

**MINUTES  
BOX ELDER COUNTY COMMISSION  
APRIL 22, 2008**

The Board of County Commissioners of Box Elder County, Utah met in an Administrative/Operational Session at the County Courthouse, 01 South Main Street in Brigham City, Utah at 8:00 a.m. on **APRIL 22, 2008**. The following members were present:

Jay E. Hardy	Chairman
Clark N. Davis	Commissioner
Rich VanDyke	Commissioner
LuAnn Adams	Recorder/Clerk

The following items were discussed:

1. Agenda Review/Supporting Documents
2. Commissioners' Correspondence
3. Staff Reports
4. Correspondence
5. Assignment Review
6. George Whitney Three-Acre Lot – Chairman Hardy

The work session adjourned at 8:59 a.m.

The regular session was called to order by Chairman Hardy at 9:00 a.m. with the following members present, constituting a quorum:

Jay E. Hardy	Chairman
Clark N. Davis	Commissioner
Rich VanDyke	Commissioner
LuAnn Adams	Recorder/Clerk

The prayer was offered by Commissioner Davis.

**APPROVAL OF MINUTES**

**THE MINUTES OF THE REGULAR MEETING OF APRIL 8, 2008 WERE APPROVED AS WRITTEN ON A MOTION BY COMMISSIONER VANDYKE, SECONDED BY COMMISSIONER DAVIS AND UNANIMOUSLY CARRIED.**

**AGENDA: ATTACHMENT NO. 1**

**FOLLOW-UP BUSINESS**

**Quit-Claim Deed – LuAnn Adams**

MOTION: A motion was made by Commissioner Davis to approve the chair to sign on the transfer of Hwy 83 to UDOT. The motion was seconded by Commissioner VanDyke and unanimously carried.

**Road Maintenance Agreement Amendment No. 1**

MOTION: A motion was made by Commissioner Davis to approve amendment No. 1 to the Road Maintenance Agreement with Cassia County, Idaho and authorize Chairman Hardy to sign, effective April 22, 2008. The motion was seconded by Commissioner VanDyke and unanimously carried.

**ROSS RUDD SUBDIVISION – TAMARA WRIGHT**

Assistant County Planner Tamara Wright presented the Ross Rudd eight-lot subdivision located at 16600 N 5200 W.

MOTION: A motion was made by Commissioner Davis to approve the Ross Rudd Subdivision and authorize Chairman Hardy to sign the plat subject to the street table being changed. The motion was seconded by Commissioner VanDyke and unanimously carried.

**SHERMAN RICHINS SUBDIVISION – TAMARA WRIGHT**

Assistant County Planner Tamara Wright presented the Sherman Richins six-lot subdivision located at 15050 N Hwy 13.

MOTION: A motion was made by Commissioner Davis to table the subdivision for one week. The motion was seconded by Commissioner VanDyke and unanimously carried.

**KELLY EGLI SUBDIVISION – TAMARA WRIGHT**

Assistant County Planner Tamara Wright presented the Kelly Egli two-lot subdivision located at 11950 W 900 N.

MOTION: A motion was made by Commissioner Davis to approve the Kelly Egli two-lot subdivision and authorize Chairman Hardy to sign. The motion was seconded by Commissioner VanDyke and unanimously carried.

**VACANCY/BEAR RIVER WATER CONSERVANCY BOARD – VONEENE JORGENSEN**

MOTION: A motion was made by Commissioner Davis to table the appointment for one week. The motion was seconded by Commissioner VanDyke and unanimously carried.

**SCUBA TEAM VOLUNTEERS/NEW MEMBERS – KEVIN B. POTTER**

Deputy Kevin Potter said in the past volunteers have been approved by the Department Head, but to satisfy the county’s insurance the volunteers must be approved by the Commission. Deputy Potter pointed out that background checks have already been done.

MOTION: A motion was made by Commissioner Davis to approve the following volunteers under the direction of the Sheriff’s Department subject to providing proof of accident and health insurance: Bill Jones, Bill Furness, Trevor Nelson, Dennis Nelson, Larry Webster, Jason Christensen, Josh Lyman Terri McClellan and Jody McClellan. The motion was seconded by Commissioner VanDyke and unanimously carried.

**WARRANT REGISTER – COMMISSIONERS**

The Warrant Register was signed and the following claims were approved for payment: Claims 56611 thru 56727, 080418 in the amount of \$389,223.00. Claims 56492 thru 56610 in the amount of \$292,672.02. Claims 56357 and 56437 were voided.

**PERSONNEL ACTIONS – COMMISSIONERS**

ROAD DEPT:	Justin Shinsel, new hire, effective 04/14/2008
ROAD DEPT:	Sterling Robbins, compensation change, 04/14/2008
WEED DEPT:	Betty Jo Spencer, re-hire, effective 04/14/2008
FAIRGROUNDS:	Lynn C. Chugg, new hire, effective 04/07/2008
FAIRGROUNDS:	Barry Johansen, new hire, effective 04/28/2008
COUNTY ATTY:	Shelby Stephensen, separation, effective 04/12/2008
ASSESSOR:	Cameron Gardner, separation, effective 04/23/2007

**RECESS**

The Commissioner took a recess at 9:55 a.m. and reconvened at 7:00 p.m.

**PUBLIC HEARING/MAJESTIC MOUNTAIN SPECIAL SERVICE DISTRICT – COMMISSIONERS**

*(See Attachment No. 2 – Attendance List.)*

Chairman Hardy declared the public hearing to discuss Majestic Mountain Special Service District open at 7:00 p.m.

Commissioner Davis stated the county has received a petition from the petitioners to create a special service district for the Majestic Mountain Project. The county used Eric Johnson as legal council. He advised the Commissioners that as a County Commission they are obligated to have a public hearing. We are not obligated to necessarily support the creation of this district, but if it is created, it is created under the umbrella of the county. Special service districts are sponsored by the county. Commissioner Davis said we are not sponsoring the creation of this district, but if the petitioners and the public are in favor of creating it after tonight's meeting, we can move forward with sponsoring the creation of a district. He said the Commissioners are here to receive the public's input as well as to hear from the petitioner. The purpose of the public hearing is to receive input. There will be no action taken this evening and there is no action or preconceived action anticipated by the Commission. The Commission is strictly an agency where people petition to create special service districts if it is the will of the people and if it is the determination of the Commission the service district is created; it will be done after tonight's meeting.

Eric Johnson said this public hearing is required by law. Citizens or property owners can petition the county to create a special district and if they do, the county must call a public hearing in consideration of whether to create a special service district or not. Tonight, by law, no decision can be made on whether to create or not create the district. It is a time to receive input from the public and to answer the public's questions. Mr. Johnson explained the meeting is not about whether someone can develop their own property. That is considered land use planning. This district will not have any power over land use planning. There is about 810 acres within the proposed district, and this isn't about whether someone can develop on the land. The owners can develop the land under the current zoning. He said whether this district is created or not doesn't impact the zoning on that land. What this district is about, if there is development on the land, is how services would be provided within that area. One way services can be provided is through the creation of a special district, and that special district can provide the different services that are provided to homeowners. That is what this is about. How can services be provided to this property within this proposal? Mr. Johnson provided maps to pass out to the public. (*See Attachment No. 2 – Map.*) He said there is nothing wrong with a county creating a special service district, except in this instance where it seems to be a single group of property owners proposing a special service district just on property they own. That is the one thing that is a little unusual. He said under Utah Law, that is okay. A single property owner can ask to create a special service district and have one created. The law has special provisions when there is a single property owner or a small cluster of property owners like this.

Eric Johnson said the petitioners asked to have the power to provide 10 services. They would like to have the ability to provide water, sewerage, drainage, flood control, garbage, recreation, street lighting, curb and gutter, streets and snow removal. There are various ways for that service to be provided. Mr. Johnson said like water—there could be a non-profit water company created to provide water. There could be a for-profit private water company. There could be a special district like this that could provide water service. There may be another district that has the ability to provide water service. In this instance the Bear River Water Conservancy District has the ability to provide water service. There are various different ways that water service can be provided. He used the example of providing service for streets and curb and gutter. He said it is very common when a

developer develops an area that he finance the streets and the improvements that go into the streets, and then when that is in, the governmental entity would go out and inspect it and make sure it was done right and then those streets would be dedicated to the public. Mr. Johnson said it is possible to have private streets. The developer puts the street in; he doesn't turn it over to the governmental entity. Services can be done privately or through a governmental entity. There are various different ways it can be done. This special service district is the way these property owners have asked for. They have petitioned for that, and the County Commissioners want to hear the public's input.

Roscoe Woods represents the petitioners and works for OCS Capital Group, a law firm out of Albuquerque, New Mexico. Mr. Woods said there are no zoning issues in this particular proposal. The land being considered in this particular district has been zoned for residential units. The petitioners could actually build those residential units as is without the formation of the district. He said what they are proposing in the formation of this district is to help the county in providing the service when doing such. He said without the district, it will be a tremendous burden on the county. Mr. Woods said in conjunction with the county they can form this particular district and provide a service of maintaining the roads and the sewage and other infrastructure as was alluded to. He said they welcome the public's input, and they want this to be a concerted effort.

Kelly Dixon, a petitioner, said he owns all the property around the proposed subdivision. The property is going to stay open, and it is not going to be like everyone is anticipating. The plan is to keep it zoned as is which is one-half acre lots with horseback riding trails and lots of open space and keep it a rural setting. Mr. Dixon lives in Washington Terrace and has owned the property for 12-13 years.

Chairman Hardy opened up the public hearing for public comment.

Scott Newman, Bothwell, said they own property next to the development and have not been notified from Majestic Mountain. The infrastructure on the roads coming out from Tremonton to Bothwell cannot handle 800 homes worth of vehicles. He said water supply is a pretty big concern and septic tanks. He lives down hill. Mr. Newman does not want to smell, see or drink it. They will be building in an agricultural area where there are plows, tractors and other slow moving vehicles working all hours of the night. He said make sure your people that buy the homes understand that I was here first. Mr. Newman has built fences and installed fences. Four-wheelers have cut the fences and he fixes the fences. Mr. Newman's property is his property and not the developer's property. Combines do not like grain buckets, trash, garbage or whatever else. He said everybody wants the clean smell of air. Some of his air may stink. He has cattle and manure, and the smell does blow that way once in a while. He was here first. When land is bought at agricultural prices and sold a few months later at residential prices, out-of-state developers don't really care about farm practices or an impact on natural habitat. New homeowners, always greater in number and always the majority will squeeze out the country farm.

Tamara Newman, adjoining property owner, asked if we are in imminent need of 800+ houses, why are we not using our local contractors? She said it should be spearheaded by local men who have a vested interest in the local economy. Ms. Newman said lets keep the dollars in Box Elder County.

She said after making all of their promises, it will be really easy for an out-of-town developer to back out. She has some concerns about an article that was published in the Box Elder News Journal. She said the developer's proposals are a little bit deceptive. They brought in a petition and said that 100% of affected landowners had signed it. Come to find out only the developer had signed it. The same meeting goes on to say he had a petition of 49 signatures in support of the development, saying some were neighboring property owners in the original 650 acres proposed for the service district which has grown to 811. The 49 signatures turned out to be only six that are actual property owners, and the rest are investors or contractors. It seems they are propelling their own development and leaving the rest in the wind. Mr. Olguin proposes that a special service district be created so his dream can be self-sustaining. When asked how his clients could possibly be expected to pay such a substantial increase, Mr. Olguin replied that his company would build at a lower cost. She asked what exactly lower cost is. Lower quality materials, less insulation, less space for more money, paying his contractors lower wages, or making homeowners pay for services that he should be providing at his expense. Commission Meeting records indicate Majestic Mountain Development plans to build a temple in their neighborhood. Mr. Olguin has done his homework. He knows that temples make the real estate go up. Ms. Newman is offended. She said it takes a higher authority than a greedy developer to determine where the next LDS temple will be built. She said we agree the west hills of the Bear River Valley are beautiful. She said growing houses on them would probably be more productive than cultivating them; however, a project of this magnitude will have a huge impact on everyone. She said we have little infrastructure to support it. Water supplies are questionable. She believes the development, if it comes at all, should come slowly by honest, reputable businessmen.

Kit Crozier said ten infrastructures were mentioned. He said there are far more than ten. You have the churches, schools and all this is going to be an added tax burden on all of those that are here. He asked where are the 800 people? He does not see them. He said we need to remember not to put the tax burden on those that have paid for many, many, many years, and that is what is going to happen if we don't watch out.

Cleve Horrocks, Thatcher, is not concerned that they build the homes. He believes whether we want it or not, the population pressure is coming and we are going to see development in Box Elder County. He said we need to plan correctly and make sure we are preserving our open spaces and make sure we have the fire protection that we need, that we are funding the fire district properly, and that we have the ambulance, sheriff and police department locally. He is concerned with having a special tax district that only encompasses a small area and if we are going to do something like that, we should talk about incorporating the entire area so all of the residents in the area receive the benefits of additional fire protection, additional water and streets and things of that nature. The additional pressure on our roads is a concern when we have the farm traffic that we do and that we make sure things are safe.

Teresa Roberts, Thatcher, said she is the PTA president. She said the population at McKinley is 600 students. That is as big as the school is allowed to carry student population wise. Currently the school district is looking at putting another school in Willard and another one up here to carry the population growth that we are creating locally. She said they added three new classrooms in

McKinley alone. The class size is 24-32. Ms. Robert's concern is if we are going to bring in this many new families again we would be creating a tax burden on our population. How are we going to fund another school? We would need to look at more schools in our area.

Jeff Schultz, Thatcher, has a working report of the November 2007 minutes that was before the Commission. In it Mr. Olguin stated just the opposite of what he is hearing tonight. He stated that it is not going to be just a small rural area. It says, "We are talking about an area that will be reserved for a temple, an area that will be a golf course, a small destination type resort hotel, a convention center because we are talking about a Wal-Mart and Procter and Gamble. There are several employers in the area that would enjoy having a convention center for all their employees and for all the people that would come to this area on business trips. That is exactly opposite of what I have just heard. Mr. Schultz was born and raised in Hooper, Utah. His father's land was annexed into Roy City. He moved to Farr West, Utah. He said that is now under construction beyond belief. He moved to Thatcher, Utah to preserve and have the right to enjoy a rural area. He wants to live here the rest of his life.

Jonathan Orme, Thatcher, knows that growth is imminent and eventually it will come; but right now he does not necessarily think it will come. It is not the right thing to do where we have La-Z Boy laying off 630 people. They are going out of town. Procter and Gamble is coming to town which is about 500 jobs. We have more people being laid off than jobs being made by companies in town. It is also public information that a senate bill passed that NASA has to make it public information their plans for the next five years for layoffs because they are such a huge contractor. Their last report is they will be laying off 6,000 people by 2011. They employ 15,000; almost half of their workforce. One of the huge employment agencies is ATK, 80% of their work is for NASA. He said if they are going to be laying off half of their people, that is a huge impact. With the way the economy is going and business in this area, you have to shoot for bringing in employment for economic growth before you can look to grow residentially. On the MLS listing for Utah this morning there were over 400 houses for sale in Box Elder County. He talked to a couple of the local real estate agents and they said it is the highest it has been in over 18 months. The sales are lower than they have been in over 18 months. There are more houses for sale and nobody is buying.

Yale King represents one of the small water companies in the area. He doesn't understand what a special district does or should do. We have had some explanation, but he believes special service districts are a government entity and they function with a tax base of some sort. He does not understand if some of us might be responsible for those tax dollars in the future or if those tax dollars will only come from service district members. It was stated that this service district is to help out the county. He would like to understand how this service district is an aide in helping county government. He said it has been mentioned the Bear River Water Conservancy District has lots of water and water to sell and could be used in this development. The Bear River Water Conservancy District is also an entity of the county and functions with county tax dollars which come from all of us. He said we support the Bear River Water Conservancy District and the water conservancy district funds and water should go to benefit those who have established it, not just a certain development.

Eric Johnson said a special service district is a form of governmental entity. It is a separate and independent political subdivision of the State of Utah. The tax base for a special service district can only come from within its own boundaries. You cannot tax surrounding properties and make their tax dollars support this special service district; only the properties within the district could be taxed. It is possible that the properties within the district could be taxed. He said for example, if the district were created and the property owners were to come on board of the district and say, we want you to issue bonds, they can compel the board to get a loan and promise to repay the loan through property taxes. It all happens within the boundaries of the district. For a tax to be imposed even within the district (if there are registered voters) the registered voters get a say as to whether that tax is imposed.

If there are only property owners, then the property owners have a say on whether it is imposed. A tax cannot be imposed without the consent of the interested parties within the district. Right now the district is just the property owners, and they would control that. How the district would help the county? Mr. Johnson will leave that question to the petitioners to explain what they mean by that.

Reggie Petersen asked if the special service district cannot generate the funds to manage its snow removal, etc. who does that fall upon?

Eric Johnson said that is one of the reasons a special service district is created to isolate the responsibility within the area of the district and not share it county wide. A special service district can borrow up to 12% of the taxable value of the property within the district. If the property owners don't pay the property taxes to repay the loan, then the county will get the right to sell the property and get the money that way to repay the loan. That is the security if there is a general obligation debt.

Eric Johnson said there is a value judgment as to where the water from the Bear River Water Conservancy should go and who should get it. He said obviously there are many different ways this can be handled. The Bear River Water Conservancy District has been asked to weigh in on their feelings, and they have submitted a letter as for the district providing water, they would prefer it does not. Under the law they have an extra say on whether that occurs or not. Mr. Johnson said the Commission wants to hear the comments tonight; however, written comments under the law carry even more weight than what is said at the microphone tonight. He said you have 15 days to submit written comments. He encouraged everyone to submit in writing their written comments.

Commissioner Davis said what happens with the proposal of the creation of a special service district is if there are overlapping jurisdictions with the original district that was in place, the water conservancy district has the right to protest the delivery of water services by a newly created district.

Commissioner Davis said we have received a letter from the Water Conservancy District that will be submitted to the recorder that states that position. They are in opposition of providing those services through a newly created service district since they are already providing those services.

Reggie Petersen said if the majority of people are opposed to this what is your attitude? When are the first 466 homes going to be completed? He understands there is a push to build 800 homes over the next five years. He said when you get to 466 homes that is equal to what are already here. You will double the existing community. He said we cannot experience that kind of an impact. He



would like them to reconsider the approach. Mr. Petersen said the petitioners submitted a form that said "I the undersigned having an interest". He said those people don't have idea one of what you are doing. Most are appalled you would impose on the community using their money to do so, and he said you need to take a moment and look at what you are doing.

Russell Roberts, Thatcher, said one way taxes could be impacted is we know that only people can commit crime and with an influx of over 800 people, the crime rate will go up and the entire county carries that tax burden, possibly more deputies needed, etc. It sounds like the type of property that would be geared towards more wealthy people with nice horse property, etc. His fear might be that the kids living there won't understand the value of hard work like the kids currently living out here on the farms. He said from personal experience he knows it is kids that commit most of the crimes, especially vandalism.

Leonard Hill, Thatcher, wants to know how many special service districts have been implemented in Box Elder County or the State of Utah and what they might have learned from those types of things in their research. He said the majority out here do not want growth of that magnitude in that short of time.

Chairman Hardy said there are three other counties that have service districts that have done developments.

Commissioner Davis said we have a special service district in South Willard. The creation of a special service district is only funded by a vote of the people to impose a tax upon them. After the creation of the district, the people in South Willard voted not to approve a \$75,000 budget that was going to be used for impact fees. He said we have created a district but there is no current activity in the district that is ongoing. Commissioner Davis said one reason we engaged Eric Johnson is because he is a specialist in the creation of special districts.

Eric Johnson said special districts are not a new creation. They started in the 1920's and 1930's. Utah Law started allowing different types of special districts until there got to be about 18-19 special types of districts. The different types of districts had different powers and the way they were created varied depending upon each one. A number of years ago the legislature kind of decided we should have one type of special district that they called a special service district that has all the powers of all the other types of districts and give it more flexibility to adapt to what the local needs and desires are. That is what they did. Special service districts started to become the preferred way for special districts to be formed. Then last year the state legislature took all other type of special districts and said we are not going to call them special districts anymore. We are going to call them local districts, and we will have just one way to create all those other 17 types of districts. This year the legislature took further steps and amended some of the provisions related to special service districts to make it fit a little more tightly with what they did last year with the local districts. Around the State of Utah local districts or special districts are fairly common. Mr. Johnson said what is unusual about this one is that there are such few property owners involved. Usually a special district consists of a large area, and it is a lot of people and it is clearly something done by the people, for the people. Where there is a little unusual is that it is a small cluster of folks that want to use this governmental

power just within their small area. That aspect of this is allowed by law, but is not real common. It is a little bit uncommon. That is why the Commissioners want to hear from everyone who are neighbors and how it is going to impact you and what your feelings are.

Chairman Hardy said South Willard is a group of many citizens that is a community of itself. He said when he spoke of the other three counties it was where a developer came in and set up a district and developed the whole community. In Washington County there have been some of those big communities that have been developed this way and been very successful. He said on the other hand we have the other side that hasn't been successful.

Commissioner Davis said the special service district in South Willard was almost visioned as a precursor to creating a separate incorporated community in South Willard and providing full municipal services. Commissioner Davis said he has heard input this evening that perhaps this footprint is too small, that you might consider if there is any discussion of incorporation or any discussion of delivery of services that it be community-wide instead of localized to a specific individual developer.

Fred Sorensen, Bothwell, said Marble Estates ran their own roads when they first put them in and now they turned them over to the county. Now the county has to foot the taxes for that, and he is wondering if the same thing might happen here. They get it all done and have their money and out they go and the roads start getting bad. They say okay we are out of here and we want the county to come in and take this over again plus Box Elder County is a big county. He does not see a lot of taxpayers that will be able to put the money into all this new development they are talking about with 800 new homes and all the kids that go to schools around here. They will have to build another school because they are running out of schools now. They will have to add more buses to haul them to town with all the traffic.

Jamie Munns, Marble Hills. She lives in Marble Hills and therefore has to write a \$250.00 check to pay for the roads. She lives in the Special Improvement District that was created by the county, they write their checks and it wasn't free to them. Her stance is also the small growth and wondered what does by voting mean.

Eric Johnson said in the creation of the special service district there isn't a vote. There is a public hearing where input from the public is received. If there are a certain number of protests of either registered voters within the proposed district or property owners within the proposed district, then the proposed district can be defeated. In this instance where 100% of the property owners are asking this be done, that won't occur. Where the vote comes in is before a tax would be imposed within this proposed district there would have to be a vote unless there are no registered voters living within the proposed district. In that instance if 75% of the property owners ask for the tax to be imposed, then the district must impose the tax because the people within the district have commanded it. The tax is only on the property within the district. He said with Marble Hill Estates they have what is called a special assessment area which is merely a circle around an area saying the properties within this area may have a special tax assessment and the process for that is not an actual election at the ballot, but it is what they call a reverse election. People are notified and they say if you don't want it let us know.

There were a few who responded who did not want it. The whole reason it got started is a lot of the property owners went to the county and said we do want this. Would you please take over our roads? The county said for us to take over your roads, they need to be brought up to standard and this is what it will take. The majority of the people that weighed in said we want it.

Commissioner Davis said the people in Marble Hills are paying for the improvements through this special improvement district that was put into place, and they were brought up to county standards before the roads were turned over to the county.

Scott Mann, Thatcher, said he understands the people who vote on this district are the people within the district which are two guys in this room. The rest of the community of Thatcher has no say. They can vote in to where they have a bond to help them build their infrastructure, and they pay on that bond and they are the only voters and the rest of Thatcher has no say.

Eric Johnson said the law provides that a public hearing must be called and the Commission is to hear from any interested person. The registered voters and property owners are given special rights that just neighbors don't have, but that doesn't mean your Commission does not want to hear from you because any interested person has the right to be heard, and the Commission wants to hear from any interested person.

Commissioner Davis said as far as the people who vote on this, it is really not the petitioners and it is not the residents of Thatcher. It is the three Commissioners. He said that is why we want to hear your input. We want to reflect your wishes. You really do have a voice, and the Commissioners are listening to it.

Scott Mann said what about the road to Tremonton and what about the schools? His parents have been run out of every little town they have ever lived in. Parker, Colorado grew in leaps and bounds. Parker Road was a two-lane road. It was years and years before that road was built up to the standard it needed to be. A lot of people died on that road because there were no turn lanes, no traffic lights; it was two lanes and should have been six lanes.

Mike Jensen, Penrose, said it occurs to him we are talking about a much narrower issue than he has been hearing comments on. The question before the Commission is whether the service district ought to be created or not created. The attorney said the services can be provided through the district or other alternatives. He heard the petitioners say the creation of the district will alleviate problems to the county. He said the purpose of the meeting is if the district is not created, it will not change how many houses are built, how many people live there, it won't change anything. This is a non-structured way of delivering those services and the service district is a way to structure that so the cost stays within the confines of the area affected. He would like to have the person that said it would be a benefit to the county explain.

Cordell Christensen, Thatcher, said should this service district be implemented down the road and it can't pay for itself, is it legal for the county to come in where we are unincorporated to say we need to grow the boundaries to include the rest of Thatcher so we have a tax base for it.

Eric Johnson said under the law it is called annexation. Neighboring properties could be annexed in. Annexation is allowed under certain conditions; however, the registered voters and the property owners within the area proposed to be annexed have the right to say no to being annexed in. If one-third of the people within the proposed annexation do not want to be annexed, then the annexation cannot occur. He said your written comments carry much like the weight of a vote. If one-third of the people say no they do not want it in response to a hearing like this, then it could not occur. As for who runs a special district, the default body that runs a special district is the body that creates it. The default body to run the special district would initially be the county commission. They do have the power to delegate almost all of the authority of the district to an administrative control board. That board can either be selected by appointment by the county commission or by election of the people. At this point this is not something the commissioners are focusing on because at this point they are trying to figure out if it should be created or not. If so then they will start to consider if it is created, how should it be run?

Michael Moss, Thatcher, understands we have a potential of getting water from the Bear River Water Conservancy. He wants to know the basis of the demand. He wants to know if there are water rights associated with this ground that we do not know about that can be traded back and forth between Bear River Water Conservancy District to make it a better situation or are we just demanding for the water to be delivered to 800 homes? He said are we looking at the water rights. Do we already have another water source because Bear River Water Conservancy District has made a statement to the Commission tonight. Is there another water source to be developed that is available and viable for us to use in this area of this service district? He said there are a whole set of plans and requirements. He does not know how they are going to put this together, but they just became a drinking water system. He wants to know if the petitioners have the physical and financial material capacity to run that water system. He said that is quite a growth they are looking at over the next five years of having more homes than is currently in the Thatcher-Penrose area. The fun part of it is as he looks at Marble Hills, Marble Hills doesn't have anything close to that at this time. He said you are also talking about utilizing existing water and gas lines. He said those lines were sized for existing conditions. They were not sized for the plans outlined at this time. He wants to know what are the plans to upgrade the infrastructure? How are you going to fund that infrastructure? Are you going to have through the special service district the money to fund what you should be financially funding?

Bob Cosgrove asked what will happen if the majority does not want this? He would like to know about the attitude of the developers or what is going to happen if a majority does not want this. Attitude reflects the way they will be doing business. Do we know anything about this company? Have they put in a system anywhere before? Do we know how it turned out? All he knows is they want to come in and make a buck. If they want to make a buck, do it in Mexico.

Ray Didericksen, Assistant Fire Chief of Thatcher/Penrose and lives in Penrose. His concern is what are they going to do for fire and emergency response coverage? He said these boundaries lie in our area. We as a department have been surviving without tax dollars for 30 years. This many homes is really going to tax our services. He would like to know what they propose or what their plans are for their services.

Marvin Hopkins, one of the homes that will be engulfed by this proposed development, has been asked by some of the folks who live on his road and unable to be in attendance because of health reasons, to ask a couple of questions. He said this meeting is for the Commissioners and being here is not going to cut it. The Commissioners want letters, they want your signatures and they want your addresses, they want your phone numbers. If we do not do that then your voice is not heard. He said there better be as many letters as bodies here or you haven't been heard. We are surrounded by this documented development. He said we will not have a vote in what they do and don't do. The boundaries have been developed such that they have all of the votes currently. He said his folks want to know if they are going to build small homes that take away property values. Are they going to put a septic/sewage treatment facility in my backyard? Mr. Hopkins lives by the project. He is at risk because of what they are doing. Others are at risk because they are our neighbors. The folks asked if the Commission understands that this decision may have an adverse affect on surrounding neighbors, and even if it goes through they wouldn't necessarily have a vote as to what they do because they are not in their special service district. Mr. Hopkins said they will have an impact on us, and the Commissioners have a responsibility to protect the rights of neighbors because they do not have a right to vote.

Dell Taylor, 42 year resident, said he worked for Fish and Game in this area. His thoughts go back many years when they were looking for an alternate landfill. He worked against that for several reasons. There was a \$3M waterfowl development right below it. He encouraged the Commissioners to be cautious and take the feelings of the group into consideration. He asked them to please use their prayer bones or whatever it takes to make a good, wise choice for the people they represent.

Eli Anderson, Bothwell, said there have been are a lot of red flags raised tonight. The Commissioners have heard the red flags. He said what he sees here is an out-of-state company coming in wanting to profit. They don't have the money to do this, and they want to use your ability to do this through this bonding. It looks like they should find their resources if they are going to do this kind of development, and do it independently from putting that burden on the citizens. He remembers years ago when lots sold in Marble Hills for under \$500.00. That wouldn't pay a 12% bond off if that were to happen today. He hopes we will move very cautiously. He said this is a large number of homes, and when they go in and put in the roads and infrastructure and water, there is going to be millions of dollars expended. Mr. Anderson hopes that will not fall on the citizens here tonight. Mr. Anderson asked all those in the audience to stand if they are opposed to this district.

Allen Jensen, Marble Hills, remembers a little bit of history. About 38 years ago an outside investor came in and developed a place on the hill. There were 260 home sites with underground utilities and a water system and everything, and when Mr. Jensen moved out here about 10 year after that, there were 9 houses on that place but enough for 260. He said this outfit is going to go belly up. Even right now Marble Hills only has about 70 houses and there is room for 260. If someone wants to develop, there is a spot that already has underground utilities. See if you can sell those!

Alton Neeley, new in the area, has built a new home in this area and has quite an investment in a house. When they start talking about starter homes, and it is within 1-2 miles of my home he feels

that is bad. In regards to the services going to this track of land, who is going to pay for the services? He feels we will all pay for those services. He said have you ever thought of impact fees. This really helps out and it doesn't take it from the people already living there. He said the other thing that really bothers him is once you get that many people in here, we all lose ownership, and we are not going to be able to vote for anything because they are 200% more people than we are. He said as far as what we are going to want, it better be now because we will never have another say about it.

Wayne Summers, Bothwell, had a question on the one-half lots they call horse properties. A study has been produced from USU that shows you cannot put a horse on even a one-acre lot. He said with the Bear River Conservancy District, farmers that have an older water right up in that area already have to lower their pumps in their well. The conservancy district is drawing down the water. He wanted to know if there is a blowup of the map. As a part owner in the Summers Land and Livestock, they want to make sure they are not involved with that. They do not want to be involved with that. That needs to be made clear. They bought this cheap farm ground. They got the bucks to do it. Do it themselves. We do not need to facilitate them building a city. If they have the bucks, they can do it themselves.

Shayla Ekins said her grandpa was raised here, her dad was raised here and she was raised here. She wants nothing more than to be able to raise her three boys in the same manner and privilege that all those generations before had the privilege to be raised in.

Bob Roche said on the map Roche Farms does have the little nipple down in the middle. Last winter a cute little real estate lady showed up at his dad's house and convinced him he should sell that piece of ground to her and he was looking at \$3.00+ fuel and it is diesel pumped. He suggested to Bob they move it, and it is landlocked. These people are the only people that can benefit from it. They don't own the piece of ground. They have nothing to do with it. His dad said he would sell it for x amount of dollars, and they have not given him 2 cents, and they have no right to it.

Lanny Lewis, Thatcher, said he makes his living building homes. He loves development, but he said you gentlemen have not done your homework. They do not know the area, community, valley or state. This community has 2000 lots ready to be developed in Tremonton. For most of the people in town, Thatcher is a scourge. They do not want to live out here. You have no chance in the world of selling 75 homes in a year. You are way off, and it will not happen. He told the Commissioners this is going to end up back in the county's lap. These guys don't have the money, it will not happen, and it is a big joke. He would love to see 175 beautiful homes on that hill. It is a beautiful piece of property, but don't come in and ruin our valley for your quick buck.

John Harper, Thatcher, said his grandparents were raised out here as well. He works in a hospital and one of the things he is concerned with is healthcare. He said one of the things he gets asked everyday is why in the world would you want to drive 200 miles back and forth to Salt Lake Primary Children's Hospital. He said this is why he drives 200 miles each day is to come home to his area that he feels comfortable in. He just went down to West Jordan where they are building a new temple and building all of the homes on the hillside. He does not want to see it happen out here. It can't happen out here. He said we don't have the funds and you don't have the funds. He said my

grandfather was a County Commissioner. He worked very hard working with Willard Bay. He said we are very vested in this, and this is a community. He said you guys have not done your homework. This is our home, and we are going to fight to keep it that way.

LeRoy Johnson grew up out here. He said in Albuquerque, New Mexico just north and west of their town is a little place called Rio Rancho Estates. It was set up 40 some years ago. They have a lot of nice homes in there and then some not so nice, but they have thousands of acres that have roads graded in all over the high desert. If you want to look at it, go on the internet and Google maps, and you can see for yourself. He is not against development. He and his wife love curb and gutter and street lights and to be able to walk at night and not have mosquitoes all over. He said gentlemen you will not be able to fill the lots with homes.

Roscoe Woods said he must confess his firm is from Albuquerque, New Mexico. He said they represent the developer who is a Utah resident and been here for many years. He said they are facilitating the legalities in conjunction with Mr. Johnson and the county. He said in closing he would like to make two other points. He highlighted the fact that it is only the people within the proposed district that will be assessed a tax if any, and secondly he poses the question to everyone hypothetically or if the Commission does not approve this district, the landowner can continue to build as zoned which he plans to do regardless of what happens. He said who is going to bear that burden at such time. This in essence answers the question of how are we or the formation of this district going to help the county? It is a self-contained entity that will pay for its own services. Absent that, the developer is going to continue to build residential homes and impact all adjacent property owners if the district is not formed. He thanked everyone for their comments and said they are not here just to make a buck. He said if we build without the district, the burden falls on Box Elder County and the citizens therein. If the district is formed, the taxpayers within the district will bear such burden.

Commissioner VanDyke entered into the record a petition signed by people from the Thatcher area that states, "I (we) request and direct the Box Elder County Commissioners to vote against the Majestic Mountain Special Service District to be located in the Thatcher/Penrose/Bothwell area". (*See Attachment No. 4 Petition.*)

Commissioner Davis said the Bear River Water Conservancy District presented a letter regarding the resolution to propose the establishment of the Majestic Mountain Special Service District. The Water Conservancy District is not in support of the creation of the special service district where there is only one property owner. Commissioner Davis then read the last paragraph as follows: Therefore to protect the financial investment of the Bear River Water Conservancy District in the Bothwell pocket and other reasons as stated above, the Board of Trustees of the Bear River Water Conservancy District protest the creation of the Majestic Mountain Special Service District and withholds the consent of the inclusion of water service in the resolution before the Box Elder County Commission proposed the establishment of the Majestic Mountain Special Service District". (*See Attachment No. 5 – Letter.*)

County Planner Kevin Hamilton said the property has been zoned as one-half acre lots for 20 years.

They can come in and build. The difference is once they build the roads in a special district, the property owners within pay to maintain the roads. If the special district is not created, they come in and build those houses anyway. The Planning Commission cannot stop them as long as they meet the engineering requirements. They dedicate those roads to the county. The county does not have a choice. The county ends up with those roads and then all of us pay for the maintenance of those roads.

Commissioner Davis said the Commissioners appreciate everyone attending this evening. He is gratified by the turnout and by the interest and everything that has been said has been noted. We would like to receive written comments as well.

Commissioner VanDyke encouraged everyone to submit letters within the next 15 days.

Eric Johnson said this has been a very good and impressive public hearing. The community is very well represented. The Commissioners went out of their way to hold the public hearing in the evening in the community where it would be easier for all to participate so they could get a better feel as opposed to just doing it at 10:00 a.m. in Brigham City. He said when you submit the written comments, put down your address. That can make an impact on what your comments would be.

Chairman Hardy said the Commissioners appreciate each and every one in attendance. He said the Commissioners try to represent the citizens of Box Elder County to the best of their ability.

**MOTION:** A motion was made by Commissioner Davis to close the public hearing. The motion was seconded by Commissioner VanDyke, and the public hearing was closed at 8:43 p.m.

### **ADJOURNMENT**

A motion was made by Commissioner Davis to adjourn. Commissioner VanDyke seconded the motion, and the meeting adjourned at 8:44 p.m.

**ADOPTED AND APPROVED** in regular session this 29th day of April 2008.



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Jay E. Hardy, Chairman

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Clark N. Davis, Commissioner

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Rich VanDyke, Commissioner

ATTEST:

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LuAnn Adams, Recorder/Clerk

The following items were discussed in Administrative /Operational Session during recess:

1. Personnel Issues
2. Interlocal Agreement with Cassia County

The Administrative/Operational Session adjourned at 3:30 p.m.