

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 21st DAY OF MAY 2013
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: Daron P. Smith..... Chairperson
James I. Withers..... Commissioner
Alan M. Roper..... Commissioner

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

ALSO PRESENT: Dean Draper..... Chronicle Progress
Stephen Jensen..... County Road Department
Arlan Crafts..... Citizen

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, Utah, 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 Withers read a quote from Thomas Jefferson: “It is while we are young that the habit of industry is formed. If not then, it never is afterwards. The fortune of our lives therefore depends on employing well the short period of our youth.” Commissioner Roper said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF MAY 7, 2013 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held May 7, 2013 were presented for consideration and approval. Following review and consideration of minor corrections, Commissioner Roper made a motion to approve the minutes of May 7, 2013, as corrected.

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

FOLLOW UP ACTION ITEMS FROM MAY 7, 2013

Commissioner Roper sent Commissioner Smith a letter recommending Abe Johnson to serve as a board member on the Great Basin Heritage Board.

Commissioner Roper visited with Crandal Nelson and Phil Johnson regarding the Oak City right-of-way. He said that they cannot access the first reserve with their ATVs. The Forest Service will not let them on the Forest Service road. They are requesting to be able to use the County road as access. The Commission asked if the restriction by the Forest Service is due to a safety issue. It was suggested to contact Dell Barnhurst, Forest Service, to get more information regarding this issue.

Commissioner Withers reported that the West Millard Rodeo Club (WMRC) high school rodeo had more participants this year than it has ever had. He said that it was a good event. The WMRC really appreciated the County for its efforts and the use of the nice facilities.

Commissioner Smith said that it was a big event.

RATIFY THE MOTION TO DONATE \$1,000.00 TO THE EAST MILLARD RACE ASSOCIATION, IF THERE IS FUNDING AVAILABLE

Commissioner Roper said that he did some checking and found that there is some funding in Fund 10 for this donation.

Commissioner Roper made a motion to ratify donating \$1,000.00 to the East Millard Race Association. This donation will contribute to the prosperity and convenience of the County.

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

RATIFY THE MOTION TO WAIVE 50% OF THE BALL FIELD RENTAL FEE FOR ROCKY MOUNTAIN BASEBALL LEAGUE

Attorney Waddingham said that there is a non-profit company called Rocky Mountain School of Baseball. It was determined that this is the same company.

Commissioner Withers made a motion to ratify waiving 50% of the ball field rental fee for the Rocky Mountain Baseball League if they decide to play in Millard County. This is a non-profit 501(3)(C) entity. It will contribute to the prosperity and convenience of the County.

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

AUDITOR'S REPORT

Auditor Grace presented a notice of appointment of deputies for the auditor's office for filing.

Auditor Grace received a notice from NACo regarding elections and identifying who will be the County's authorized representative for voting in July. Commissioner Smith and Commissioner Roper will be attending the conference which will be held in Dallas Fort Worth, Texas, July 19 through July 22, 2013.

Commissioner Withers made a motion to appoint Auditor Grace as Millard County's delegate and Commissioner Roper as the alternate for voting at the NACo Conference.

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

Auditor Grace presented an agreement with the State of Utah for the bookmobile services in the amount of \$110,561.00, effective July 1, 2013 through June 30, 2014. This is a budgeted item and requires a signature.

Commissioner Roper made a motion to approve the agreement between Millard County and the State of Utah for bookmobile services in the amount of \$110,561.00.

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

Auditor Grace presented the signature form for appointing Assessor Pat Manis to the MCAT Board. This was already approved in a previous commission meeting.

Auditor Grace presented the 2013 invoice for the Joint Highway Committee dues payable to UAC in the amount of \$50.00.

Auditor Grace reminded the Commission that the tax sale is scheduled to be held on May 30, 2013 at 10:00 a.m..

She said that Daneal Shoup has made prior payments toward her property taxes and is sending another payment in today. With this payment she will have paid more than half of the balance owed on her property taxes. Auditor Grace asked if the commissioners would be okay with this property being removed from the tax sale.

Auditor Grace made the commissioners aware of potential problems on two properties that are listed on the tax sale. She said that parcel # K-1950 and parcel # HD4290-G-2 both are located on road right-of-ways and could pose potential problems at the tax sale.

Dean Draper, Chronicle Progress questioned why these properties could pose potential problems. It was explained to Mr. Draper that the County does not want to assume the liability on these properties if they are not sold at the tax sale.

Auditor Grace also said that as the date of the tax sale approaches, she will more than likely receive phone calls from those who are effected by the tax sale, asking what arrangements could be made to have their property removed from the tax sale. She said that in the past the Commission has

allowed a property to be taken off the tax sale one time if that property owner will pay half the amount owed and promise to pay the remaining balance before the end of the tax year, which is October 31 of each year. She questioned if the Commission would continue to allow that practice. Treasurer Hansen said that they require cash funds to be paid before removing the property from the tax sale.

Commissioner Withers made a motion to proceed, as in the past, that if the tax payer will pay 50% of the amount due including penalties and interest before the end of the tax year, which is October 31, the property may be removed from the tax sale. Interest will continue to accrue on the remaining balance.

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

Treasurer Hansen said that it has been the County's intent to provide opportunity for those who have property listed on the tax sale to pay the amount due or to market the property so that they do not just lose the property. He said that there have been people who have taken advantage of the opportunity which has been a good thing for both the tax payer and the County.

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 said that he received the State Tax Commission assessment and evaluations. He said that the local assessed values will be done by the end of the month. He reminded the Commission that the tax rates need to be set by June 22, 2013.

He said that values overall, for the State assessed properties, are down by \$31,000,000.00. He suggested to have a work meeting to discuss the values of the State assessed properties.

This work meeting was tentatively set for June 11, 2013 at 1:00 p.m..

RATIFY THE SIGNING OF THE CONTRACT BETWEEN MILLARD COUNTY AND THE STATE OF UTAH FOR THE CADASTRAL MONEY AND SERVICES

Commissioner Roper made a motion to ratify the signing of the contract between Millard County and the State of Utah for the cadastral money and services.

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

DISCUSSION AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR BAD ASS

TACTICAL, OWNER - JORDAN ARNOLD

A business license application was presented for Bad Ass Tactical, a firearms and accessories manufacturing business. After review of the application and finding all the signatures in order, Commissioner Roper made a motion to approve the business license for Bad Ass Tactical owner - Jordan Arnold.

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

Commissioner Roper said that there should be no impact to Millard County regarding landfill with this business because all items received will be shipped out in the same packaging.

DISCUSSION AND POSSIBLE APPROVAL OF A BUSINESS LICENSE FOR REEF PROS, OWNER - ANTHONY CABRAL

A business license application was presented for Reef Pros, a business that sells tropical fish and coral. After review of the application and finding all the signatures in order, Commissioner Withers made a motion to approve the business license for Reef Pros owner - Anthony Cabral.

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

DISCUSSION REGARDING THE RETIREMENT OF THE MILLARD COUNTY ROAD SUPERVISOR AND ADVERTISING FOR HIS REPLACEMENT

Commissioner Withers said that Thayne Henrie, Millard County Road Supervisor, is retiring July 11, 2013 and his position would need to be advertised in the paper for a replacement.

A job description will be written up and be included with the advertisement. All applications will be required to be returned to the Auditor Office no later than 5:00 p.m. on Wednesday, June 12, 2013.

DISCUSSION AND POSSIBLE APPROVAL OF THE EXPLOSIVE BLASTING PERMIT APPLICATIONS, BY MILLARD COUNTY ORDINANCE 6-5-3, WITH EC SOURCE SERVICES FOR THE SIGURD TO RED BUTTE

Commissioner Smith said that this project is in conjunction with the Sigurd to Red Butte transmission line that is being built. EC Source is going to be doing some blasting. The Sheriff has signed off on the project and Sheryl Dekker, County Planner, has reviewed the ordinance and says that everything appears to be in order. EC Source Services submitted its safety site plan along with the required fee.

Commissioner Withers made a motion to approve the explosive blasting permit applications by Millard County Ordinance 6-5-3, with EC Source Services for the Sigurd to Red Butte transmission line.

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

DISCUSSION AND RECOMMENDATION REGARDING ACCOMMODATING OFFICE SPACE AT THE MILLARD COUNTY SATELLITE OFFICES IN DELTA

Commissioner Smith said that they are still working on possible options for the office space at the Satellite Offices in Delta. He said that he spoke with Kevin Morris, West Millard Maintenance Supervisor, who indicated that his staff will be busy for the next couple of months and will be unable to do the work at that time. Commissioner Smith said that they did budget some money to renovate the office space in the current budget and they will continue to work on coming up with a plan to move forward.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 13-05-21, A RESOLUTION FOR AMENDING THE STEP AND GRADE FOR INCLUDING A FULL-TIME ECONOMIC DEVELOPMENT DIRECTOR

Commissioner Roper presented the Resolution which includes the step and grade for the economic development director and starts at a grade 14. He went through the list of qualifications and read the provisions. He said that the full-time position will basically be the same as the part-time position.

Commissioner Roper made a motion to approve Resolution 13-05-21, a resolution for amending the step and grade for including a full-time economic development director.

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

AWARDING OF THE BIDS FOR THE EAST MILLARD SWIMMING POOL ROOF

Commissioner Smith said that the bids were presented at the last commission meeting. Commissioner Roper removed himself from voting due to a possible conflict of interest.

Commissioner Withers made a motion to accept the bid from TS Nielson. After reviewing the bids they found that it was the lowest bid for the best value. There was one concern with the bid that they wanted to clarify. This bid was received via the internet and then delivered to the Auditor's Office. The time listed on the bid was after 5:00 p.m. which was inaccurate. Deputy Auditor Stacey Dean filed an affidavit with this bid stating that this particular bid was received in her office before the deadline date and time. This bid was awarded based on the proper criteria.

Commissioner Smith stepped from the chair and SECONDED the motion. The motion carried.

Commissioner Roper will send a notice to all the bidders informing them of the Commission's decision.

PUBLIC INPUT

Dean Draper informed the commissioners of what happened at the court hearing yesterday

regarding the School Board and the Millard County Tax Payers Group.

He said, "The authorities from the School District had petitioned to have the temporary restraining order lifted. The Millard County Tax Payer Group argued that the open meetings law was not complied with in some decisions regarding the demolition of the gyms.

The Judge defined the issues at hand as primary and secondary. The primary discussion was to determine if the open meetings act had been complied with. The secondary discussion was to determine when final action was taken regarding the decision for demoliting the old gyms. The temporary restraining order will remain in effect most likely until May 31, 2013.

The defendants (the School Board, School District and the superintendent) argued that they did comply with the open meetings act and that their final action had taken place during the July 2012 meeting when they voted to go forward with the construction of new buildings to replace the old gyms. They also inferred that demolition became public knowledge by adopting the contract.

The plaintiffs (the Millard County Tax Payer Group) argued that final action took place March 14, 2013, when a vote was placed before the School Board to reconsider demolition of the gyms. The vote failed 3-2 and no action was taken to reconsider demolition of the gyms. This fell within the 90 days purview of the open meetings law, that the School Board did not put forth information discussed in light of the public, but instead discussed it during closed executive meetings.

The plaintiffs discussed Section 52-4-204 & 205 of the code, which tells what things can and cannot be discussed in a closed session. In this case the only one that possibly could have applied to the closed meetings act was that the defendants tried to sell real property. They were not attempting to lease or buy property. The plaintiffs argued that since the defendant had not entered into negotiations to sell property they should have conducted those discussions in an open meeting.

Judge Brady said that he would not change public policy as set forth by an elected board, but he would look at the arguments and determine when final action was taken. He would also determine whether or not the open meetings act had been followed.

The Judge said that he would rule on these issues after both parties submit more materials to back up each position. He gave both parties until May 29, 2013 to provide or object to any materials.

The Judge then asked if a member of the public could access the minutes of the School Board to see if their intent was to demolish the gyms. The defendants' answer to that question was that it was embodied in the contracts, signed during the July 2012 meeting to move forward and build the new buildings. The plaintiffs contested that answer by saying that the information was not openly available, claiming that they had to dig too hard to get that information. The Judge requested simplification on those documents.

The Judge said that he would more than likely issue a decision as to the restraining order on May 31, 2013. He reminded the public body that there was an act that needed to be complied with, regardless of his ruling."

OTHER BUSINESS

Clerk Brunson informed the Commission that Fillmore City has submitted notice of an annexation.

Commissioner Roper updated the Commission on the property for the new Fillmore Public Health building, which is located south-west of the Fillmore bus barn. He said that he visited with Scott Snow and his boss, who both think that there will not be a problem but they requested that the plans be laid out on a plat map. Adam Britt, GIS, is working on that plat map. Commissioner Roper recommended that the County start the bidding process.

Commissioner Withers questioned the time frame of the CIB Grant. It was clarified that the County would have at least a year to get started on the project.

Commissioner Roper asked to meet with the other commissioners and the attorney to discuss the purchasing policy. This will be discussed at the next commission meeting.

Mr. Draper asked whether the property for this building would be leased or purchased by the County. It was clarified that the County would be purchasing the property.

Commissioner Roper said that he has had some requests to raise the speed limit on the road from Meadow to Kanosh. Commissioner Smith said that this request has been brought to the County's attention in the past. The residents in Meadow had concerns with raising the limit. They feel that the drivers come into Meadow too fast as it is now.

Attorney Waddingham said that a traffic engineering study would have to be done in order for anything to be changed. Commissioner Smith said that he thinks that a traffic study has already been done on this road.

Commissioner Roper said that he will talk to the requesting citizens and let them know that 55 mph is probably the highest speed limit that road will have.

Commissioner Roper said that there has also been some request to add flashing lights to the stop sign located on the road coming from Meadow to the Pahvant Road by Flowell Electric. A suggestion made by the Commission was to change that road to a four-way stop.

Commissioner Withers asked Stephen Jenson, Road Department, if he would look into the cost of adding flashing lights to the stop sign on both signs of the road.

Commissioner Roper presented a letter he received from Snow College requesting that each County recommend an Economic Development professional from their county to serve on the Snow College Advisory Committee. Commissioner Roper recommended Linda Gillmor to represent Millard County on that board.

Commissioner Roper made a motion to submit Linda Gillmor's name as the Millard County Economic Development professional to serve on the Snow College Advisory Committee.

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

Commissioner Roper met with Fred Johnson and Marv Turner. They updated him on the fire season and Commission protocol regarding fires.

At the last commission meeting Commissioner Roper said that he would check into the possibility of changing the debris landfill operation dates from Thursdays to Mondays but he was unsure who to contact. It was suggested that he contact Sheryl Dekker, who is over landfill.

Commissioner Roper presented a roads right-of-way grant with BLM on a piece of property located in Gandy. Commissioner Smith said that this is a renewal grant which was originally signed by the County in 1983.

Commissioner Roper made a motion to re-sign the right-of-way grant with BLM and the State of Utah, pending Attorney Waddingham's review.

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

Commissioner Roper met with State Economic Development in Salt Lake City, Utah.

Attorney Waddingham said that it is now required that each County designate a certified records officer. This will be on the next agenda for appointment.

Attorney Waddingham said that effective May 14, 2013 the commission meeting minutes are required to be posted on the State website no later than three business days after the meeting. Later, it was determined that the minutes need to be posted within three business days after approval of the minutes.

Commissioner Smith received a thank you card from Marissa Taylor from Kanosh, thanking him for electing her to receive one of the \$1,250.00 Millard County Scholarships. The other recipient was Camille Ipson from Delta.

Commissioner Roper said that these scholarships were made possible by Daron Smith receiving an award for being Commissioner of the Year, a NACo award sponsored by Seimens Corporation.

Commissioner Smith said that there were a lot of good applicants and a lot of appreciation expressed for the County honoring these students. The County will continue with these scholarships "Millard County Courthouse Leadership Scholarships" as long as there is funding available in the budget.

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

Commissioner Withers talked to Dee Hollingshead regarding some work needing to be done on the television line in the Garrison area, along with the National Forest. He said that they may need to fix some County roads to gain access to the television towers.

Commissioner Withers met with the Kaufmans and Peak Minerals regarding some right-of-way issues with possibly bringing a gas line from Kanosh to Peak Minerals.

Commissioner Smith said that the recent race at the West Millard Race Track had a lot of attendance. The Chamber of Commerce put up a few people from local businesses to race each other. Those racers said that it was a huge adrenalin rush and it was a lot of fun. The County Commissioners will be able to participate in a race later this summer.

Commissioner Smith said that there were some noise complaints due to the racing. Delta City has a noise ordinance in place so Kevin Morris, West Millard Maintenance, went to the Delta City Council meeting and worked those issues out.

Commissioner Smith said that there were a lot of people who stayed in the County while attending those events which brought money into the County. He said that Mr. Morris and his crew are doing a great job. There are a lot of people getting behind this program and it is taking off really good.

Commissioner Smith said that they are going to meet with Gary Perea, former White Pine County Commissioner and Rick Carlton, Juab County Commissioner to discuss coming up with an alterative agreement from the County's perspective. He said that there will be a hearing June 14, 2013 and June 15, 2013 in Ely, Nevada District Court regarding the Spring Valley hearing. The Great Basin Water Network will also be meeting around the same time in Nevada. They will try to corollate with those folks regarding the agreement.

Commissioner Roper said that he read in the paper that the Governor has been asked to rethink signing the Snake Valley Water Agreement. Commissioner Smith said that he too has received a few phone calls regarding this issue, but nothing has changed.

POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

The purchasing policy will be on the next agenda for possible approval. They are also working on the records retention policy.

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 Roper **SECONDED** the motion. The voting was unanimous and the meeting adjourned at 12:09 p.m..

Attest: _____

Approved: _____