

MINUTES OF BOARD OF COUNTY COMMISSIONERS  
MILLARD COUNTY THE 18th DAY OF JUNE 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: John & Marilou Heath..... Citizens  
Daren Daters..... Enel Cove Fort, LLC  
Sheryl Dekker..... Planning & Zoning  
Deb Haveron..... Justice Court  
Cindy Gubler and Paul Smith..... UNEV  
Robert Dekker..... County Sheriff  
Kary G. Kesler..... Citizen  
Wayne Jackson..... Military Liaison  
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, 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: “With all the imperfections of our present government, it is without comparison the best existing, or that ever did exist.” Commissioner Smith said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

APPROVAL OF JUNE 4, 2013 COMMISSION MINUTES

The proposed minutes of a regular County Commission meeting held June 4, 2013 were presented for consideration and approval. Commissioner Withers made a motion to approve the minutes of June 4, 2013, as presented.

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

#### FOLLOW UP ACTION ITEMS FROM JUNE 4, 2013

Commissioner Roper asked if anyone had contacted the State regarding Jason Brunson's property tax appeal. Auditor Grace suggested contacting Denny Lytle, but also said that this would be a board of equalization item.

#### AUDITOR'S REPORT

Auditor Grace presented an invoice from UAC for the first quarter centrally assessed litigation fees in the amount of \$4,734.89.

Auditor Grace received a receipt from Southern Utah Horseracing Association Inc. for a \$1,000 donation. Attached was a certificate of registration which identifies it as a domestic non-profit corporation. She wondered if it needed to be kept on file. It was suggested to file the certificate of registration with the check.

Auditor Grace presented the final proceedings report for the 2013 Tax Sale. The report identifies the properties that were sold and who the successful bidder was for each property sold. It shows a breakdown of the winning bid and the portion that went to taxes, penalties, interest, administrative costs and what was in excess to that amount. All payments were received the day of the tax sale.

Commissioner Withers made a motion to approve the final tax sale for 2013.

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

Auditor Grace presented the annual certification report from Utah Retirement Systems. She explained that there were some increases in costs. She said that the non contributing retirement rate is currently 16.04% but will increase to 17.29%, effective July 1, 2013. Public Safety is currently at 30.45% and will increase to 32.14%, effective July 1, 2013. She said these rates are mandated by the State and cannot be modified. However, the County can choose to modify the 401K rate which is currently at 14.41%. She said that in order to keep the ratio comparable with the public safety rate the 401K rate will need to increase to 14.85%.

The commissioners expressed that they would like to take a look at the actual numbers of the increase as well as look at the costs of health insurance before making a decision.

Auditor Grace said that she would get the figures to the Commission. This item will be revisited under other business.

Later, Auditor Grace said that she spoke with Utah Retirement Systems who indicated that other agencies have requested an extension due to the Utah Retirement Systems delay in getting the numbers out to the agencies. This item will be on the next commission agenda for possible approval.

Commissioner Smith presented an indigent burial request from Nickel Mortuary for Adam Andrew Farley. The County policy requires a death certificate and an application be presented before the \$1,400.00 invoice will be paid.

Commissioner Roper made a motion to approve the indigent burial request for Adam Andrew Farley, as soon as the proper documentation is received.

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

Commissioner Smith gave Auditor Grace a letter that he received from IPA regarding its value and a possible agreement.

#### POSSIBLE APPROVAL OF HARDSHIP ABATEMENT APPLICATIONS

There was none.

#### POSSIBLE BOARD OF EQUALIZATION (BOE) DISCUSSION AND OR ACTION

There was none.

#### DISCUSSION AND POSSIBLE ADOPTION OF MILLARD COUNTY'S 2013 GENERAL TAX RATE

Commissioner Smith said that the County received a notice from the State listing the tax rates for 2013. The Certified tax rate is .003323, the budgeted tax rate is .003328, and the tax rate for 2012 was .003300.

Commissioner Withers made a motion to adopt the Millard County General Tax Rate for 2013 at .003300.

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

Commissioner Roper said that everyone would like to see a lower tax rate, but this year has been a tough year due to the lack of money the County is receiving from PILT, so he feels comfortable with the adopted rate.

#### DISCUSSION AND POSSIBLE ADOPTION OF MILLARD COUNTY'S 2013 LOCAL ASSESSING AND COLLECTING TAX RATE

Commissioner Smith said that the certified rate is .000230, the budgeted tax rate is the same, and the 2012 was .000228 and the maximum rate is .0003. He said that in the past the County has

gone with the certified rate, which right now is the budgeted rate.

Commissioner Roper made a motion to adopt the Millard County Local and Assessing and Collecting Tax Rate for 2013 at .000230.

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

Commissioner Smith said that the tax rate is based on the County's adjusted value of \$2,102,009,150.00.

Auditor Grace said that the valuation notices are to be sent out by July 22, 2013. She suggested that the Commission put a notice in the paper informing the citizens that the County has selected a rate that is lower than the certified rate.

#### TREASURER'S REPORT

Treasurer Hansen presented the financial reports for the month of May. He said that he presented this report to the commissioners at an earlier date and nothing has changed since then. He also presented the report regarding collection and distribution of the property taxes for the month of May. He said that only the entities who request monthly distribution received a distribution in May; all others receive a distribution quarterly.

Treasurer Hansen presented the financial report that shows the various fund balances for the past several years in relation to each of the different funds and totals the County has on hand each given year. He said in relation to the decisions the Commission made on the tax rates, this may or may not affect the end balance.

Commissioner Withers questioned the TRT fund balance being so much more last year. Treasurer Hansen explained that it depends on when the County receives the taxes and what has been spent. He said that it depends on the receipts they receive for activities and the distribution that is made to the County and when it is received. Treasurer Hansen said that in order to compare the totals more accurately they would have to look at the expenditures versus the revenues.

Commissioner Smith said that prior to the year 2008 the County had a fund balance of about \$120,000.00 for a couple of years and then the County used that money in 2006 or 2007 and it has slowly been building back up since then.

Deb Haveron explained that the County used some of that money for printing the County Tourism books, some years ago.

#### DISCUSSION AND POSSIBLE ADOPTION OF THE SECOND EDITION OF ROBERT'S RULES IN PLAIN ENGLISH HANDBOOK

Commissioner Smith said that this handbook would be the guideline that the County uses to conduct commission meetings.

Commissioner Withers made a motion to adopt the Second Edition of Robert's Rules in Plain English Handbook.

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

This handbook will be available for viewing at the Clerk's Office as well as online.

#### DISCUSSION AND POSSIBLE APPROVAL OF A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE STATE OF UTAH OFFICE OF DEBT COLLECTION AND MILLARD COUNTY JUSTICE COURT

Attorney Waddingham said that under the statute this is set up under the District Court Clerk. Judge Deb Haveron said that recently that was changed. She explained that this is basically for when only a debt is left on a case. In that event, the Justice Court will basically close the case and send it to debt collections. When debt collection collects any money they send it to the Justice Court. This helps save the County resources of trying to collect the debt. She said that in order to continue with this practice an agreement would need to be signed. Attorney Waddingham said that he feels that the Commission needs to sign the agreement and the Justice Court Judge can counter sign if she chooses. He also questioned if the signatures would need to be notarized. He suggested to approve the MOU and he will find out if it needs to be notarized before the Commission signs it.

Judge Haveron will get Attorney Waddingham the information on who to contact to find out if it needs to be notarized.

Commissioner Roper made a motion to approve the MOU between the State of Utah Office of Debt Collection and Millard County Justice Court.

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

Commissioner Roper asked how the training went for the Justice Court staff. Judge Haveron said that they were unable to set up a training but for the last two months she thinks that they have been right on with their numbers. Treasurer Hansen said that it seems to be a lot better than it used to be.

Judge Haveron said that she feels that her office is doing a lot better.

Commissioner Roper asked how the payment system is working with the Delta Office sending all payments to the Fillmore Office. Judge Haveron said that it is working just fine. There have been some issues with the bank statements but has nothing to do with her office.

Commissioner Roper asked Judge Haveron how the Great Basin Tour turned out. She said that it went great. They had about 15 people who attended the tour.

#### DISCUSSION REGARDING APPLICATIONS FOR THE ROAD DEPARTMENT SUPERVISOR POSITION

Commissioner Withers said that there were several applications received for this position. He said that he would like to set up a time for the commissioners to meet and review the applications

as well as to set up interviews with those who are qualified for the position. This needs to be done as soon as possible since Thayne Henrie will be retiring July 11, 2013. The commissioners will meet to review the applications on Thursday and will set up interviews for Monday, June 24 and Tuesday, June 25.

REVIEW AND POSSIBLE APPROVAL OF APPLICATION #Z-2012-015 FOR A CONDITIONAL USE PERMIT (CUP) FOR CONSTRUCTION AND OPERATION OF AN ELECTRICAL GENERATING (GEOTHERMAL PRODUCTION WELL), LOCATED AT 1185 E SULPHURDALE ROAD 1/10 MILE NORTH OF THE MILLARD/BEAVER COUNTY LINE. ENEL COVE FORT, LLC-APPLICANT

Daren Daters, Environmental Manager Enel Cove Fort, LLC, said that they have a CUP and a building permit in Beaver County. Attorney Waddingham asked if Mr. Daters was aware of anyone filing a lawsuit after the State Engineer's Office issued its order on Enel's change application. Mr. Daters said no lawsuits have been filed.

Commissioner Smith said that a few months ago representatives from Enel Cove Fort, LLC came and showed the Commission a map of where the wells are located and the process of what they were doing. He said that there was one well in Millard County. Ms. Dekker confirmed that only one well is located in Millard County.

The Millard County Planning Commission gave a favorable recommendation for this project. Attorney Waddingham questioned if the findings would be on record. Ms. Dekker said that the findings are listed on the CUP.

Ms. Dekker read the CUP basis for issuing a conditional use permit:

1. The proposed use is a conditional use within the zoning district as identified in Section 10-25-1 of this title, Appendix A, table of uses.
2. The proposed use complies with all requirements of the zoning district, including all minimum area, setbacks, height, and all other requirements as applicable.
3. The proposed use will be conducted in compliance with the requirements of this title, all other applicable land use ordinances, and all applicable federal, state, or local requirements and regulations.
4. The property on which the use is proposed is of adequate size to permit the conduct of the use or sign in a manner that will not be detrimental to adjoining and surrounding properties.
5. The proposed use complies with all site plan and building requirements, as provided and required by this title, all other applicable land use ordinances, and all applicable federal, state, or local requirements and regulations.
6. The proposed use complies with all applicable dedication requirements of the County and provides the necessary infrastructure, as required.
7. Such use will not, under the conditions required, be detrimental to the health, general welfare and safety of persons or injurious to property or improvements of the immediate area or the county as a whole (ord. 12-12-04, 12-4-2012).

Commissioner Roper made a motion to approve application #Z-2012-015 for a CUP for construction and operation of an electrical generating (geothermal production well), located at 1185 E Sulphurdale Road 1/10 miles north of the Millard/Beaver County line. Enel Cove Fort, LLC - Applicant, with a statement that the applicant has met all of the findings listed above.

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

Commissioner Smith said that this is a conditional use and there are twenty-six conditions outlined in the application. The CUP will be in effect for the life of the project as long as the conditions are met.

## PRESENTATION OF THE 2012 INDEPENDENT AUDIT

Auditor Grace said that they were unable to attend today and asked to have this item tabled until July 2, 2013.

## UNEV PIPELINE PROJECT STATUS UPDATE

Cindy Gubler introduced Paul Smith, UNEV Right-of-Way Manager, to the Commission. She said that Mr. Smith is the guy on the ground for the right of way. She also presented a list of contact numbers for the UNEV operation.

Mr. Smith reported the following:

- They are up and running, delivering product into Cedar City, Utah and Las Vegas, NV.
- They pigged the line to get a base line and found a few places needing some repairs, which have all been fixed.
- They have a brand new pipeline, state of the art coding and leak detection, and a monitoring unit.
- Right-of-way reclamation is the only thing that really affects the pipeline in this area. BLM has a five year monitoring program which will kick off this year. The kick off meeting with the Fillmore District office is tomorrow.
- The BLM will hire a third-party monitor, who will be paid by UNEV, and will report back to BLM. This person will be monitoring for any noxious weeds and checking the cover on the pipeline.
- They did a flyover windshield survey earlier in the year. So far there has been a good bill of health regarding the reclamation, but they will continue to monitor for the next five years.
- There are some places that they will need to reseed this year.
- They will continue to work on the reclamation.
- They try to keep in good contact with the private property owners.
- They have an emergency response plan out to everybody. They met with a lot of fire departments and first responders. They hold meetings on a regular basis for first responders. Millard County emergency responders will be invited to attend those meetings.

- The safety representative who is based out of Salt Lake is the president of the Utah Pipeline Association.
- The issues that were discussed in the saddleback area has been addressed and taken care of.
- All of the markers and signs are still in place for the operation.

## PUBLIC INPUT

There was none.

## OTHER BUSINESS

Sheriff Dekker said that he sent an email to the commissioners regarding a part-time secretary in the Delta office. He said that the cost for the part-time secretary would be subtracted from the contract with Delta City and the contract would need to be amended.

He said that he would like to get started with the process of getting the part-time secretary before Delta City's budget cycle, which goes into effect July 1, 2013. Attorney Waddingham will work on amending the contract.

Commissioner Withers made a motion to allow Sheriff Dekker to move forward with hiring a part-time secretary for the Delta office which will replace the joint secretary the County has with Delta City, and to amend the contract with Delta City.

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

Auditor Grace said that UCIP recommended to have all of the elected officials present in the meeting held today regarding records retention and who will be the records retention officer. Attorney Kathy Liuzzi is helping the County put its own retention policy together.

Clerk Brunson presented the State Court Contractual Agreement for the Fourth District Court for the year 2013-2014 in the amount of \$172,352.71. The State contracts with the County for Court duties and to lease the building.

Commissioner Withers made a motion to sign the State Court Contractual Agreement.

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

Commissioner Withers presented a Forest Service reimbursement agreement for the work the County did on the Fool Creek Fire.

Commissioner Withers made a motion to sign the Road Project Agreement between Millard County and the USDA Forest Service, Fish Lake National Forest.

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



Commissioner Withers said that he received a bid from Sunrise Engineering regarding the new public health building in Fillmore. The commissioners had some questions regarding Sunrise Engineering's bid.

Commissioner Withers said that the County is having a pre-bid construction meeting this afternoon and will make a decision on which way the County will go on this project.

Commissioner Roper reported that the construction on the Fillmore Swimming Pool roof has begun. The pool will remain open while construction is going on. They are hoping the project will be complete in thirty days.

Commissioner Roper said that on July 3, 2013 an AOG meeting will be held in Millard County and all of the Elected Officials are invited to attend.

Commissioner Leanord Blackham and Senator Ralph Okerlund will be in attendance as well as Superintendent Mike Styler and others who have been invited. They will be going on a field trip to see some of the projects they have been working on. They will be discussing the fire process of re-seeding and then have a little luncheon at the Oak City pavilion.

Commissioner Roper said that the Manufacturing Summit will be Friday. He and Commissioner Withers will be entertaining at the golf course. They are excited about the meeting. Linda Gillmor, Economic Development Director, has put a good program together with a lot of good speakers.

Commissioner Roper reported that there will be marinated turkey breasts and dutch oven potatoes and dessert at the County party Thursday, June 20, 2013. It should be a fun time.

Commissioner Roper said that he enjoyed the rodeo. It seemed to be very well attended and was a success.

Commissioner Roper said that Attorney Waddingham sent out letters to two citizens on the road closure. He said that he thinks that the County should be on backup to help clear the roads from debris. He suggested to have the road crew or maintenance to help clear the roads. Attorney Waddingham said that the ordinance also allows the road department to help clear the roads.

Commissioner Roper met with Kelly Swallow, Miss Millard Director, regarding the pageant. He said that everything seems to be going great and it will be a good thing to have.

Commissioner Roper said that he had heard complaints regarding the underpass on the frontage road by the cheese plant. He said that whoever put the cables in on that road left the underpass area extremely damaged. It was suggested that Commissioner Withers contact Ree Schena with UDOT to see about getting that fixed.

Attorney Waddingham said that the BLM renewal for transportation on the Garrison road requires the commission chair to fill out the application on the right-of-way and send it in. This

is an application to extend the time limit on the right-of-way from the original application which was filed in the 1980s.

Attorney Waddingham said that he looked at the court contracts and feels that they are fine.

Kery Kesler discussed his concerns regarding IPP converting its operations to natural gas. He asked what the commissioners opinions were regarding this issue. Commissioer Smith said that the commissioners support coal fuel but it is up to the entities that own the units to choose what fuel source they use. He said that basically it is California law that California cannot accept coal power anymore which requires that they switch from coal to natural gas at this point. They also discussed the possible impacts on the jobs if they switch.

Commissioner Roper thanked Mr. Kesler for the cattle guards.

Wayne Jackson, American Legion, reported on the military program coming up on July 4, 2013. He said that the Director of Veterans Affairs will be handing out metals for those who served in Vietnam. He said that the program has grown since he last reported to the commissioners. There are several cities who are now on board.

He went over some of the agenda items for the program.

Mr. Jackson reported that there was a good crowd who attended the barbeque at the care center and it went really well.

Mr. Jackson asked if the County heard anything regarding possibly changing the dates of the debris landfill station in Fillmore. The commissioners told Mr. Jackson that they spoke to Ms. Dekker and she indicated that it could be done if needed.

Commissioner Smith received an email from Linda with Senator Okerlund's office regarding nominating someone from Millard County for the American Cowboy Award. The commissioners discussed a few possible names to be nominated.

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

Commissioner Withers thanked the Rodeo Committee. He said that the rodeo was a success. They did a great job and he really appreciates the volunteers who do all the work . He said that volunteers do a great job and a lot of the work that gets done in the County is done through volunteer work.

Commissioner Withers said that he will be on an episode of the County Seat program which will be aired Sunday morning at 9:30 a.m.. They talked about the relationship between counties and USU Extension.

Commissioner Roper, Attorney Waddingham and UAC Attorney Mark Ward went to Nevada and attended the Spring Valley Water District Court Hearing. He said that it was very interesting and the County was represented very well. He said that they were also received by those in the basin very well. The following day he met with the Central Nevada Water Authority. He said that they are a strong force. It was an educational and interesting meeting. He said that the County is certainly respected by the Nevada neighbors.

Commissioner Smith attended and enjoyed the rodeo. He said that it is always nice to wear pink once in awhile, and it was fun to ride in a dodge truck.

#### POSSIBLE REVIEW OF COUNTY POLICIES AND CONTRACTS

There was none.

#### POSSIBLE CLOSED MEETING PURSUANT TO UTAH CODE ANNOTATED SECTION 52-4-204 & 205

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 12:05 p.m..

Attest: \_\_\_\_\_

Approved: \_\_\_\_\_