses. Commissioner Whatcott made a motion to temporarily increase Commissioner Whatcott's and Commissioner Walker's purchasing card to \$5,000 until the next billing period. Commissioner Smith **SECONDED** the motion. The voting was unanimous and the motion carried.

GARY PEREA - UPDATE ON WHITE PINE COUNTY

Gary Perea, White Pine County Commissioner said that the LVVWD k.n.a. the Snake Valley Water Association had filed groundwater applications in 1989. The Department of Interior agencies filed timely protests. An administrative hearing on Spring Valley applications was held by the Nevada State Engineer in 2006. The Department of Interior agencies and SNWA entered into a Stipulated Agreement.

The Spring Valley Ruling (State Engineer's Findings)

- Perennial Yield 80,000afy
- Existing groundwater right -11,128 afy
- 10% of unappropriated water left for future growth -8,000 afy
- Amount available for appropriation 60,872 afy
- Establish a monitoring and mitigation program approved by the State Engineer a minimum of five years prior to the export of water (program based on Federal Stipulation).
- A total combined duty of 60,000 afy is subject to staged pumping restrictions.
- 40,000 afy may be pumped in the initial 10 years.
- After a period of baseline data, pumping may increase to 60,000 afy

Stipulated Agreement

- Prior to the Spring Valley hearings, a Stipulated Agreement was signed to manage groundwater development in a way that does not injure federal water rights or cause unreasonable adverse effect to federal resources.
- Agreement between the SNWA and four bureaus of the U.S.: Department of the Interior, the Bureau of Indian Affairs, the National Park Service, the Fish and Wildlife Service and the Bureau of Land Management.

The Common Goals of the Stipulation include:

- Manage the development of groundwater by SNWA in the Spring Valley without causing injury to federal water rights, or unreasonable adverse effects to federal resources and groundwater-dependent ecosystems
- Accurately characterize the groundwater gradient from Spring Valley to Snake Valley via Hamlin Valley
- Avoid impacts resulting from groundwater development on federal resources located within the Great Basin National Park
- Avoid degradation of scenic values and visibility from Great Basin National Park

The Stipulated Agreement

The stipulation set forth both hydrologic and biological monitoring, management and mitigation plans for groundwater development in Spring Valley. These plans, executed through a series of stakeholder working groups, will gather baseline biological and hydrologic baseline data to better characterize groundwater development. The groups include the executive

committee, the technical review panel and the biological work group. All decisions are consensus-based.

The Spring Valley Stipulation's Goals

- Avoid unreasonable adverse effects to groundwater-influenced ecosystems
- Avoid impacts to Great Basin National Park
- Maintain or enhance the biotic integrity and ecological health of Area of Interest

Monitoring Goals

- Establish baseline condition (7 years)
- Establish range of variability of indicators
- Understand and assess the response of ecosystems to groundwater withdrawal
- Give early warning of adverse impacts
- Determine if impacts are attributable to groundwater withdrawal
- Direct and evaluate management actions

Spring Valley Biological Monitoring Program

- 25 Monitoring sites
- Groundwater-influenced ecosystems
- Springs
- Perennial Streams
- Ponds (Shoshone)
- Wetlands
- Meadows
- Swamp Cedars
- Phreatophytic Shrublands

Commissioner Perea said it was very important to have the support of the Great Basin Park Service as part of the protestants to keep the project out of the Snake Valley. The parks service mission statement is "To maintain and allow enjoyment for people today and for the people in the future." Diane Weigmann, Department of the Interior, is the person to contact to seek more support.

Commissioner Perea said that the evidentiary exchange is scheduled for June 19, 2009 and the second evidentiary exchange is scheduled for August 21, 2009. The hearing will be held September 28, 2009 and should go for a two-week period. October 9 is reserved for public comment. It is hoped that the hearings will be televised. The protestants will be able to give comment from October 19 through October 29, 2009. Commissioner Perea said they are doing fund raisers to earn money to help pay litigation fees. Commissioner Perea thinks that the EIS model will be released at the very last minute.

Commissioner Smith said if it is not released, Millard County will file for a delay. Millard County and Juab County are trying to acquire funding to help cover court costs. The Central Nevada Regional Water Authority has a meeting

set up on March 27 in Ely, 10:30 a.m. Nevada time. The group will be meeting at the Border Inn on March 26, 2:00 p.m. for a tour of the area. Millard County Commissioners plan to attend the meetings.

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

Commissioner Smith attended the State Legislative Natural Resource Committee meeting on February 18 and spoke in behalf of Representative Brad Winn's bill. The bill has now passed the Committee, the House and the Senate.

All the Commissioners attended the UAC Legislative Committee in Salt Lake City.

On February 25, 2009, the Commissioners talked to the Bureau of Land Management ("BLM") about road right-of-way. The BLM is having an open house from 4:00 to 7:00 today.

Commissioner Whatcott visited with Jim Stevens, USU Extension, about the upcoming events. Mr. Stevens has diversified duties with the extension and is a great asset to the County. He offered to take a month cut in pay that would save the County \$2,240 in the payroll this year.

Commissioner Whatcott spoke with RB Probert from the BLM about getting the Millard County Weed Board up and going with Tony Anderson. Contingent on Millard County participating with the BLM, there is four thousand dollars from a previous year that could be added to \$5,000 in the spraying budget. Seth Olmes, USU Extension, was thanked for his help with the Diversified Ag Conference.

Attorney Waddingham had Commissioner Walker sign resolutions. Attorney Waddingham reported the school district is willing to pay maintenance fees on the ball grounds until it gets its own equipment purchased to take care of the grounds.

Commissioner Walker attended the Central Utah Mental Health Meeting in Richfield.

Commissioner Walker and Commissioner Smith attended the UAC Legislative session at the state capitol. Several proposed bills were discussed and supported/opposed by the county elected officials statewide.

Commissioner Walker and Commissioner Whatcott attended a Resource Advisory Committee (RAC) meeting in Beaver. Allen Rowley, Fishlake National Forest Supervisor, discussed the process needed to appoint RAC members. Membership applications are due April 10 and will be reviewed on April 15.

All three Commissioners introduced guest speakers Michael Styler, Department of Natural Resources Director, Dean Baker, rancher, and Mark Ward, UAC public lands advisor, at the Diversified Ag Conference. The speakers presented different perspectives of the Snake Valley water issue. The successful Diversified Ag Conference in Delta that was sponsored by USU and Millard County had about 200 people in attendance. The Commission extends special thanks to Linda Gillmor, economic development director, and her hard work in ensuring the success of the conference.

All three Commissioners attended a meeting at the BLM Field Office in Salt Lake City. Magnum Gas Storage proposed project on 2,150 acres area includes a natural gas storage field consisting of up to eight salt caverns in Millard County and approximately sixty miles of thirty- six inch diameter natural gas lateral pipeline that crosses Millard County, Juab County and Utah County.

Commissioner Smith made a motion to go into a second closed executive session to discuss the character, professional competence or physical or mental health of an individual.

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

After the closed executive session the regular meeting reconvened at 4:05 p.m..

WHERE UPON THE MEETING ADJOURNED

Commissioner Whatcott made a motion to adjourn the meeting.

Commissioner Smith SECONDED the motion. The voting was unanimous and the meeting adjourned at 4:07 p.m..

A WORK MEETING ADDRESSING THE FINANCIAL REPORT WAS HELD WITH AUDITOR GRACE, TREASURER HANSEN, AND ATTORNEY WADDINGHAM AND THE COMMISSIONERS AND IT WAS RECORDED.

A WORK MEETING DISCUSSING THE STEP AND GRADE PROGRAM WAS HELD WITH THE COMMISSIONERS, AUDITOR GRACE, ATTORNEY WADDINGHAM AND SHERIFF DEKKER AND IT WAS RECORDED.

The meeting was reconvened at 5:15 p.m. and Commissioner Whatcott made a motion to accept the 9 percent adjustment to the step and grade program being implemented over a two-year period. The first year will cost the county \$96,653.64 with a maximum of a one dollar an hour increase staying within the budget. The implementation of the second year will be determined by the budget. There was an oversight on the step and grade plan when it was adopted and the grades will be adjusted.

The steps will be funded as adopted starting with the next pay period. Commissioner Smith **SECONDED** the motion. The voting was unanimous and the motion carried. Ratification of this Commission action will be made by resolution at the next Commission meeting.

Commissioner Smith made a motion to adjourn the meeting. Commissioner Whatcott **SECONDED** the motion. The voting was unanimous and the motion carried. The meeting adjourned at 5:20 p.m. The motion will be ratified by Resolution at the next meeting on March 17, 2009.

Attest: _____

Approved: _____