

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 1st DAY OF MARCH 2011
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Bart A. Whatcott. Chairperson
Daron P. Smith. Commissioner
James I. Withers. Commissioner

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

ALSO PRESENT: Connie Hansen County Recorder
Cindy Gubler UNEV
Pat Manis County Assessor
Shonda Robison First American Title
Ronda Williams First American Title
Robert Dekker County Sheriff
Brandy Grace. County Auditor
John Hansen County Treasurer

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 Whatcott to the public and Commission members.

OPENING STATEMENTS

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

RATIFY THE MOTION TO SUPPORT THE TOPAZ MUSEUM AND DELTA COMMUNITY CENTER RESOLUTION

Commissioner Withers made a motion to ratify the motion to support the Topaz Museum and Delta Community Center Resolution.

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

carried.

RATIFY THE APPOINTMENT OF TONY DEARDEN TO MILLARD ECONOMIC DEVELOPMENT ASSOCIATION (MEDA) BOARD

Commissioner Smith made a motion to ratify the appointment of Tony Dearden to the MEDA Board.

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

RATIFY THE APPROVAL OF CELL PHONE ALLOWANCES FOR MARGENE STEVENS, MICHAEL MAXWELL AND PATRICK BENNET

Commissioner Withers made a motion to ratify the approval of cell phone allowances for Margene Stevens, Assessor's Office, and Michael Maxwell and Patrick Bennet, Sheriff's Office.

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

DISCLOSURE STATEMENTS

Disclosure Statements were submitted from the following employees:

Robin Smith
Marki Rowley
John Orullion

The commission discussed each disclosure statement.

POSSIBLE APPOINTMENTS OF MILLARD COUNTY TOURISM COMMITTEE MEMBERS

Commissioner Withers made a motion to appoint Arva Dale Ashman and Jane Ann Draper as Millard County Tourism Committee Members.

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

POSSIBLE APPOINTMENT OF A MILLARD COUNTY WEED BOARD MEMBER

Commissioner Smith made a motion to table the appointment of a Millard County Weed Board Member

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

PUBLIC ANNOUNCEMENT OF COUNTY'S INTENT TO NEGOCIATE FOR ARCHITECTURE

AND ENGINEERING SERVICES FOR A NEW AMBULANCE SHED

Commissioner Whatcott announced that the county is negotiating for architecture and engineering services for the new ambulance building to be built at the south end of Fillmore.

Six County Association of Governments has the guidelines of what the requirements are to receive the grants needed to build the ambulance building.

Attorney Waddingham said that the county has the statutory powers to construct buildings and questions the need to set up a municipal building authority if bonding is not required.

Attorney Waddingham will research and find out for sure if this is required and will report back to the commissioners.

RECONSIDERATION OF ACTION TAKEN ON ORDINANCE 11-02-15 FOLLOWING A PUBLIC HEARING HELD FEBRUARY 15, 2011 ON PROPOSED AMENDMENTS TO THE MILLARD COUNTY GENERAL PLAN - FEDERAL AND STATE LANDS ELEMENT - MILLARD COUNTY RESOURCE MANAGEMENT PLAN AND OFFICIAL MILLARD COUNTY RESOURCE MANAGEMENT PLAN MAP

Attorney Waddingham explained that he made a few language changes to the ordinance that was adopted at the last meeting. He did not publish that ordinance, therefore it is not valid and the new ordinance will use the same number but would need to be voted on again.

He read the language changes made to the ordinance and explained that the changes were made for clarification.

ADOPTION OF ORDINANCE 11-02-15, AN ORDINANCE OF MILLARD COUNTY, UTAH AMENDING THE MILLARD COUNTY GENERAL PLAN - FEDERAL AND STATE LANDS ELEMENT - BY ADOPTING A RESOURCE MANAGEMENT PLAN

Commissioner Smith made a motion to adopt Ordinance 11-02-15, an ordinance of Millard County, Utah Amending the Millard County General Plan - Federal and State Lands Element - by adopting a Resource Management Plan.

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

POSSIBLE APPOINTMENT OF PRO TEMPORE JUDGES FOR MILLARD COUNTY JUSTICE COURT

Commissioner Withers made a motion to table the appointments of pro tempore judges for Millard County Justice Court. This item will be brought back to the commission as a resolution.

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

OTHER BUSINESS

Commissioner Withers said that he and Recorder Hansen had talked about a discrepancy regarding the county line between Millard County and Juab County.

Commissioner Smith said that the county went through a similar process where First Wind hired a surveyor to determine the county line. He explained that there is a process that the county will need to go through.

Recorder Hansen said that the recorders in Millard County and Juab County are trying to straighten out the boundary line in question.

Recorder Hansen and Juab County's Recorder discussed this issue and made a correction to show where the county line should be located.

In going through the records it was found that some pieces of property were being taxed by both counties. They are trying to fix this so it will not happen anymore.

Recorder Hansen and the commission discussed a map of the properties in question. More meetings will be held to try and resolve this issue.

Commissioner Smith said that Bruce Parker, County Consultant, made a proposal to rewrite the entire County land use ordinance, which would cost the county around \$72,000. Currently there is only about \$35,000 in the planner's budget.

Through conversations with Sheryl Dekker, County Planner, it was suggested to proceed with an agreement to pay Mr. Parker \$35,000 now and then to budget the remaining amount in next year's budget, making the final payment to Mr. Parker when the plan was complete.

The Commissioners are in favor of proceeding with this idea. Mr. Parker will meet with the Commissioners on Wednesday to further discuss this option.

Commissioner Withers would like to have Mr. Parker's time itemized to show what projects he is working on.

DISCUSSION AND POSSIBLE APPROVAL OF TWO FULL-TIME TEMPORARY EMPLOYEES - SHERIFF DEKKER

Sheriff Dekker has two employees from the jail who will be going out for active duty in June. He would need to hire two full-time temporary employees who have already been certified to fill those positions. The positions will need to be filled in May to offer a month's worth of training to learn the computer system and the methods within the facility.

These positions will fit in the Sheriff's budget since the new employees will only be filling the temporary absence of the two employees called to active duty.

Commissioner Whatcott explained the Uniformed Services Employment and Reemployment Rights Act (USERRA) Law.

Auditor Grace explained that the policy regarding temporary employees does not allow benefits for the positions.

Commissioner Smith made a motion to approve hiring two full-time temporary Sheriff's Office employees to fill the two vacancies until the regular employees on active duty return, and that those employees be treated as full-time regular employees to receive benefits while in those positions.

After discussion, Commissioner Smith rescinded his motion.

Commissioner Smith made a motion to approve two full-time temporary employees to fill vacancies created by two employees who were called to active duty and to treat those employees like full time regular employees and receive all the benefits except retirement.

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

Later, the commission revisited this agenda item and after further discussion Commissioner Smith made a motion to rescind the action taken.

Commissioner Whatcott explained that the current policy does not allow for full-time temporary employees to receive benefits. Auditor Grace read that section of the policy.

Commissioner Smith made a motion to hire two full-time temporary employees for the Sheriff's Office in compliance with County Policy.

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

DISCUSSION AND POSSIBLE APPROVAL REGARDING STEP AND GRADE ISSUES - SHERIFF DEKKER

Commissioner Smith said that the commission is currently working on several issues with the step and grade scale.

Commissioner Smith made a motion to table the approval regarding step and grade.

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

UNEV CONSTRUCTION AND PROGRESS UPDATE

Cindy Gubler reported the following:

- Overall, everything is going good.
- They are still working on the weather and contractor issues.
- The crews on the sand dune reroute have been released to continue to work on BLM land.
- The thought is that BLM will release them to continue work on the Sevier River area today.
- They are thinking that full crews will continue working in Millard County until May depending on weather and the BLM. Smaller crews will stay in Millard County until sometime this fall.
- Ms. Gubler thanked Commissioner Withers for getting the signs by the Tomahawk yard moved that were blocking the view of traffic.
- They will be boring around 20 ft at the lowest point of the river bed. How far back they bore from the river bank is all dependant on the environmental impact study and

- what people have asked them to do.
- They are pulling out a lot of the straw that they laid. If there are any weeds that come up UNEV will be responsible for removal.
- They have a plan in place of how they will revegetate that area.
- Ms. Gubler will let the commissioners know when they can visit the sites.

OPENING OF SEALED MAG CHLORIDE BIDS

The following bids were opened

- Dust Busters
 - \$382,460.00 (\$58.84 per ton) Delta
 - \$30,920.00 (\$61.84 per ton) outside of Delta
- Desert Mountain
 - \$66.90 per ton to both locations
 - \$120.87 per ton (alternative bid for a different product) for both locations

It was required that each bid be for a certain quality of mag chloride. The county has an agreement with the lime plant that the county will provide mag chloride on the roads from the lime plant's mines to its facility. The lime plant in return will have all the material for the county to use on its roads, which is a good value to the county.

The county has to provide all the material, equipment and the labor when they do this a couple times a year.

Commissioner Smith made a motion to accept the bids submitted and to have Thayne Henrie review those bids. A decision accepting a bid will be made at a later commission meeting.

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

REPORT ON THE ACCEPTANCE OF THE BIDS REGARDING 450 SEAT HIGHWAY TOWABLE BLEACHERS, AND SOLID PANELS AND GATES FOR 20 HORSE STALLS AT THE MILLARD COUNTY FAIRGROUNDS - KEVIN MORRIS

Kevin Morris said that Big T Recreation was the low bidder at \$61,000.00. The next low bid was approximately \$85,000.00. Big T Recreation has a set of 45 foot bleachers already built which is about 6 feet bigger than the bleachers listed in the bid. This would give the county around 40 extra seats and will only cost the county \$60.00 a seat vs \$100.00 a seat. Big T Recreation adjusted its price to reflect adding this set of bleachers. The revised total for the bleachers would be \$63,710.00 instead of \$61,000.00 which is a great deal for the county.

Mr. Morris budgeted \$65,000.00 for the bleachers and recommends the county accept the revised bid submitted by Big T Recreation in the amount of \$63,710.00.

Commissioner Smith made a motion to accept and approve the bid submitted by Big T Recreation with an adjustment in the purchase price in the amount of \$63,710.00 for the two bleachers.

Commissioner Withers SECONDED the motion. The voting was unanimous and the motion

carried.

Commissioner Smith made a motion to accept the bid submitted by Steve Reagan for the solid panels and gates for 20 horse stalls at the Millard County Fairgrounds in the amount of \$29,665.00.

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

OTHER BUSINESS CONTINUED

Commissioner Smith said that the county is proceeding forward with buying the fencing material and barricade the dirt track in Delta. The county will be reimbursed for the costs of the material which will come out of and be put back into the Capital Fund line item - West Millard Fair Facility.

Mr. Morris said that an agreement would need to be drawn up and signed that states that the county will be reimbursed for the costs incurred for the sponsor signs.

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

Commissioners Withers and Smith met on February 19, 2011 with the people who proposed the potash plant by the Dry Sevier Lake. They had big plans and good ideas on what they want to provide, including jobs to the county.

Commissioner Withers went to the rodeo meeting. They discussed future plans on bringing in revenue to the county.

Commissioner Withers met with Sheriff Dekker and Attorney Waddingham regarding an issue with the Recreation Center in Delta and the noise ordinance.

Commissioner Smith reported that he attended the UAC Legislative Conference Meeting on Thursday, February 24, 2011. Treasurer Hansen and Recorder Hansen attended via teleconference.

They discussed a number of bills. One of the bills discussed was Senate Bill 157 which would allow Millard County to enter into an agreement with First Wind to do equalized tax payments. UAC has taken a neutral position on this issue.

Adam Trupp represented the county on the revenue tax hearing. It was a 5 to 5 vote and did not come out of the committee. It may not go anywhere from there.

They talked to a few people regarding the money for the district courts. They were told that those courts that are located in the county seats will not be closed. They feel pretty confident that they will be able to keep those courts open.

There is a proposed bill that requires all justice courts to audio and video record all its court cases. UAC is going to oppose this bill.

UAC does a great job of tracking new bills and allowing the county to participate.

The Commissioners and the Auditor will be attending the NACo National Conference in Washington D.C., Thursday, March 3, 2011 through Wednesday, March 9, 2011. They will be participating in committee hearings and will be taking positions that would benefit Millard County and will be supported by lobbyists from our National Association. They will also be meeting with congressional staff and Federal Energy Regulatory Commission (FERC) representatives .

Commissioner Whatcott attended the Resource Action Committee (RAC) meeting in Richfield, Utah with Brian Tridel from the Forest Service. They were able to secure \$46,000 to help with roads on the Fish Lake National Forest; more specifically, the Chalk Creek Canyon Road and the Kanosh Corn Creek Canyon Road.

Commissioner Whatcott attended the ATV Jamboree meeting at the Fillmore BLM Field Office.

Commissioner Whatcott attended the Diversified Agriculture Conference in Richfield, Utah. He went on a tour of the Redmond Salt Mine Facility.

Commissioner Whatcott attended the Legislative Day in Salt Lake City, Utah along with Commissioner Smith. They were updated on the House and Senate Bills.

Commissioner Whatcott participated in a reading project that was sponsored by the Fillmore Library and hosted at the Fillmore Middle School. Students who participated in the reading program and were successful were given a certificate of achievement, candy bars and a commemorative uncirculated gold dollar.

Commissioner Whatcott attended his recreation and maintenance meetings. They are currently working on preparation for the upcoming high school baseball season, soccer season and horse races.

The Commissioners were contacted by Senator Orrin Hatch regarding the potash plant in the Sevier Dry Lake Bed.

PUBLIC INPUT

There was none.

Commissioner Withers made a motion to recess for lunch.

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

NOON LUNCH BREAK

Commissioner Smith made a motion to reconvene the meeting.

Commissioner Withers SECONDED the motion. The voting was unanimous and the motion

carried. The meeting reconvened at 1:44 p.m..

DISCUSSION REGARDING A POSSIBLE MORATORIUM ON BILLBOARDS IN MILLARD COUNTY - LYNETTE MADSEN

Lynette Madsen said that she has concerns with the possibility of billboards being placed on a piece of property that borders her property and the freeway, which would block her view of the West Desert.

Ms. Madsen has done some research and reported that there are several counties who have had issues with the placement of billboards all the way up the freeway. There is approximately 75 miles of interstate in Millard County and this is an issue that is going to come to Millard County.

Ms. Madsen is asking for a moratorium to be put in place until an ordinance can be written. This item will be addressed at the next commission meeting.

AUDITOR'S REPORT

Auditor Grace presented the check edit of February 28, 2011 for the commissioners to review and sign.

Auditor Grace received invoices from Chadwick Booth and Company. One invoice shows "Total Season One, Contract Deposit Amount" \$29,443.44 but is billing for \$9,814.48. The other invoice shows "Total Season One, Payment One" \$4,907.24. She questioned what the invoices were about.

Commissioner Smith said that one invoice is for the annual deposit to get started with the county television program. The more counties that sign up the less Millard County will have to pay.

Commissioner Whatcott talked to the cameraman who said that he will start gearing up for the ATV Jamboree.

Auditor Grace presented some expense reimbursements that need to be approved.

POSSIBLE APPROVAL OF HARDSHIP ABATEMENT APPLICATIONS

There were none.

POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND OR ACTION

There was none.

APPROVAL OF 2010 TAX OVERRIDES

Treasurer Hansen said that the tax overrides were presented but not approved at the February 15, 2011 commission meeting.

The total override adjustments were \$9,230.37. From that amount, \$6,526.03 was authorized

by the commission in one way or another.

Commissioner Smith made a motion to approve the 2010 tax overrides.

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

TREASURER'S REPORT

Treasurer Hansen provided the commission with requested information regarding IPP.

Treasurer Hansen clarified a portion of the minutes from the February 15, 2011 commission meeting.

Treasurer Hansen presented the Financial Report of Reconciliation between the Auditor and the Treasurer for the month of February.

Treasurer Hansen presented a record of the disbursements made from property taxes for the month of February that will be distributed in March.

He also presented the report of collection of property taxes and distribution for the month of February.

Treasurer Hansen said that at a previous commission meeting there was discussion regarding Darla Haws and the payment schedule that she has not kept up.

Treasurer Hansen contacted Ms. Haws and indicated to her that she had to do some things. She sent Commissioner Whatcott some information on her ability to pay those taxes.

Treasurer Hansen was contacted by Gaylon Lovell regarding his two pieces of property that are coming up for final tax sale this year. The total payment due is \$2,861.72. He may not be able to make that payment. Treasurer Hansen sent Mr. Lovell a letter stating that he would need to contact the commission if he wanted to make arrangements regarding these pieces of property and would need to do it soon.

Treasurer Hansen introduced Shonda Robison, First American Title. Ms. Robison has come to the commission to discuss some property in Kanosh.

Ms. Robison said that last July First American Title handled a transaction regarding the sale of a bank owned property in Kanosh. Washington Mutual was the bank that owned the property and questioned the taxes on the property.

First American Title researched and discussed the property with the Millard County Assessor. It was decided that the piece of property in question was actually owned by Fabulous Five. The commission sent a letter to Fabulous Five informing them of the error and told them that if they would pay the back taxes as soon as possible the penalties and interest would be waived. After conversations with Fabulous Five, they agreed to pay the delinquent taxes and the commission would agree to waive the penalties and interest.

Washington Mutual was afraid that if they did not pay the taxes it would affect the sale of the property, so they paid the taxes and are now asking that First American Title reimburse them for

the costs.

There was discussion on whether Millard County had any responsibility or if this was an issue between private parties.

Commissioner Withers made a motion to table this discussion and to have a meeting with all the parties involved. An additional letter will be sent to Fabulous Five reminding them that they are responsible for the taxes owed on the property.

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

OTHER

Commissioner Withers made a clarification to the minutes of February 15, 2011. He said that a person who has an easement cannot sell the easement. It can only be sold by the property owner.

APPROVAL OF FEBRUARY 15, 2011 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held February 15, 2011 were presented for consideration and approval. Following review and consideration of minor corrections Commissioner Withers made a motion to approve the minutes of February 15, 2011, as corrected.

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

There was none.

WHERE UPON THE MEETING ADJOURNED

Commissioner Withers made a motion to adjourn the meeting.

Commissioner Smith SECONDED the motion. The voting was unanimous and the meeting adjourned at 3:50 p.m..

Attest: _____

Approved: _____