

**MINUTES  
BOX ELDER COUNTY COMMISSION  
OCTOBER 14, 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 **OCTOBER 14, 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

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 SEPTEMBER 30, 2008 WERE APPROVED AS WRITTEN ON A MOTION BY COMMISSIONER DAVIS, SECONDED BY COMMISSIONER VANDYKE AND UNANIMOUSLY CARRIED.**

**THE MINUTES OF THE REGULAR MEETING OF OCTOBER 07, 2008 WERE APPROVED AS WRITTEN ON A MOTION BY COMMISSIONER DAVIS, SECONDED BY COMMISSIONER VANDYKE AND UNANIMOUSLY CARRIED.**

**AGENDA: ATTACHMENT NO. 1**

**FOLLOW-UP BUSINESS**

**Bothwell Rifle Range – Al Smart/Commissioners**

This item was canceled.

**FUKUI SUBDIVISION – TAMARA WRIGHT**

County Planner Tamara Wright said Brett Fukui appeared before the Planning Commission on August 28, 2008 requesting approval for a one-half acre, one-lot subdivision located at 7545 W 9600 N Tremonton. The Planning Commission recommended approval. Ms. Wright said there is also a rural-road agreement that will need to be recorded.

**MOTION:** A motion was made by Commissioner Davis to approve the Fukui Subdivision. The motion was seconded by Commissioner VanDyke and unanimously carried.

**JACKSON SUBDIVISION – TAMARA WRIGHT**

County Planner Tamara Wright said Ruth and Ned Jackson appeared before the Planning Commission on May 15, 2008 requesting approval of a one-lot subdivision located at 1460 N 4400 W Garland. The Planning Commission recommended approval. Ms. Wright said a rural-road agreement will need to be recorded.

**MOTION:** A motion was made by Commissioner Davis to approve the Jackson Subdivision. The motion was seconded by Commissioner VanDyke and unanimously carried.

**RESOLUTION NO. 08-19, AMENDING THE GENERAL PLAN TO INCLUDE THE POPULUS TO BEN LOMOND POWER LINE CORRIDOR AND APPROVAL OF A CONDITIONAL USE PERMIT FOR THE ROCKY MOUNTAIN POWER, POWER LINE RIGHT-OF-WAY – KEVIN HAMILTON**

Director of Community Development Kevin Hamilton made the following presentation: (*See Attachment No. 2 – Presentation.*)

Commissioner VanDyke said he has been in contact with Tom Burdett, West Jordan Community Development Director. West Jordan was the most recent entity to go before the Review Board. In a conversation with Mr. Burdett he indicated that leanings of that board are more towards utilities than they are the governments and people. He also brought up the risk in losing negotiations that have been made. Commissioner VanDyke said this is not a bunch of smoke and mirrors. He has spent a lot of time talking to different legislators and different people that have been involved with this process in previous times. We do not have a lot of say here. Commissioner VanDyke said West Jordan did take Rocky Mountain Power to court and was successful. Rocky Mountain Power

appealed to the Review Board, and they were defeated. The way Mr. Burdett explained it to Commissioner VanDyke is West Jordan did not want to get into an extended court case proving who had the most power, the courts or the legislature. They worked out a compromise with Rocky Mountain Power. Mr. Burdett said he was not totally pleased, but it was done.

MOTION: A motion was made by Commissioner Davis to approve Resolution No. 08-19. The motion was seconded by Commissioner VanDyke and unanimously carried.

*(See Attachment No. 3 – Resolution No. 08-19.)*

Commissioner Davis said this has been a contentious issue from the beginning and a difficult issue that we have wrestled with as a Commission. He said they have questioned what their responsibility was and how much involvement the mayors or the incorporated areas wanted the Commission to have in the process. He said they recognize the responsibility to represent the unincorporated area of the county, but Commissioner Hardy brought the council of governments together to begin with to establish a game plan. The game plan was to go to the state legislature and petition them to give us some help in bringing these two parties together, bringing Rocky Mountain Power to the table to negotiate with us. After that happened and the two committees were established on the north and south end of the county that were chaired by Commissioner VanDyke and Commissioner Hardy, we once again met as a council of governments. That council of governments had to make a decision as to whether they would continue to negotiate as a council of governments in a united fashion or whether they were more comfortable in negotiating entity by entity. The council of governments made the decision, late June or early July, that they would negotiate separately. Commissioner Davis said the scope that is before the County Commission today isn't approval for the entire county; it is approval for three areas that are related to the issuance of conditional use permits for areas within the unincorporated area of the county. There was a proposal that was presented to the Commissioners that they require complete engineering and cost study be done on the corridor route. When the Council of Governments made a determination that we were going to allow individual communities to negotiate for their residents, in Commissioner Davis' opinion, we lost the opportunity to request and require a detailed cost study. At that point in time we had empowered all the mayors of the communities to go out and negotiate their best deal for their residents, and that is exactly what they did.

Commissioner Davis said there are two options in front of the County Commission. He said we could do nothing, which would allow the 120 days to run and this issue would be referred to the Utility Facility Review Board. The code is all stacked against local governments. They were all in favor of the public utilities. We have been handcuffed from the onset in terms of having legislation that would empower the County Commission to have siting responsibility, and going forward they would like the state to assume some responsibility in that siting responsibility. It is not there. They have not assumed that responsibility. They have basically communicated to the Commissioners that they have no power over the siting. They would like to amend the state code. They would like to provide new legislation, and we would encourage them to do that. The Commissioners have had ultimate support from our legislative representatives, but their hands are bound too because of the state code. The first issue is that we could refer to the Utility Facility Review Board and lose

complete control and lose the potential negotiated posture of every community that has been working for the last several months to negotiate provisions that assist their residents such as not impacting Charlie Smith's home or moving the alignment in South Willard so that it is not on the back of the property owners along the face of the mountain. We risk the issue of losing any negotiated positions that are in place. The second thing we could do is require a condition. Under the code if a condition is required under the issuance of a CUP, the local governmental entity pays for those conditions. We are in a helpless negotiating posture because we lose control if we refer it to the state, and we lose any negotiations that have been completed by the county and the cities, but if we impose conditions then we write out a check for the incremental costs. Commissioner Davis concluded with some words from Winston Churchill. "There is no worse mistake in public leadership than to hold out false hopes soon to be swept away". Commissioner Davis thinks it is a false hope to think we are going to get a better deal going to the Utility Facility Review Board.

Commissioner VanDyke commented that there are several people in the audience that Commissioner VanDyke has discussed this matter with in depth. During the course of those conversations he was not as fully informed about these issues nor had he spoken to many of the individuals that he listed. He still reiterates that the State of Utah is the one that dropped the ball. The Commissioners have done everything they could do, not just the commission but the mayors and other elected officials throughout our county. Running the risk of losing the negotiations was the thing that turned his head. He looked into that after speaking with some other entities that had gone before the Review Board. Commissioner VanDyke said he did not second the motion with enthusiasm.

Chairman Hardy said we as elected officials were elected to represent the public the best that we see fit and we try. We have had a lot of heartburn over this issue. Chairman Hardy has struggled because he has some good friends that are affected with this power line. Yes, he would not want it over his house and he doesn't want it in his county, but it is here and we have to make a decision.

#### **BOARD OF EQUALIZATION TAXABLE VALUE REVIEW – TOM BENNETT**

County Auditor Tom Bennett said State Statute appoints Mr. Bennett as the Secretary to the Board of Equalization. He said the Assessor's Office asked him to present adjustments they made after the tax rolls closed. He presented a report of the adjustments to the Commissioners.

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

#### **INDIGENT ABATEMENTS FOR REVIEW – TOM BENNETT**

This item was cancelled.

#### **WARRANT REGISTER – COMMISSIONERS**

The Warrant Register was signed and the following claims were approved for payment: Claims 59756 thru 59845 in the amount of \$225,420.52.

**PERSONNEL ACTIONS – COMMISSIONERS**

COMMUNITY DEV: Susan Thackeray, compensation change, effective 08/14/2008  
SHERIFF DEPT: Russell T. Roberts, compensation change, effective 10/13/2008  
WEED DEPT: Jack Mieux, separation, effective 10/02/2008  
WEED DEPT: Terry Harrison, separation, effective 10/02/2008  
WEED DEPT: Miles McNair, separation, effective 10/02/2008  
WEED DEPT: Nicholas Esplin, separation, effective 10/02/2008

**EXECUTIVE SESSION**

**1. STRATEGY SESSION TO DISCUSS THE PURCHASE, EXCHANGE, OR LEASE OF REAL PROPERTY WHEN PUBLIC DISCUSSION OF THE TRANSACTION WOULD DISCLOSE THE APPRAISAL OR ESTIMATED VALUE OF THE PROPERTY UNDER CONSIDERATION OR PREVENT THE PUBLIC BODY FROM COMPLETING THE TRANSACTION ON THE BEST POSSIBLE TERMS.**

MOTION: At 10:05 a.m. a motion was made by Commissioner Davis to move into an executive session to discuss the purchase, exchange or lease of real property. The motion was seconded by Commissioner VanDyke and the motion was unanimously carried.

MOTION: At 10:45 a.m. a motion was made by Commissioner Davis to reconvene into regular Commission Meeting. Commissioner VanDyke seconded the motion, and regular Commission Meeting was reconvened.

Chairman Hardy explained that there was discussion regarding the acquisition of property from Tremonton City.

**OTHER BUSINESS****Bear River Health Department**

MOTION: A motion was made by Commissioner Davis that the Commission is supportive of the decision of the Bear River Health Department in terms of disposition of the property and subsequent acquisition of other property for replacement purposes to be co-located with Bear River Mental Health, and that negotiation is ongoing and in process; but we are in support of the process, and we will attempt to properly transfer or dispose of Box Elder County's interest in the property through our surplus property ordinance. The motion was seconded by Commissioner VanDyke and unanimously carried.

**ADJOURNMENT**

A motion was made by Commissioner VanDyke to adjourn. Commissioner Davis seconded the motion, and the meeting adjourned at 11:00 a.m.

**ADOPTED AND APPROVED** in regular session this 21<sup>st</sup> day of October 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