

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 20th DAY OF DECEMBER 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: Tiffany James Magnum Gas Storage
Linda Gillmor Millard County EDD
Dean Draper Chronicle Progress
Leo Stott LB Ranch
Chris Allen Citizen
Jake Smith The Journey
Robert Dekker County Sheriff

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 Whatcott said that it is good to have all our troops home. Commissioner Withers said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

RATIFY THE APPROVAL OF THE PROPOSAL FROM LARSEN AND ROSENBERGER TO CONTINUE WITH THE COUNTY’S INDEPENDENT AUDIT FOR THE NEXT THREE YEARS

Commissioner Smith made a motion to ratify the approval of the proposal from Larsen and

Rosenberger to continue with the county's independent audit for the next three years.

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

RATIFY THE APPROVAL OF THE 2012 WILD LAND FIRE BUDGET

Commissioner Smith made a motion to ratify the approval of the 2012 Wild Land Fire Budget.

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

DISCUSSION AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR CERT OPERATIONS III, LLC

A business license application was presented for CERT Operations III, LLC, for treating and supplying coal. After review of the application and finding all the signatures in order, Commissioner Withers made a motion to approve the business license for CERT Operations III, LLC.

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

DISCUSSION AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR THE JOURNEY - OWNER JAKE SMITH

A business license application was presented for The Journey - owner Jake Smith, for an at risk youth program. After review of the application and finding all the signatures in order, Commissioner Smith made a motion to approve the business license for The Journey - Owner Jake Smith.

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

DISCUSSION AND POSSIBLE APPROVAL OF THE WORKER'S COMPENSATION PROPOSAL WITH UTAH LOCAL GOVERNMENTS TRUST

Auditor Grace talked to representatives from Utah Local Governments Trust. They basically wanted to make the county aware of the 120 day notice requirement for termination with Utah County Indemnity Pool (UCIP), if the county chooses to go with their proposal.

Commissioner Smith said that the county currently goes through Utah Worker's Compensation Fund of Utah for worker's compensation insurance which is handled through UCIP. The fee is a little higher with UCIP than the proposal from Utah Local Governments Trust.

The County's 2012 worker's compensation fee with UCIP will be \$84,359.91.

Commissioner Smith made a motion to deny the Worker's Compensation proposal with Utah Local Governments Trust and to stay with UCIP for the County's worker's compensation.

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

MAGNUM GAS STORAGE CONSTRUCTION AND PROGRESS UPDATE

Tiffany James, Magnum Gas Storage, reported the following:

- On December 5, 2011, they received the FERC notice to proceed with construction. They now have access to the site of all the jurisdictional facilities to begin construction. The notice to proceed was for roads, pads, piping and everything except for initiation of drilling for the gas cavern storage and construction of the brine ponds. They will request the notice to proceed for these projects when they finish the application for the drilling permit with the Division of Oil, Gas and Mining and when they do some additional geotech work where the new third pond has been moved across the road. They are anticipating starting that in March.
- They are on track for starting construction on January 16, 2012.
- They have been working on their preconstruction commitments which include the vegetation success survey and road condition base line survey.
- The County plan reviewer has approved the Phase 1A civil engineering design. The County has received the approved civil engineering design for Phase 1A. Sheryl Dekker, County Planner, and Derrel Owens, County Building Official, are calculating the building permit fee.
- Magnum provided a natural gas storage products project construction table, listing the square footage of the non-occupied and occupied buildings to be constructed by construction phase.
- They are going to mow down all of the vegetation to about a foot so they do not run into a migratory bird period.
- The Natural Gas Liquid (NGL) transfer facilities will come sometime around August.
- They discussed abandoning certain roads in the project area and the process that is required.

DISCUSSION REGARDING PRIVATE PROPERTY LOCATED IN THE TRANSMISSION LINE CORRIDOR - LEO STOTT

Leo Stott said that he feels that his property rights have been violated. He said that he signed a lease with First Wind the end of August or first part of September, for the purpose of putting a windmill on his property. He said that his property is located inside the corridor and the county prohibited him from allowing windmills to be placed on his property. He said that he feels infringed upon that he cannot make money on his property.

He feels that as a property owner he should have the right to receive revenue if the option comes up. He asked if the county would move the transmission corridor so his property would not be included in it. If the county will not move the corridor he is requesting that they reimburse him the money he would have received from leasing his property to Milford Wind, which is a few thousand dollars a year.

The commissioners and Mr. Stott discussed his property and what process the commissioners went through to notify property owners of the corridor. A question was raised as to why Mr. Stott and First Wind entered into a lease agreement prior to First Wind receiving approval of its application for a CUP to place turbines inside the energy corridor.

The Commissioners said that they will look into Mr. Stott's inquiry and will get back to Mr. Stott.

REVIEW AND POSSIBLE APPROVAL OF THE GBS REPRESENTATIVE AGREEMENT

Commissioner Smith said that the county contracts with a third party to administer the county's health care benefits. GBS presented a contract to provide benefit services to the county.

Commissioner Smith explained that the county pays a 3% fee to the health insurance carrier for administration of the plan, which has been paid to PEHP. The county can take the 3% and hire any entity to administer a plan for Millard County.

Attorney Waddingham went over his concerns with the contract and his recommendations for changes to the contract.

Commissioner Smith made a motion to table the approval of the GBS Representative Agreement until after lunch.

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

Later in the meeting, the commissioners had a conference call with GBS representatives to discuss the agreement and proposed changes to the contract.

Commissioner Withers made a motion to table the approval the GBS Representative Agreement to the next meeting.

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

DISCUSSION AND POSSIBLE APPROVAL OF RICK ARCHIBALD AND TONY DEARDEN TO SERVE A SECOND TERM AS MILLARD ECONOMIC DEVELOPMENT ASSOCIATION (MEDA) BOARD MEMBERS

Commissioner Smith made a motion to approve Rick Archibald and Tony Dearden to serve a second term as MEDA Board Members.

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

DISCUSSION AND POSSIBLE APPROVAL OF SHIRLEY WESTENSKOW TO SERVE A SECOND TERM ON THE MEDA BOARD AS THE MEDA CHAIRPERSON

Commissioner Withers made a motion to approve Shirley Westenskow to serve second term

on the MEDA Board as the MEDA Chairperson.

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

PUBLIC HEARING FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT ON AN APPLICATION FOR A RECYCLABLE MARKET DEVELOPMENT ZONE

Commissioner Smith made a motion to enter into a public hearing for the purpose of receiving public comment on an application for a recyclable market development zone.

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

Present were: Sheriff Robert Dekker, Dean Draper and Linda Gillmor.

Commissioner Whatcott called the public hearing to order at 11:07 a.m..

Linda Gillmor presented the commissioners with a copy of the application that she proposes gets sent into the state. She read through the application which explains the benefit this would be to our county.

This has nothing to do with establishing a zone for land use purposes. It is an overlay, economic incentive offered by the State. This is a statewide incentive which may or may not get re-approved during the legislative session. If this gets approved by the end of the year, there will be a five year term that businesses can use this economic incentive which may be beneficial to existing businesses, especially those trying to get up and running.

She went over the map that is attached to the application which shows the development zone locations. She is recommending that the development zone cover all private property in the county, excluding municipalities. Municipalities are responsible for creating its own zones. Fillmore is the only one she is aware of who has already done this.

She gave examples of a few companies already involved in this, including; Blue Earth Recycling, Paramount Cubing, Double T Feed and Tire Derived Fuel Industries which is set up to shred tires.

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 11:16 a.m..

The regular meeting reconvened.

DISCUSSION AND POSSIBLE APPROVAL OF AN APPLICATION FOR A RECYCLABLE MARKET DEVELOPMENT ZONE

Commissioner Withers made a motion to approve the application for a recyclable market

development zone.

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

Ms. Gillmor said that she would like to let the businesses know this was approved. She also said that through the Business Expansion and Retention Program they have been working with about ten to fifteen of the larger industries as far as what type of skills are required from their employees.

Ms. Gillmor said that the county is in a bit of a crisis situation regarding certain skills and training for some of the jobs coming into the county i.e. Peak Minerals. She will come back in January to update the commissioners on this issue.

POSSIBLE ADOPTION OF RESOLUTION 11-12-20, A RESOLUTION OF THE BOARD OF COMMISSIONERS OF MILLARD COUNTY, STATE OF UTAH, TRANSFERRING UNENCUMBERED OR UNEXPENDED APPROPRIATION BALANCES FROM ONE DEPARTMENT IN A FUND TO ANOTHER DEPARTMENT WITHIN THE SAME FUND

Auditor Grace said that department funds have to show a balance that is under budget. If a department fund shows a balance that is over budget, she will take funding from similar type budgets, when she can, to try and bring those department fund balances under budget. She does not see that she will have to move a lot of money around.

Commissioner Smith said that they usually review a report of the departments who went over budget. Auditor Grace said that she will start on this as soon as she gets the go ahead from the commission. She will attach the journal entries when she finalizes the payables.

Commissioner Smith made a motion to adopt Resolution 11-12-20, a Resolution of the Board of Commissioners of Millard County, State of Utah, transferring unencumbered or unexpended appropriation balances from one department in a fund to another department within the same fund and to attach the final reports when they are completed.

Commissioner Withers SECONDED the motion. Clerk 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 11-12-20A, A RESOLUTION OF THE BOARD OF COMMISSIONERS OF MILLARD COUNTY, STATE OF UTAH ADOPTING THE FINAL BUDGET FOR MILLARD COUNTY FOR FISCAL YEAR 2012 AND FIXING SALARIES FOR VARIOUS COUNTY OFFICERS

This item was tabled until after lunch.

Later, Auditor Grace said that she has all the latest changes. She gave an update of the changes made to the tentative budget. She said that salaries and benefits have been reviewed and adjusted. She said that \$20,000.00 was added to the Ambulance budget to allow for adjustments to be made to the EMT salaries.

The total Fund 10 budget is \$13,350,400 which includes an increase to fund balance of \$382,845. Auditor Grace said with the exception of the Ambulance Fund, everything else stayed the same. There were some adjustments made to Capital Projects Fund so that budget is \$723,900 of which \$402,100 is anticipated to come from Capital Projects Fund balance and \$320,000 from Grants.

Commissioner Smith made a motion to adopt Resolution 11-12-20A, a Resolution of the Board of Commissioners of Millard County, State of Utah, adopting the final budget for Millard County for fiscal year 2012 and fixing salaries for various county officers.

Commissioner Withers SECONDED the motion. Clerk 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.

Attorney Waddingham discussed the public hearing notice requirements on adopting the final budget. He said the County complied with the notice requirements by timely filing the tentative budgets for public review, publishing notice of the budget hearing in the Millard County Chronicle-Progress and mailing notice of the public hearing with the county tax notices. The notice was not posted on the Utah Public Notice Website. We need to be cognizant that public hearing notices are properly posted on the Website.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 11-12-20B, A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A FIFTH AMENDED INTERLOCAL COOPERATION AGREEMENT WITH OTHER MEMBERS OF UTAH COUNTIES INDEMNITY POOL (UCIP), RELATING TO THE ESTABLISHMENT, FUNDING AND OPERATIONS OF UCIP

Commissioner Smith explained that UCIP is not an insurance company but rather an indemnity company, so it changed its name from Utah Counties Insurance Pool to Utah Counties Indemnity Pool. This was approved at a board meeting and now needs to be approved by the counties.

Commissioner Smith made a motion to adopt Resolution 11-12-20B, a Resolution approving and authorizing the execution of a fifth amended interlocal cooperation agreement with other members of UCIP, relating to the establishment, funding and operations of UCIP.

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 AND POSSIBLE ADOPTION OF RESOLUTION 11-12-20C, A RESOLUTION OF THE MILLARD COUNTY COMMISSION AMENDING SECTION IX OF THE MILLARD COUNTY PERSONNEL POLICIES AND PROCEDURES MANUAL FOR THE PURPOSE OF CREATING A NEW POSITION IN THE RECREATION DEPARTMENT ON THE MILLARD COUNTY STEP AND GRADE SCALE

Commissioner Whatcott explained the reason for creating this position. He said in the past the person over recreation was doing all the ordering, stocking and scheduling of the people to work the concessions. She did not have the time to coordinate the concessions, personnel and schedules.

Ms. Orullian, the new recreation person, thinks that creating this new position will improve recreation and create revenue for the county. She and Terry Cummings have worked through possible issues and feel it will be successful.

Commissioner Withers made a motion to adopt Resolution 11-12-20C, a Resolution of the Millard County Commission amending Resolution 09-03-17 (adopting the Millard County Step and Grade Scale), by creating a new position in the Millard County Recreation Department for a concessions supervisor and assigning an appropriate step and grade for the new position.

Commissioner Smith 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.

PUBLIC INPUT

There was none.

APPROVAL OF DECEMBER 6, 2011 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held December 6, 2011 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Withers made a motion to approve the minutes of December 6, 2011, as corrected.

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

APPROVAL OF THE BUDGET HEARING MINUTES OF DECEMBER 6, 2011

The proposed minutes of a budget hearing held December 6, 2011 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Withers made a motion to approve the minutes of the December 6, 2011 budget hearing, as corrected.

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

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

Commissioner Withers said that he appreciated the comments made at the budget hearing to help the county stay on track.

Commissioner Withers met with Max Wood to discuss recreation.

Commissioner Withers met with Thayne Henrie to discuss the Road Department.

Commissioner Withers met with representatives from GBS to discuss the county benefit package that was recently adopted.

Commissioner Smith and Treasurer Hansen attended a centrally assessed meeting on December 12, 2011 in Salt Lake City, Utah. Millard County was one of the eight counties that actively participates in centrally assessed issues. The counties involved came up with a PR Campaign. They talked about continuing the way they fund the centrally assessed litigation activity. They will be having more meetings with having Millard County more involved.

Commissioner Whatcott attended a Six County Business of the Year Recognition Banquet held in Richfield, Utah on December 7, 2011. Utah Dairy Farmers Coop, located in Delta, was recognized as the business of the year for 2011.

Commissioner Whatcott attended a Senior Citizen Center meeting on December 12, 2011. There was a group of Senior Citizens who wanted to pull out of the Six County Organization due to their frustration caused by Six County terminating one of its employees who was heavily involved with the Senior Citizen Center.

Commissioner Whatcott met with Scott Christensen and also met with some of the senior citizens to discuss the advantages of why they should stay with Six County. It was decided to stay with the Six County program. The Senior Citizen Center benefits from the Meals on Wheels Program offered through the Six County program.

Commissioner Whatcott met with the Piute Trail Committee on December 14, 2011. They talked about the upcoming ATV season and recreation in general on Fishlake National Forest.

Commissioner Whatcott met with representatives from the Forest Service. They discussed making a better trail map which will identify trails that are side by side friendly or restricted to 50 inches or less. They are in the process of creating a new map of the ATV trails, to be handed out to tourists and ATV riders.

Commissioner Whatcott attended Larry Gray's retirement party. Larry Gray served as the Southwest Regional Director with the State Parks.

All three Commissioners met with IPA General Manager, Jim Hewlett, and Assistant Manager, Dan Eldridge. They discussed each party's concerns and how they can continue to have a good working partnership.

All three Commissioners met with Millard School District Superintendent David Styler and Business Administrator Keith Griffiths. They discussed the plans for proceeding on the high school building projects. They also discussed money figures and talked about how to proceed. Construction is scheduled to start in May and will continue into the next year. They are hoping to have it complete by the first part of the next school year. They are looking at starting all the projects

simultaneously.

It was a good meeting to have them sit down and explain this to the commissioners and to address some concerns.

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 12:01 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 1:17 p.m..

ASSESSOR'S REPORT

Assessor Manis said that Representative Painter has submitted a bill which will change the personal property exemption from \$3,800.00 to \$25,000.00. He gave the commissioners a handout which shows how this new bill, if passed, will affect the county.

He said this bill also is proposing exempting the first \$25,000 on those that will be over the \$25,000.00 exemption. He said that this will cause a shift in taxes that will create an increase in other areas. He provided a breakdown of where the shift will occur for each tax district.

Assessor Manis said that he and the Assessor's Association have several problems with this proposed bill. It is going to create an administrative nightmare, in addition to causing inequity in the way taxes are currently dispersed. He asked the commissioners for their support in fighting this bill.

OTHER BUSINESS

Commissioner Whatcott read a thank you letter he received from the Fishlake National Forest Fillmore Ranger District.

Commissioner Whatcott received a letter from Chad Boothe regarding the County's participation in the County Seat Program.

Commissioner Smith said that he would like to propose the county give a one time 2% cost of living adjustment (COLA) for all full-time county employees. He said that some budget revenue was higher than anticipated. The county has had a good year and the county employees have done a good job.

Commissioner Smith made a motion to approve a one time 2% COLA for the 2011 budget year.

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

AUDITOR'S REPORT

Auditor Grace said that they received notice from the State Auditor's Office that Drainage District 2 and the Water Conservancy District have not filed their reports.

Auditor Grace presented a summary report for the Workers' Compensation Fund. She questioned if the County's Accident Review/Safety Committee is still active. She said that the Safety Committee is no longer required by UCIP for the Risk Awareness Program. The commission previously discussed the benefits to the county for continuing that committee. Workers' Compensation has some suggestions for safety training.

The committee will meet after the first of the year and will report back to the commission with anything from that meeting.

Auditor Grace presented invoices from UAC: third quarter centrally assessed litigation fees in the amount of \$6,010.74; 2012 public lands assessment for \$3,500.00; and 2012 membership dues for \$11,656.00.

Commissioner Smith said that the UAC dues have gone down just barely. The special assessment for public lands is for Mark Ward, whom the county uses him extensively. The centrally assessed quarterly portion is based on an 80/20 split, Millard County pays 80% and UAC and MCAT pay the remaining 20%. All of these items have already been budgeted.

Auditor Grace read a letter received from William York requesting the names, addresses and phone numbers of all Millard County Justice Court Nominating Commission members that would have served the last five years.

Attorney Waddingham said that he received a notice on a class action suit dealing with brand name prescription drugs. He questioned why Millard County was named a party to this. The letter states that the county opted out of the claim but has the option to re-enter the settlement. He provided the notice and information to Auditor Grace to follow up on this matter.

POSSIBLE APPROVAL OF HARDSHIP ABATEMENT APPLICATIONS

There was none.

POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND OR ACTION

There was none.

TREASURER'S REPORT

Treasurer Hansen received a letter from Lynn Keller, a county property owner who lives in Las Vegas, regarding property taxes for 2011 but relates to a couple of years prior to that. The letter indicates that they have tried to resolve tax issues but have been totally unsuccessful, and as a result are now going to file lawsuit.

Treasurer Hansen discussed this with Assessor Manis, who feels like there was an error on the part of the county and is recommending a change be processed as far as valuation which will result in a reduction in property taxes. They will go ahead and process that with the commissioners approval. When the payment was made the taxes were late so the penalty would be appropriate but the amount owed was incorrect.

Treasurer Hansen presented the commission with the special distribution list of property taxes for the middle of the month of December. He went over the amounts distributed to the county and the school district, and the collections received from First Wind and Intermountain Power.

Treasurer Hansen reminded the commission that they need to consider the amount that has been appealed by First Wind. He said that First Wind has appealed approximately \$85,000,000.00 of its tax value. If its appeal is won the County would be required to refund approximately \$280,000.00. This is the county's portion of the refund only, it does not include any of the other taxing entities. If the county chooses to recover that amount through a judgment levy it would be done through a tax rate of about .000200, to all property owners in the county.

The school district would also have to refund the portion of the taxes generated from the \$85,000,000.00 and could also assess a judgment levy for the amount of their refund. Treasurer Hansen was unsure of the affect on other taxing entities and if they could also assess a judgment levy.

Treasurer Hansen also presented the commission with a financial report as of December 19, 2011, which shows the balances available, and a comparison fund balance from 2008-2011 as of December 15, 2011. He went over the figures on that form.

OTHER

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

There was none.

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

WHERE UPON THE MEETING ADJOURNED

Commissioner Smith made a motion to adjourn the meeting.

Commissioner Withers SECONDED the motion. The voting was unanimous and the meeting adjourned at 2:55 p.m..

Attest: _____

Approved: _____