

**MINUTES
BOX ELDER COUNTY COMMISSION
JUNE 03, 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 **JUNE 03, 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. Insurance Issue – Monte Munns
7. Iowa String Road Repairs – Bill Gilson
8. Historic Building Preservation Committee Update – Donnie Tarver/Marla Young
9. Rate Increase for Tires, Fridges & Concrete – Gina Allen

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 VanDyke.

APPROVAL OF MINUTES

THE MINUTES OF THE REGULAR MEETING OF MAY 27, 2008 WERE APPROVED AS WRITTEN ON A MOTION BY COMMISSIONER VANDYKE, SECONDED BY COMMISSIONER DAVIS AND UNANIMOUSLY CARRIED.

AGENDA: ATTACHMENT NO. 1**RATE INCREASE FOR TIRES, FRIDGES & CONCRETE – GINA ALLEN**

Landfill Director Gina Allen brought a copy of the landfill rates from 2004. She presented the changes, and pointed out this would not affect the current residential rate. She said we need to raise prices for tires, fridges and concrete because the vendor's prices have risen. Tires will go from \$90.00-\$120.00. She would like to have a charge for every tire that comes into the landfill. She stated appliance charges will go from \$10.00-\$15.00 and recommends an \$18.00 charge. Ms. Allen would like to make the rate increase, effective July 1. She said the landfill has been enforcing the no tarp policy. There is an extra \$7.00 charge for loads uncovered.

MOTION: A motion was made by Commissioner Davis to approve the recommended rate changes on recyclable materials as outlined by landfill director Gina Allen effective July 1. The motion was seconded by Commissioner VanDyke and unanimously carried. (*See Attachment No. 2 - Landfill Fee Schedule.*)

PAY FOR STAY FOR INMATES – SHERIFF YEATES & JAIL COMMANDER HUTHMAN

Jail Commander Sandy Huthman said the legislature passed HB 263 which changed billing for pay-for-stay at the jail for inmates. Ms. Huthman proposed a charge of \$45.00 per day for their incarceration. She also proposes having Connex do all of the billing and administer the fee.

The Commissioners gave their support for implementation of HB 263.

Sheriff Yeates made the Commissioners aware of an article in the Standard Examiner that Brigham City is going to change the way they bill for water charges, and they will be billing per bed. The Sheriff will talk to Brigham City about this matter.

APPROVAL OF TAX SALE RESULTS – TOM BENNETT

County Auditor Tom Bennett reviewed the tax sale that was held May 22. He said all sales are conditional until approved by the Commission, and there is a 10-day appeal period. Mr. Bennett said he has not received any appeals to the sales. He then reviewed the Parcels. (*See Attachment No. 3 – Tax Sale 2008 Parcel List.*) He said there were 83 parcels to begin with, there were 17 properties that were struck off because there was no bid and these properties will go back to the county, 17 properties were paid before the sale, 23 were removed prior to the sale and 42 properties went to the sale. There were 25 properties sold.

MOTION: A motion was made by Commissioner Davis to approve the results from the 2008 tax sale as presented by the County Auditor. The motion was seconded by Commissioner VanDyke and unanimously carried.

SET PUBLIC HEARING DATE FOR ROAD VACATION – KEVIN HAMILTON

County Planner Kevin Hamilton stated he has received a request to vacate a road. It is a road that sits in the island of the south bound road that interchanges from I-15 to I-84 by Tremonton and Iowa String Road. There is a little portion of road that has never been vacated. It goes nowhere. Mr. Hamilton said county policy requires the vacation to go to the planning commission first. He said this item will be rescheduled later.

SUBDIVISION – KEVIN HAMILTON/TAMARA WRIGHT

Deputy County Planner Tamara Wright said Duane and Fay Jacobsen have received recommendation from the Planning Commission to give final approval to the Deer Run Subdivision located at 874 West 8000 South in South Willard. This will affect Lots #3 and #4. They are combining lots #3 and #4 in to one lot so a garage can be built.

MOTION: A motion was made by Commissioner Davis to approve the Deer Run Subdivision as recommended by Planner Tamara Wright. The motion was seconded by Commissioner VanDyke and unanimously carried.

CONSIDERATION OF RESOLUTION AUTHORIZING THE SALE AND ISSUANCE OF INDUSTRIAL DEVELOPMENT LEASE REVENUE REFUNDING BONDS IN MULTIPLE SERIES IN AN AMOUNT NOT EXCEEDING \$4,121,000 TO REFINANCE THE COSTS OF WATER SYSTEM IMPROVEMENTS OF THE BEAR RIVER WATER CONSERVANCY DISTRICT BY REFUNDING OUTSTANDING BONDS; PROVIDING FOR THE PUBLICATION OF A NOTICE OF BONDS TO BE ISSUED; AND RELATED MATTERS (RESOLUTION #08-11, 08-12, 08-13; LEASE #08-19)

Mark Edminster, Voneene Jorgensen and Eric Johnson came before the Commission.

Attorney Eric Johnson said in the 1990's the Bear River Water Conservancy District was relatively a new district and did several different projects. The county acted as a sponsor on each of those projects and in issuing debt. He said it was done under a general indenture of trust with Zions Bank as a trustee. The trustee fees are about \$6,500 a year. The purchasers of those bonds in every instance are a state agency, Drinking Water Board and the Board of Water Resources who do not require a trustee. Mr. Johnson has been approached by the Water Conservancy District to reformat and restructure the financing of the bond document to eliminate the need for a trustee. This will save \$120,000 over the life of the bonds. The interest rate will remain the same and the annual payments will remain the same. He said this is merely a restructuring of the financing to remove the annual trustee fee over the life of the bonds. Its purpose is to save money. Mr. Johnson then reviewed the resolution. There was discussion on changing the amount to the current outstanding amount.

MOTION: A motion was made by Commissioner Davis to adopt Resolution No. 08-11 with the change in the document to the outstanding principal balance still owing on the refunding of the bond. The motion was seconded by Commissioner VanDyke and unanimously carried. (*See Attachment No. 4 – Resolution 08-11.*)

CONSIDERATION OF RESOLUTION EITHER ESTABLISHING OR ABANDONING THE PROPOSED MAJESTIC MOUNTAIN SPECIAL SERVICE DISTRICT AND RELATED MATTERS (RESOLUTION #'S 08-08, 08-09)

Roscoe Woods, attorney for the proposed Majestic Mountain Special Service District, said creating a special service district would be a tremendous benefit to the citizens of Box Elder County and will alleviate the burden of maintaining infrastructure to the people within the service district and not the citizens or adjoining property owners. Mr. Woods said Bear River Water Conservancy District is capable of providing the water to the special service district. The property owners within the proposed district did not protest or make a comment during the public hearing. They are not opposed and are 100% in favor.

Attorney Eric Johnson said he was asked to prepare two forms of resolution for consideration today, one to establish the creation of the proposed Majestic Mountain Special Service District and the other would abandon it. He said a public hearing was held a month or so ago and as a result of the public hearing and subsequent comments, there were approximately 80 protests and 10 in favor of the district. He said Mr. Woods expressed 100% of the petitioning property owners are in favor. Mr. Johnson then made comments on the strengths and weaknesses of the protests.

Mr. Johnson said one of the weaker points was the developer wouldn't keep his promises. The county can seek assurances from the developer to alleviate some of those concerns. There were concerns that the special service district would be inconsistent with agricultural and natural surroundings; however, Mr. Johnson pointed out that the property owners have the right to develop one-half acre lots on the approximately 800+ acres. He said even with streets you are looking at 1,400 potential residences whether this special district is created or not. He said another protest that was raised that isn't really strong is that the economy simply won't support a development of that size. He pointed out that is largely a developer risk. The county can insure that the developer provide assurances to support the installation, infrastructure and provision of services by the service district. The property owners have the right, under the current zoning ordinances, to develop their property. He said at the public hearing there were several comments trying to make it clear to the public that the creation or non-creation of the district isn't a referendum on whether a property owner gets to develop their property under the current land use provisions. The property owners have that right either way. He said the fourth major category of protest he felt was weak is the concern about surrounding public facilities such as roads, schools, health care, etc. being inadequate and not supporting the additional population. His concern is the county or the special service district would be able to impose impact fees and exaction charges to make sure the development shoulders its own share of public facilities, and once again he pointed out the developer has the right to develop their own property.

Mr. Johnson said some of the protests seemed to carry a little more weight. He said at this point where the petitioners are just a handful of folks owning 800+ acres, the creation of the special service district at this point, seems to only benefit a handful of absentee property owners. The second item is the property owners can use their own private funds to finance their private improvements. He said there are a number of developers doing developments this large in this state and they have shouldered the costs themselves. A large number of surrounding and neighboring property owners protested. He pointed out the boundaries of this special service district create a donut hole in which there are 10-12 properties that are completely surrounded by the district but not included within the district proposed boundaries. Of those 10-12 property owners, one did protest. The county did not hear from any of the others.

Mr. Johnson said the law seems to give the Commission some discretion on what can be done or cannot be done. The decision is left within the Commission's discretion of whether to create or not create a district to provide these services. He said the public process must be followed, but the code does not discuss what must or must not be done at the end of the public process.

County Planner Kevin Hamilton said the creation or non-creation of this district does not affect the number of units that can be built. He said zoning is in place. It can be built whether the district is created or not. It would not affect their ability to receive approval for subdivisions.

Commissioner Davis feels Attorney Eric Johnson has done a good job of guiding the Commissioners through the process. He said after holding the public hearing, he felt there were strong and weak comments and the weakest related to the creation and non-creation affecting the development. He said the development can go forward regardless of the action of the Commission today. The decision is whether the Commission is willing to support the creation of a special service district to provide funding for the infrastructure. Commissioner Davis said as a Planning Commission member and as a County Commissioner he has tried to encourage development within the incorporated areas. He said that is what has drawn him to support the adopting of Resolution No. 08-08, the resolution to abandon the proposed creation of the Majestic Mountain Special Service District.

Commissioner VanDyke said this has been a difficult decision to come to because the Commissioners have been promoters of development. He said his telephone has rung a lot and after listening to both sides of the story coming from the constituents that put him here, he will also have to support adopting Resolution No. 08-08.

Roscoe Woods said respectively the Commissioners are correct. The development is going to continue regardless if the district is created. He said they provided an avenue to alleviate the county from bearing those services. He said the phones do ring, but the protests must come from the people within the proposed territory. He agreed it is prudent to consider adjoining property owners. He said there comes a point of how far does that consideration go? Does it go to adjacent property owners? Or does it go to eight miles, five miles? He said it is confusing. He said they are simply providing an avenue that the people that are going to benefit from the district can self-assess themselves. He said otherwise the people as a whole are going to bear this.

Attorney Johnson said there are some alternatives. One way to finance improvements that end up in public hands is through a special assessment area. He said most of the improvements that a special service district can finance, can be financed through a special assessment area as well. He said a special assessment area is a little different than a special service district in that it doesn't set up a separate political subdivision with its own governance, but it provides a mechanism whereby the county in its own name could allow a special assessment to be placed on these properties and move forward that way. He said there are other vehicles that can be used. He said the decision could be if the developer wants a street there, the developer puts a street in and dedicates it to the public and finances it themselves as opposed to using some form of municipal finance.

MOTION: A motion was made by Commissioner Davis to adopt Resolution 08-08, a resolution abandoning the proposed creation of the Majestic Mountain Special Service District and providing for other related matters. The motion was seconded by Commissioner VanDyke and unanimously carried. (*See Attachment No. 5 – Resolution 08-08.*)

CONSIDERATION OF RESOLUTION ESTABLISHING THE PROPOSED CENTRAL BOX ELDER COUNTY FIRE SPECIAL SERVICE DISTRICT, APPOINTING AN ADMINISTRATIVE CONTROL BOARD, AND RELATED MATTERS (RESOLUTION #08-10)

Attorney Eric Johnson said over the last several months, five communities within the county (Elwood, Corinne, Deweyville, Honeyville and Bear River) have approached the Commission and proposed the creation of a special service district to provide fire services which would also encompass those five communities as well as the unincorporated area in between the communities. Mr. Johnson said there have been two formal public hearings before the County Commission and a variety of hearings within the communities. The protest period has expired, and there have been no protests on the creation of the special service district.

Commissioner Davis said the Commission has received a letter from Brigham City protesting the ambulance portion. Ambulance service is currently taken care of by Brigham City and Tremonton.

Mayor Hardy said he has asked Tremonton to sign a year-to-year agreement for ambulance service, and Brigham City could do the same thing. Mayor Hardy said down the road if the service district ever wanted to go down that route, the language is in place. The communities are all looking at substantial growth, and as City Councils and Mayors they have to be concerned as growth affects them.

Commissioner Davis said the Sheriff's Department is concerned about wildland fires. Commissioner Davis is reluctant in providing unlimited coverage.

Jim Buchanan, Director of Emergency Services for Brigham City, said Brigham City is in support of creating a fire district. He said Brigham City and Tremonton need to be protected on the ambulance service. He pointed out there are very strict ambulance licenses. Brigham City wants to protect what they have worked hard at over the last 75-80 years. He agrees with putting language in the resolution so they are protected, and said Brigham City wants to have a working relationship.

MOTION: A motion was made by Commissioner Davis to adopt Resolution 08-10 creating a special service district to provide fire, emergency medical and ambulance services within the district's boundaries with the understanding that emergency medical and ambulance services have been provided by Tremonton and Brigham City and the district intends to have letters of understanding signed by those communities providing the services and with the understanding that wildland fires are not intended to be provided by the district at this time. Under Section 8 for the Administrative Control Board, the wording will be added that the five Mayors and responsible County Commissioner will serve on the administrative control board but not granting the administrative control board any decision-making powers over emergency medical, ambulance or wildland fires, only having decision-making authority over structural fires within the district. The motion was seconded by Commissioner VanDyke and unanimously carried. (*See Attachment No 6 – Resolution 08-10.*)

WARRANT REGISTER – COMMISSIONERS

The Warrant Register was signed and the following claims were approved for payment: Claims 57328 thru 57448, 990133, 990141 in the amount of \$349,688.79.

PERSONNEL ACTIONS – COMMISSIONERS

SHERIFF:	Claudia Soholt, separation, effective 05/30/2008
EXTENSION:	Elisabeth Anderson, new hire, effective 05/27/2008
JUSTICE COURT:	Maria E. Busby, compensation change, effective 05/06/2008
PERSONNEL:	Jessica Munns, new hire, effective 06/02/2008

ADJOURNMENT

A motion was made by Commissioner VanDyke to adjourn. Commissioner Davis seconded the motion, and the meeting adjourned at 11:35 a.m.

ADOPTED AND APPROVED in regular session this 10th day of June 2008.

Jay E. Hardy, Chairman

Clark N. Davis, Commissioner

Rich VanDyke, Commissioner

ATTEST:

LuAnn Adams, Recorder/Clerk

The following items were discussed in Administrative/Operational Session after Commission Meeting had adjourned:

1. Personnel Issues – Peggy Madsen

The Administrative/Operational Session adjourned at 2:00 p.m.