

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 5th DAY OF APRIL 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: Dean Draper Chronicle Progress
Forrest Roper Sheriff's Office
Lynn Wall East Millard Youth Soccer
Mareen Casper Senator Orin G Hatch's office
Cindy Gubler UNEV
Sheryl Dekker Millard County P&Z
Boyd & Cori Schena Citizens
Glenda Johnson IAS
Neldon Johnson IAS
Connie Hansen County Recorder
Randy Johnson IAS
Pat Manis County Assessor
Cheryl Searle State of Utah DFCM
Brandy Grace County Auditor
John Hansen County Treasurer

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 Whatcott to the public and Commission members.

OPENING STATEMENTS

Commissioner Whatcott asked if anyone had an opening statement to give. Commissioner Smith read a quote from Thomas Jefferson: "This I hope will be the age of experiment in government, that their basis will be founded on the principals of honesty." Commissioner Smith said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

POSSIBLE APPOINTMENT OF A WEED BOARD MEMBER

This item was tabled.

POSSIBLE APPOINTMENTS OF PRO TEMPORE JUDGES

Attorney Waddingham said that a resolution to approve the appointment of any certified justice court judge in the Fourth Judicial District was approved at the last meeting, so this item could be stuck from the agenda.

Commissioner Withers made a motion to strike the appointments of pro tempore judges from the agenda.

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

POSSIBLE APPROVAL OF THE 2011 BLM CONTRACT FOR WEED TREATMENT

Commissioner Smith said that the agreement is for \$4,000. The county contracts with the BLM every year for this amount.

Commissioner Smith made a motion to -approve the 2011 BLM contract for weed treatment.

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

REVIEW AND DISCUSSION REGARDING REQUEST FOR PROPOSALS FOR ENGINEERING ON THE EAST MILLARD AMBULANCE BUILDING

Commissioner Whatcott said that the request for proposals for engineering on the East Millard Ambulance Building was publicly announced during a meeting held in February 2011. The commission contacted three engineering firms who submitted a proposal: Sunrise Engineering, Fillmore, Utah; Wall Engineering, Fillmore, Utah; and Jones and Demille Engineering, Richfield, Utah. The commission will review the proposals and announce a decision at a later commission meeting.

DISCUSSION REGARDING AYSO ISSUES - LYNN WALL

Lynn Wall, East Millard Soccer Commissioner, has been involved with the soccer program for fifteen years. He voiced his concerns regarding the use of the fairground facilities and said that

he feels that the soccer program has been treated unfairly when it comes to the use of the facilities.

The youth soccer program usually has over 200 participants from the ages of 4-14 who play soccer. In addition there are approximately 50 high school students and several adults who play on soccer teams.

Last year they had 20 coaches for the 20 youth teams. This year the middle school age soccer teams have been asked to play the surrounding areas such as: Delta, Gunnison, North Sevier, Beaver, Manti, North Sanpete and Richfield. Those teams want to play the games at 10:00 a.m. and 11:30 a.m. on Saturdays and on Wednesday nights. They wanted to play these games at the race track fields but were reminded that the soccer teams were only allowed on the fields between the hours of 12:30 p.m. and 7:00 p.m. daily, based on the new equestrian park policy. The soccer teams will now be playing the games at the middle school this spring instead of the race track fields.

In 2003 there was a meeting held between County Recreation representatives, soccer representatives and representatives from the horse track. Those in attendance at this meeting were: Max Wood, Gary Hone, Jer'E Brinkerhoff, Lynn Wall, Stephanie and Philly Aleman, Tony Alcala, and Kristine and Carl Camp. The purpose of this meeting was to make a schedule that was convenient for all of the parties involved. At this meeting it was decided that the soccer teams were allowed on the field after 11:30 a.m.. Later, a sign was placed at the race track stating that they were not allowed on the field until 12:30 p.m..

Last winter, the county equestrian park policy was amended. Mr. Wall felt that it had the effect of placing further restrictions on the use of the facilities for the soccer teams. This is making it really hard to run the soccer program. He gave several examples of why he feels that the soccer team takes the lowest priority on the fields.

Commissioner Whatcott said that he will talk with the other commissioners and to Jer'E Brinkerhoff about this issue and will get back to Mr. Wall.

WASHINGTON UPDATE WITH SENATOR HATCH'S OFFICE - MAREEN CASPER

Mareen Casper, Senator Hatch's office, updated the commission on the following, regarding Senator Hatch:

- The Senator voted against the band-aid approach to cuts.
- He is on the Finance Committee as a ranking republican, which means he has a lot of say on what is happening.
- He is also on the following committees: Health, Education, Labor and Pensions; Judiciary; Joint Committee on Taxation; Special Committee on Aging and the National Republican Senatorial Committee.
- Senator Hatch and Senator Lee along with all 47 republicans are introducing the balance budget amendment sometime this week or next week. This would require a super majority vote before any increases can be made to the budget.
- The Senator is really concerned with the energy concerns that the nation is having. The only gas and oil wells operating now are those that were permitted under President Bush and those located on private property. It takes 6 to 7 years to get an

- oil well up and running and even longer to get a refinery up and running.
- When Secretary Salazar issued Order 3310, Senator Hatch was concerned with the Emerald Peak mineral project. He called and asked if this order was going to hinder the project. He was assured that it would not and he could go ahead with the project.
- They recently received notice that SUWA gave notice of intent to appeal.
- The Senator is a part of the Western Caucus.
- The Senator has sponsored legislation to limit presidential power on national monument designations. He is also concerned with the amount of power that has been put in the hands of democracy.
- The Senator signed a no ear mark resolution, so there will be no earmarks out of the house. He hired Diane Browning who was the Development Director of Salt Lake Community College. Her sole responsibility will be to look into the agencies and the monies coming through for grants and to help the counties, cities and non profits who need help.

UNEV CONSTRUCTION AND PROGRESS UPDATE - CINDY GUBLER

Cindy Gubler reported the following:

- Overall the project is still going well.
- They finished up in the reroute area by Juab County.
- They finished boring under the Sevier River. The crews are just now south of the Sevier River working on a 7 mile stretch that has to be matted.
- As far as the re-seeding, according to the development plan, it says that the BLM needs to tell them when they are released.
- The areas where the certified straw was laid will be monitored more heavily due to those areas being considered as special noxious weed areas.
- The crews will be out of the county within the next couple of months. The plan is to be completed with the re-seeding at the end of April. A lot of the crews will be staying in the county as they work on different aspects of the project. Ms. Gubler will keep the commission informed on this.

Commissioner Whatcott said that the owner of the Rancher Café in Delta, Utah came to an Economic Development meeting. She expressed her appreciation for the UNEV workers and said that she has had to hire three new people to help with the rush.

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON AN APPLICATION REQUESTING A 7' VARIANCE ON THE SIDE SETBACK IN A RESIDENTIAL (R) ZONE FOR THE PURPOSE OF ADDING A GARAGE ONTO AN EXISTING HOME

Commissioner Smith made a motion to enter into a public hearing for the purpose of receiving public comment on an application requesting a 7' variance on the side setback in a residential (R) zone for the purpose of adding a garage onto an existing home.

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

Present were: Sheryl Dekker, Forrest Roper, Dean Draper, Boyd and Cori Schena and Cindy Gubler.

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

Boyd and Cori Schena are wanting to build an attached garage with a family room onto their home. The Schenas started the process and paid money to have the meters moved. They realized that the current ordinance states that an attached garage has to be 15 feet from the property line. The Schenas mailed out notices to their surrounding neighbors, none of which contested the Schenas building the addition to their home.

The Commissioners, Attorney Waddingham, Sheryl Dekker, Planning Coordinator and the Schenas discussed the variance and the requirements for obtaining a variance. Attorney Waddingham said that it is extremely difficult to obtain a variance. It may be easier to amend the ordinance.

Attorney Waddingham was unsure why the ordinance placed a greater set back requirement on an attachment to an existing home, as opposed to an unattached structure, and suggested that the Planning Commission look at this issue.

There were no other comments made.

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

Commissioner Withers SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at 11:36 a.m..

The regular meeting reconvened.

Commissioner Withers made a motion to enter into a board of adjustment.

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

Commissioner Smith said that he would like a little time to review the ordinance and to take some time to come up with a decision as to the variance.

This discussion will continue at a later commission meeting.

Commissioner Smith made a motion to go out of board of adjustment.

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

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON PROPOSED AMENDMENTS TO THE MILLARD COUNTY DEVELOPMENT CODE (A LAND USE ORDINANCE) ESTABLISHING PROVISIONS AND REQUIREMENTS FOR DEVELOPMENTS OCCURRING ON LANDS DETERMINED TO BE ENVIRONMENTALLY SENSITIVE, MILLARD COUNTY APPLICATION #Z-2011-004

Commissioner Smith made a motion to enter into a public hearing for the purpose of receiving public comment on proposed amendments to the Millard County Development Code (a land use ordinance) establishing provisions and requirements for developments occurring on lands determined to be environmentally sensitive, Millard County application #Z-2011-004.

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

Present were: Dean Draper, Sheryl Dekker, Connie Hansen, Brandy Grace, Randy Johnson, Neldon Johnson and Glenda Johnson

Commissioner Whatcott called the public hearing to order at 11:57 a.m.

Ms. Dekker said that there were some comments made at the initial planning and zoning meeting. The Planning and Zoning Commission has given a favorable recommendation.

There were no other comments made.

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

Commissioner Withers SECONDED the motion. The voting was unanimous and the motion carried. The public hearing closed at 11:58 a.m..

The regular meeting reconvened.

CONSIDERATION AND POSSIBLE ADOPTION OF ORDINANCE 11-04-05, AN ORDINANCE ON PROPOSED AMENDMENTS TO THE MILLARD COUNTY DEVELOPMENT CODE (A LAND USE ORDINANCE) ESTABLISHING PROVISIONS AND REQUIREMENTS FOR DEVELOPMENTS OCCURRING ON LANDS DETERMINED TO BE ENVIRONMENTALLY SENSITIVE

Commissioner Smith made a motion to adopt Ordinance 11-04-05, an ordinance on proposed amendments to the Millard County Development Code (a land use ordinance) establishing provisions and requirements for developments occurring on lands determined to be environmentally sensitive.

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

POSSIBLE ADOPTION OF RESOLUTION 11-04-05, A RESOLUTION TO AMEND SECTION IXB.4. OF THE MILLARD COUNTY PERSONNEL POLICIES AND PROCEDURES MANUAL ENTITLED "CONSIDERATION FOR STEP INCREASES" TO CLARIFY STEP INCREASES FOR EMPLOYEES ON PROBATION

Commissioner Smith read the language changes to the policy.

Commissioner Smith made a motion to adopt Resolution 11-04-05, a resolution to amend

section IXB.4. of the Millard County Personnel Policies and Procedures manual entitled “Consideration for Step Increases” to clarify step increases for employees on probation and to insert the following language: “Employees will be eligible for step increases as outlined by the step and grade schedule upon a favorable recommendation from their department head/elected official. Employees who become eligible for an increase, but are on some form of disciplinary action, will not be considered for an increase until the action is satisfied. Step increases will take effect on either the first payroll period in January following the County Commission’s approval of a step increase, or the first payroll period in July following the County commission’s approval of a step increase.”

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.

DISCUSSION REGARDING A SOLAR PROJECT IN THE ABRAHAM AREA BY INTERNATIONAL AUTOMATED SYSTEMS - NELDON JOHNSON

Neldon Johnson & Randy Johnson gave a presentation on a solar project that they have been working on for over a decade. They explained the inner workings of the project.

Commissioners Smith recommended that they visit with Derrel Owens, County Building Inspector and to present this project to the Planning and Zoning Commission.

Commissioner Smith made a motion to recess for lunch.

Commissioner Withers SECONDED the motion. The voting was unanimous and the motion carried. The meeting recessed at 1:03 p.m..

NOON LUNCH BREAK

Commissioner Withers made a motion to reconvene the meeting.

Commissioner Smith SECONDED the motion. The voting was unanimous and the motion carried. The meeting reconvened at 1:59 p.m..

RENEWAL OF THE LEASE AGREEMENT WITH ADULT PROBATION AND PAROLE (AP&P) - CHERYL SEARLE

Cheryl Searle presented the new lease agreement between Millard County and AP&P. The commission and Ms. Searle reviewed the lease agreement. The new lease agreement will be for \$7.50 per square foot.

Commissioner Smith made a motion to renew the lease agreement with AP&P for \$7.50 per square foot and to include the cost of labor for the remodeling done to the office.

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

PUBLIC INPUT

There was none.

OTHER BUSINESS

Commissioner Smith said that Department of Transportation has scheduled the Commission Chambers for a meeting to be held on April 19, 2011 from 2:00 p.m. to 4:00 p.m..

Commissioner Smith received a notice from the 3rd District Court informing him of a hearing scheduled between Uintah County and the Utah State Tax Commission, June 2, 2011 at 1:30 p.m. The reason Millard County received the notice was because the commissioners indicated that they will participate in the lawsuit with Uintah County over the valuation of the centrally assessed property with Deseret Transmission. Commissioner Smith will follow up with this and report his findings to the commission.

Commissioner Whatcott received a notice for public lands code to adopt the recent RMP.

Commissioner Whatcott received a letter from SITLA regarding the proposed 45kv power line assessment on SITLA land.

Commissioner Whatcott received a lot of information on roads.

Commissioner Whatcott asked if there were any roads the commission thought should be considered for the High Risk Roads program which was presented at an earlier commission meeting. It was decided to give the information to Thayne Henrie, Road Supervisor, to get his input on which roads he feels should be considered for the program.

AUDITOR'S REPORT

Auditor Grace presented the check edit of March 31, 2011 for the commissioners to review and sign.

Auditor Grace presented the bookmobile contract for January to June in the amount of \$58,171.00 for the commission to review and sign.

Commissioner Smith said that at certain times of the year some events cause the commissioners to exceed the limit of their credit cards. He is proposing that the commissioners' credit limit be increased to a \$5,000.00 credit limit.

Commissioner Smith made a motion to increase the commissioners' credit card limit from \$3,000 to \$5,000.

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

Auditor Grace said in the past when a department needed to exceed its budget the department

heads may have talked to the commissioners but it was not documented anywhere. With the direction things are going, she would like to prepare a more formal process which could be documented in the commission minutes.

The commission asked that Auditor Grace develop an application that can be used for requesting a department budget increase. The application would then be presented to the commission for approval.

Treasurer Hansen said that the statute indicates that if a department exceeds its budget that department or person is personally responsible for the amount over budget.

Auditor Grace and Treasure Hansen discussed their concerns with departments applying for grants and not making the Auditor or Treasurer aware of it. It has been discussed in the past that when applying for any grant, both the Auditor and Treasurer need to be made aware of it before the application is submitted.

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 presented the disbursement report for March which shows how much was distributed from the Treasurer's office on property taxes for that month. Because it is the end of the quarter every department or entity will receive a check regardless of the requested payment date.

The tax report shows the beginning pending balances, the collections and the amount received for property taxes.

Treasurer Hansen presented the condensed version of the financial report for the month of March between the treasurer and auditor. He explained the report in detail.

Treasurer Hansen said that Mark Caldwell came in and paid all of his property taxes so the penalties and interest were waived.

Treasurer Hansen sent letters to Darla Haws and Mani Grewal reminding them of the arrangements made regarding their property taxes.

OTHER

Assessor Manis and Recorder Hansen discussed with the commissioners a piece of property that is owned by an individual who leases the property to another individual. The individual leasing the property built a building on the property. The owner of the property is being billed for the property taxes on the building and has asked that the building be billed on a separate tax notice to

the owner of the building.

Recorder Hansen explained the process that would have to be done to separate the taxes and that if the building or property ever went into default the sale of that property/building would affect the other.

Assessor Manis said that he will contact the property owner and let him know that the county does not like to do this and that it would be in the best interest of the property owner not to do this.

Recorder Hansen discussed the county line between Juab County and Millard County. She said that they redone the line. They are now going to have to do an annexation and an annexation will cost the county some money. She is going to contact the Juab County recorder to see if he is wanting to do an annexation or if he wants to just verify the county line for agreement.

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

Commissioner Withers attended the Rodeo Committee meeting. He said that they are trying to get some issues straightened out. The Rodeo Committee has a new secretary and things seem to be going forward from there.

Commissioner Withers attended a meeting with Bill Wright regarding the state legislature address.

Commissioners Withers and Smith worked on and fixed an issue regarding a Delta resident and the building inspector.

Commissioner Withers attended the Miss Millard Pageant and thought it was good.

Commissioners Withers and Whatcott went on a field trip with UNEV and looked at the pipeline.

Commissioners Withers and Smith worked on step and grade.

Commissioner Withers met with Congressman Chaffetz, and Materion, fka Brush Wellman.

On Friday, Commissioner Withers, Attorney Waddingham, Planning and Zoning Administrator Sheryl Dekker, and County Planning Consultant Bruce Parker met with Magnum Gas Storage to help finalize Magnum's CUP.

Commissioner Smith participated at a round table with "The County Seat" television program which will air on Sunday, April 17, 2011. He put a banner in the paper informing the citizens when it will be aired and that it will be regarding Snake Valley Water issues.

Commissioner Whatcott attended the South Town Expo to promote Millard County Tourism and the National ATV Jamboree.

Commissioner Whatcott attended a field trip to the UNEV pipeline project with Cindy Gubler.

Commissioner Whatcott met with Congressman Chaffetz and his staff. They met with personnel and reviewed the sites at Magnum Gas Storage, the UNEV pipeline and the Milford Wind Farm. The following day Congressman Chaffetz met with leadership from Intermountain Power Agency.

Commissioner Whatcott attended the KOA open house in Fillmore. The KOA is now under new management by Dave and Connie Lewis.

Commissioner Whatcott attended the East Millard Maintenance and Recreation meeting with Klint Penney, Tresa Cranny and Jer'E Brinkerhoff. They talked about several horse events and tournaments being brought to Fillmore.

Commissioner Whatcott met with several contractors to review proposed cement work and minor remodeling to be done to the Millard County Court House.

Commissioner Whatcott met with Del Barnhurst and Brian Tridle from the Fishlake National Forest Service, and Stephen Jensen, Assistant Road Supervisor, to review the upcoming Forest Service road maintenance projects up Chalk Creek (Fillmore) and Corn Creek (Kanosh).

Commissioner Whatcott met with Derek Dowsett from the television program "The County Seat". They traveled to the West Desert and met with Nevada's White Pine County Commissioner Gary Paria and Esdale's David Sturlin and Jerold Anderson. The point of the visit was to talk about West Desert water for a segment to be aired in a couple of weeks.

APPROVAL OF MARCH 15, 2011 COMMISSION MINUTES

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

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

After the closed executive session the regular meeting reconvened at 4:31 p.m..

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 4:32 p.m.

Attest: _____

Approved: _____