

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 7th DAY OF SEPTEMBER 2010
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Daron P. Smith..... Chairperson
Bart A. Whatcott. Commissioner
Craig Greathouse..... Commissioner

Richard Waddingham County Attorney
Norma Brunson County Clerk
Marki Rowley. Deputy County Clerk

ALSO PRESENT: Tiffany James Magnum Gas Storage
Brian Pugh Magnum Gas Storage
Emery Polelonema Six County AOG
Russ Cowley Six County AOG
Ralph & Cyndi Confletti Citizens
Jim Kaufman Citizen
Sheryl Dekker County Planner
Linda Gillmor Millard County
Bryan Harris First Wind
Don Fuller ADF Holdings
Shelly Teuscher First Wind
Tony Fuller ADF Holdings
Brandy Grace County Auditor
John Hansen County Treasurer
Connie Hansen County Recorder
Robert Dekker County Sheriff
Richard Beckstrand IT
Todd Mullen Sunset View Golf Course

Note: Not all agenda items were followed in order.

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 Smith to the public and Commission members.

OPENING STATEMENTS

Commissioner Smith asked if anyone had an opening statement to give. Commissioner Whatcott read a quote from, John Wayne, "Talk slow, talk low and don't talk too much." Commissioner Whatcott said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

RATIFY THE APPROVAL OF THE AGREEMENT BETWEEN COCA COLA AND MILLARD COUNTY

Attorney Waddingham said that this agreement was approved subject to changes made by the attorney and would only need to be ratified if any changes were made. Commissioner Whatcott explained that in this agreement Coca Cola is agreeing to fund \$4,700 toward the purchase of score boards by the East Millard Recreation to be placed at the church fields in Fillmore. Other businesses are helping to fund the score boards as well.

RATIFY THE APPROVAL OF THE RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANT (RSAT)

Commissioner Whatcott made a motion to ratify the approval of the RSAT Grant. Commissioner Greathouse SECONDED the motion. The voting was unanimous and the motion carried.

RATIFY THE APPROVAL OF THE MILLARD COUNTY PUBLIC DEFENDER CONTRACT TO RUN FROM AUGUST 4, 2010 TO DECEMBER 31, 2011

Commissioner Greathouse made a motion to ratify the approval of the Millard County Public Defender Contract with Tate Bennett to run from August 4, 2010 to December 31, 2011.

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

REVIEW AND POSSIBLE DECISION FOLLOWING A PUBLIC HEARING HELD AUGUST 3, 2010 AND HAVING RECEIVED A FAVORABLE RECOMMENDATION FROM THE MILLARD COUNTY PLANNING COMMISSION REGARDING A CUP FOR A NATURAL OR MANUFACTURED GAS STORAGE AND DISTRIBUTION FACILITY (MAJOR) (SALT CAVERN NATURAL GAS STORAGE FACILITY) PROPOSED BY MAGNUM GAS STORAGE, LLC - APPLICANT. THE PERMIT IS FOR PROPERTY LOCATED SOUTH AND EAST OF THE IPP POWER PLANT AT THE INTERSECTION OF BRUSH WELLMAN HIGHWAY AND JONES ROAD, APPROXIMATELY 10 MILES NORTH OF DELTA. PERMIT # Z-2010-008

Commissioner Smith said that the commission held a public hearing on August 3, 2010. Issues were discussed but no decisions were made.

Today, there was more discussion between Millard County and Magnum Gas Storage representatives regarding the issues and concerns in regards to Magnum Gas Storage, LLC's Conditional Use Permit (CUP).

A work meeting was tentatively scheduled for Monday, September 13, 2010 to discuss this further.

Commissioner Greathouse made a motion to table the possible decision following a public hearing held August 3, 2010

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

REVIEW AND POSSIBLE DECISION FOLLOWING A PUBLIC HEARING HELD AUGUST 3, 2010 AND HAVING RECEIVED A FAVORABLE RECOMMENDATION FROM THE MILLARD COUNTY PLANNING COMMISSION REGARDING A CUP FOR A GAS PIPELINE RIGHT-OF-WAY (MAJOR) PROPOSED BY MAGNUM SOLUTIONS, LLC - APPLICANT. THE PERMIT IS FOR PROPERTY LOCATED APPROXIMATELY 15 MILES NORTH OF DELTA AND TRAVELING IN A NORTH-EASTERLY DIRECTION EXITING AT THE BOUNDARY OF THE MILLARD-JUAB COUNTY LINE. PERMIT # Z-2010-009

Commissioner Greathouse made a motion to table the decision.

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

UPDATE OF THE CIB LIST SIX COUNTY ASSOCIATION OF GOVERNMENTS

Russ Cowley, Executive Director, said that once a year he and Emery Polelonema, Regional Planner, meet with each of the county commissions to update its CIB List and other available programs and to get permission to go out and visit with members of each community.

Mr. Polenemino said that last year's CIB list is available for review on their website. He explained the process they go through to get the list put together.

Commissioner Whatcott asked if the list was prioritized. Mr. Cowley said that CIB would like to see a priority list in each county. They have requested that each county grade each project by an "A", "B", or "C" priority. Mr. Cowley said that if you are ready to go with the projects you put on the list, it makes it a lot easier to take those projects to CIB for funding.

Mr. Cowley said that because they are a planning district recognized by the state, by interlocal agreements signed by the counties, they are a clearinghouse for the state. If projects are on the list they will go forward with the projects when they come due. If a project is not on the list they would have to convene as an executive board and go through the process to get the project approved through the clearinghouse review.

POSSIBLE ADOPTION OF RESOLUTION 10-09-07, A RESOLUTION SUPPORTING THE LOCATION OF A NEWLY CONSTRUCTED VETERANS' NURSING HOME IN CEDAR CITY, IRON COUNTY, UTAH

This resolution states that Millard County will support Iron County to establish a veterans' nursing home to be built in the Cedar City area, because Iron County is centrally located.

Commissioner Whatcott made a motion to adopt Resolution 10-09-07, a resolution supporting the location of a newly constructed veterans' nursing home in Cedar City, Iron County, Utah.

Commissioner Greathouse SECONDED the motion. Clerk Brunson called for a roll call vote. Commissioner Whatcott voted YES. Commissioner Greathouse voted YES. Commissioner Smith voted YES. The voting was unanimous and the motion carried.

POSSIBLE ADOPTION OF RESOLUTION 10-09-07 A, A RESOLUTION TO AMEND THE MILLARD COUNTY FACILITY USE POLICY TO INCLUDE EQUESTRIAN RULES AND REGULATIONS FOR USE OF COUNTY PROPERTY OR BUILDINGS

Attorney Waddingham said that he met with Commissioner Whatcott and Kevin Morris, West Millard Recreation, regarding the equestrian facilities. It was decided that the best thing to do was to make two different schedules, one for the East Equestrian Park and one for the West Equestrian Facilities.

Attorney Waddingham requested that this item be tabled until the next meeting, giving him more time to go over the schedules.

Commissioner Whatcott made a motion to table Resolution 10-09-07 A, a resolution to amend the Millard County facility use policy to include equestrian rules and regulations for use of county property or buildings.

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

RESOLUTION 10-09-07 B, A RESOLUTION TO ADOPT PROCEDURES FOR ADMINISTRATIVE HEARINGS AND APPEALS BEFORE MILLARD COUNTY BOARDS

Since Resolution 10-09-07 A was tabled, this resolution will be re-numbered Resolution 10-09-07 A. This Resolution will be ratified at the next commission meeting.

Commissioner Greathouse made a motion to adopt Resolution 10-09-07 A, a resolution to adopt procedures for administrative hearings and appeals before Millard County Boards.

Commissioner Whatcott SECONDED the motion. Clerk Brunson called for a roll call vote. Commissioner Whatcott voted YES. Commissioner Greathouse voted YES. Commissioner Smith voted YES. The voting was unanimous and the motion carried.

Attorney Waddingham explained what the resolution entailed. Ms. Dekker asked if this resolution would include board of adjustments. Attorney Waddingham explained that board of

adjustments is a separate board created by state law. This resolution will basically be appeals to this board.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON PROPOSED TEXT AMENDMENTS TO SEVERAL GOALS, OBJECTIVES, AND IMPLEMENTATION STRATEGIES, AS CONTAINED IN THE MILLARD COUNTY GENERAL PLAN - HOUSING ELEMENT. THESE AMENDMENTS ARE BEING PROPOSED TO DEVELOP A MODERATE INCOME HOUSING PLAN AS PART OF THE MILLARD COUNTY GENERAL PLAN PURSUANT TO UCA 10-9a-103 AND 17-27a-403

Commissioner Greathouse made a motion to enter into a public hearing for the purpose of receiving public comment on proposed text amendment to several goals, objectives, and implementation strategies, as contained in the Millard County General Plan - Housing Element.

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

Present were: Sheryl Dekker, Linda Gillmor, Brian Harris, Ralph & Cyndi Conflitti and Jim Kaufman

Commissioner Smith called the public hearing to order at 11:00 a.m..

County Planner Sheryl Dekker said that this is an addition of an affordable housing plan to the general plan. She believes that for the most part this is something that is addressed more by the municipalities rather than the county because the majority of affordable housing is located within the municipalities, but there are rental units in the county as well.

The county needs to be able to show that it has an affordable housing plan in place for the CDBG and the CIB grants as well as the low interest rate loans the county applies for.

Commissioner Smith said that the amendments have been forwarded by the Planning and Zoning Board, who has given a favorable recommendation.

No other comments were made.

Commissioner Whatcott made a motion to go out of the public hearing.

Commissioner Greathouse SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at 11:05 a.m..

The regular meeting reconvened.

DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 10-09-07, AN ORDINANCE TO ADOPT PROPOSED TEXT AMENDMENTS TO SEVERAL GOALS, OBJECTIVES AND IMPLEMENTATION STRATEGIES, AS CONTAINED IN THE MILLARD COUNTY GENERAL PLAN - HOUSING ELEMENT TO ADOPT A MODERATE INCOME HOUSING PLAN AS PART OF THE MILLARD COUNTY GENERAL PLAN PURSUANT TO UCA 10-9a-103 AND

17-27a-403

Commissioner Whatcott made a motion to adopt Ordinance 10-09-07, an ordinance of Millard County, Utah amending the housing element of the Millard County general plan by incorporating a moderate income housing plan.

Commissioner Greathouse SECONDED the motion. Clerk Brunson called for a roll call vote. Commissioner Greathouse voted YES. Commissioner Whatcott voted YES. Commissioner Smith voted YES. The voting was unanimous and the motion carried.

DISCUSSION AND POSSIBLE APPROVAL OF INSURANCE RENEWAL RATES

This item was tabled.

DISCUSSION AND POSSIBLE APPROVAL OF USGS WEST DESERT WATER STUDY

Commissioner Smith said that Millard County entered into a contract with the United States Department of Interior and USGS to do a water study out on the west desert. They are studying the assessment of ground water flow pass, sources of water to springs and the connection between basin fill and carbonite aquifer in Snake Valley.

The original commitment was that the study would take four years and shows that Millard County committed to be the contract person on behalf of a number of counties that will participate as well.

USGS has committed to amend the contract ie; the contract time will end this year, and the amended amount will be \$172,160 for the total project. USGS will pay \$83,000 and Millard County and the other counties who have committed to contribute will pay \$89,160.

Linda Gillmor, Millard County Economic Development (MEDA), said that the county had committed verbally to do this project with USGS, so it seems reasonable to go through and review the work that has been done.

The amended contract will significantly decrease the amount the county will contribute this year and gives the county the leeway to review all the research that is being done to make sure there is no duplications.

It was discovered that there were some errors in the language which would need to be changed. Those changes will be made and the contract will be ratified at the next commission meeting.

Commissioner Greathouse made a motion to approve the USGS West Desert Water Study cost amendment, as amended.

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

FOLLOW UP WITH ADF HOLDINGS, LLC

This is a continuing matter dealing with a cash bond posted by ADF Holdings, LLC, for

gravel removal. ADF holdings, LLC, wants the county to release the cash bond and allow it to post a different surety.

Tony Fuller, ADF Holdings, LLC, presented the commissioners with the engineer's environmental analysis report as well as the restoration bid. At the last meeting he gave the commissioners the requested title report, the draft of the deed of trust, and a draft of the note and surety bond.

Mr. Fuller had Lance Saker do a quantity take off bid. Mr. Saker's bid to restore the area according to his plans is \$16,380. Mr. Fuller feels the cost of the restoration could decrease with time as long as they keep leveling the property as they extract the gravel.

The Fullers donated all the material for a right of way road going into the gravel pit, and the county graveled the road.

Commissioner Greathouse asked the Fullers whether they were able to get a cost estimate for a bond through another entity. Mr. Fuller said that the problem is that they do not know how long to buy the bond for and most of the agents they have approached said they do not do restoration bonds.

Attorney Waddingham said that there needs to be a termination date for reclamation. Mr. Fuller said that the reclamation date will be when the 20 acres is done which should be in about five years.

Mr. Fuller asked how long a person can keep a deed in escrow. Attorney Waddingham would not recommend the county to go this route because, if someone filed a claim or other encumbrance against the property, the county would lose its priority position in the property .

Commissioner Smith said that he wants to take some time to go over the information provided, with the attorney, to make sure that all requirements have been met with the CUP.

Commissioner Greathouse said that his main concern is that he does not want to put the county in a worse position than it is in now.

Commissioner Smith said that the commission would want to view the appraisal before any decision would be made. Mr. Fuller said that he will get the appraisal to Attorney Waddingham to present to the commissioners.

PUBLIC INPUT

Jim Kaufman, came before the commission with concerns of certain roads located on or around his land in Black Rock. He wanted clarification as to whether those roads are being claimed as county or private roads. He said that years ago a lady named Vicky Petersen came and requested old maps. She brought the maps over and made a copy and he feels now that this has come back to bite him.

His property is located on Township 24 & 25 ranges 8-11 there are two track roads that they

use to check on cows.

First Wind wants to cross the property to put in a monitoring tower. First Wind is claiming that it has the right to go across this road to put in the tower. Mr. Kaufman claims that it is a public road but it has no public access.

Attorney Waddingham said that the road has to be used continuously by the general public to be regarded as a public road. It does not automatically become a public road. It would require a court action.

Attorney Waddingham recommended that they check the county road maps to see how it is designated and to research the Planning and Zoning minutes and the commission minutes.

Commissioner Smith said that in most cases the property owner gives the county the right of way and the county maintains the road. The assumption is that this road is a county right of way. He will get with Sheryl Dekker and look at the maps and will then get back to them.

Mr. Kaufman also mentioned that there was supposed to be a landfill put in Iron County for Circle 4 Farms to deposit 20 tons of dead pigs a day. The Milford flat residents raised a fuss so now the Beaver County Commissioners want to put it north of Milford (by Fillmore).

Ralph Conflitti asked if the commission would fix a cattle guard on Antelope Point Road by his home that is broken and causing flat tires. Commissioner Smith said that he will talk to Thayne Henrie, Road Supervisor, to see when he could get it fixed. Mr. Conflitti gave direction on where the cattle guard was located.

He also said that as far as county roads are concerned the road leading into his property has never been maintained by the county.

Commissioner Greathouse made a motion to recess for lunch.

Commissioner Whatcott **SECONDED** the motion. The voting was unanimous and the motion carried. The meeting recessed at 12:37 p.m..

NOON LUNCH BREAK

Commissioner Whatcott made a motion to reconvene the meeting.

Commissioner Greathouse **SECONDED** the motion. The voting was unanimous and the motion carried. The meeting reconvened at 2:05 p.m..

OTHER BUSINESS

Commissioner Whatcott said that about a month ago the commission discussed Tammy Layne's janitorial contract. With the added duties of the baseball tournaments and horse races, Ms. Layne is having to clean the facilities more often. There was discussion that if more money is being requested for a contract, the contract would need to be rebid.

Commissioner Whatcott presented a copy of Ms. Layne's janitorial contract which states that the contract would be reviewed every year. The contract has not been reviewed since the contract was signed in 2007. He thinks that there needs to be a system set up to remind the commissioners

to review the janitorial contracts before the expiration date. The commission will review the janitorial contracts at the next commission meeting.

The commissioners want to have all contracts reviewed in a commission meeting sixty days prior to the contracts expiration date. *All original contracts are required to be filed in the clerk's office.*

Commissioner Greathouse said that he wants to get away from departments doing personnel duties when the county has a personnel department. He would also like to see a central location for all job applications. The commissioners will look into the policy to see if it requires the human resource department to do this.

AUDITOR'S REPORT

Auditor Grace presented the check edit of September 7, 2010 for the commissioners to review and sign.

She presented an invoice for the Wild Land Fire Suppression budget for 2009 fire costs. The county obligation amount that is due is \$1,876. She will forward this invoice to the Fire Service District.

Board of Equalization was scheduled for Tuesday September 28, 2010 at 9:00 a.m.. A tentative date to go over the assessor's adjustments was set for Monday, September 13, 2010.

POSSIBLE APPROVAL OF HARDSHIP ABATEMENT APPLICATIONS

There were none.

POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND OR ACTION

There was none.

TREASURER'S REPORT

Treasurer Hansen said that ADF Holdings in not a centrally assessed tax payer.

He presented the tax collection and distribution report for the month of August for the commissioners to review.

He notified the commissioners that the county had received additional mineral revenue money from the state. The state had collected more in fees than the \$2,000,000 and according to statue the extra money has to be distributed. The county's portion received was \$3631.70.

Treasurer Hansen also presented the commissioners with a copy of the notification of the

transfer of funds to the Special Service District No. 8 and the mineral lease account. He also presented a copy of the letter from the state.

Treasurer Hansen said that in reference to the stipulation of the agreement on Milford Wind Corridor Phase I, the difference in the reduction in value for Millard County for the year 2009 was \$6,600,000 which turns out to be a \$50,000 tax reduction to Millard County.

Treasurer Hansen received an email from Bruce Parker, Planning Consultant, addressed to the commissioners regarding Magnum Gas Storage and a meeting with the State Tax Commission. He feels like Mr. Parker should not be working on the tax process. That is only between the commissioners and those who work for the county on property taxes.

OTHER

WORK MEETING WITH ALL ELECTED OFFICIALS AND DEPARTMENT HEADS

A work meeting was held with all elected officials and department heads to discuss budget issues. *(A recording of this meeting in its entirety is filed in the clerk's office and is available for review)*

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

Commissioner Whatcott attended a Recreation/Maintenance meeting with Tresa Cranney and Clint Penney. They talked about upcoming events at the sports park and race track; and general maintenance issues and needed repairs and the facilities. The sports parks and the race track are looking real good thanks to the efforts of the jail crew and the East Millard Recreation crew.

Commissioner Whatcott attended the Constitutional Defense Council (CDC) meeting at the State Capital building. The current issues involve working with wildlife managers to help private land owners, as well as businesses and private developers, who have to deal with the White Tailed Prairie Dog issues in Southern Utah.

Commissioner Whatcott attended the Six County Public Health meeting in Richfield, Utah.

BLM is preparing to move into its new building. Commissioner Whatcott has discussed with BLM about acquiring some of its storage cabinets to install into the County's indoor arena and sports complex. This will save the county a considerable amount of money.

Commissioner Whatcott has also been working on using the work crew to paint the concession stands, in preparation for next year's event.

Commissioner Smith attended the Central Utah Council Center meeting on August 25. He also attended the Special Service District No. 8 board meeting, held in Fillmore on Sept 2.

Commissioner Greathouse had nothing to report.

APPROVAL OF AUGUST 17, 2010 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held August 17, 2010 were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Greathouse made a motion to approve the minutes of August 17, 2010 as corrected.

Commissioner Whatcott 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 Greathouse made a motion to go into a closed executive session to discuss pending or reasonably imminent litigation.

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

Present in the closed session were Commissioners Bart Whatcott, Daron Smith and Craig Greathouse, Attorney Richard Waddingham, Clerk Norma Brunson and Deputy Clerk Marki Rowley

After the closed executive session the regular meeting reconvened at 4:25 p.m..

WHERE UPON THE MEETING ADJOURNED

Commissioner Greathouse made a motion to adjourn the meeting.

Commissioner Whatcott SECONDED the motion. The voting was unanimous and the meeting adjourned at 4:26 p.m..

Attest: _____

Approved: _____