

**MINUTES  
BOX ELDER COUNTY COMMISSION  
NOVEMBER 18, 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 **NOVEMBER 18, 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. Western Counties Alliance Invoice – Chairman Hardy
7. Letter/Dept. of Agriculture/Livestock Range Scientist – Chairman Hardy
8. Public Defender Contract – Jon Grover (Evans, Grover & Beins, Nathan Jeppsen, & Jack Molgard)

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 OCTOBER 28, 2008 WERE APPROVED ON A MOTION BY COMMISSIONER DAVIS, SECONDED BY COMMISSIONER VANDYKE AND UNANIMOUSLY CARRIED WITH THE FOLLOWING CORRECTION: THE 2009 BUDGET WILL BE ON THE AUDITOR'S WEBSITE.**

**AGENDA: ATTACHMENT NO. 1****FOLLOW-UP BUSINESS****Perry Murder Trial**

Commissioner Davis stated that Box Elder County has spent a lot of money for prosecutors and public defenders on the Perry Murder, but he felt the County was well represented on both accounts. He said Brad Smith opened the arguments with this thought: "Murder though it hath no tongue, shall speak". He said each point of evidence he brought up spoke volumes to this thought even though there were no witnesses and no fingerprints. Brad Smith and Randy Richards both did a good job. Those hundreds of thousands of dollars spent came to a conclusion in terms of the jury rendering a verdict last Friday which was murder in the first degree, and they are currently going through the sentencing over in Logan. He felt that even though the process was lengthy, justice was served. Commissioner Davis said he was amazed as he sat in the courtroom that the jurors have all the responsibility. They have never heard the facts and were not trained, yet they have the responsibility of sentencing. The eventual outcome is in the hands of the jurors not the hands of the judge. He said it was a frustration to the Perry Family and others at how long it has taken. Commissioner Davis said it is nice to see some resolution of a 24-year old murder case.

**WESTERN COUNTIES ALLIANCE INVOICE – CHAIRMAN HARDY**

This item was cancelled.

**ANIMAL CONTROL AGREEMENT – LORNA RAVENBERG**

**MOTION:** A motion was made by Commissioner Davis to approve the animal control agreement with Tremonton City and authorize the chair to sign. The motion was seconded by Commissioner VanDyke and unanimously carried.

**FULL-TIME POLICE OFFICER/YCU – ANNETTE MACFARLANE**

Annette MacFarlane said she has come before the Commissioners on behalf of the county. She said we have reached a time when the cities and county need to fund a police officer trained to investigate and assist with domestic violence and abuse cases throughout the county. Brigham City has a part-time police officer funded by a grant. After the first of the year that money will go away and Brigham City is looking at hiring a part-time officer and Ms. MacFarlane is recommending that the county pay for the other half. She said there are many other counties that fund domestic violence officers. She said it is important because the deputies are spread so thin and they may not be a specialist in domestic violence. Ms. MacFarlane asked the Commissioners to build into their 2010 budget an officer devoted to domestic violence.

Sheriff Yeates said since January of 2007 there have been 128 calls to domestic violence. They have all been handled by first-line officers or detectives. Sheriff Yeates recommendation would be that

the Commission budget an investigator into the County Attorney's Office so it would not be territorial.

Deputy County Attorney Kirk Morgan said the attorney's office looked into a grant and were turned down.

### **SCHEDULED DELEGATION – REGGIE PETERSEN**

Reggie Petersen said petitioners of the referendum relative to the transactions of what transpired and their take on the situation have a statement of support for the county commissioners. Mr. Petersen said it is now past November 5 and you are elected officials, and we support you. He said we need to step back and let things settle before proceeding with any kind of a decision relative to Little Mountain. He asked them to entertain the idea of using the landfill money in reserve to pay the debt on the bond.

He said the other reason, and the main reason he is here is to discuss the Whites Valley situation. He said it seems like Whites Valley is a political volleyball being tossed around all the time. Sometimes it is very inconvenient. He would suggest that we as a county take a look at protecting our air space very similar to what Tooele County did. He understands that the last two years and this year there have been bills passed in the legislature that have to do with protecting water and drinking water. He said as you well know, Whites Valley is a situation where it is prone to a lot of flooding. He asked the county commission to look at this as a sensitive area. He said be very careful to not inundate the landowners rights as far as development, but at the same time avoid landfills, sewer treatment plants and things of that nature. He said there is no permit for Whites Valley. Since there is no permit for Whites Valley, the county should take a look at the agreement the county signed with the developer 15 years ago. That agreement was based on the fact that they had a permit, and they were pursuing. That permit no longer exists, and he does not know if the agreement the county signed is valid in that regard. He encouraged the county commissioners to take a look at that because often-times we assume we are being held to a specific requirement when in essence there is no requirement.

During the past election he was quite impressed that the commissioners were able to solicit Mayoral help and get them involved in this political issue. He thinks they should be involved. One of the things he would like to suggest is pursuing and developing some interlocal agreements to assure the waste stream at Little Mountain. He wants to preserve that waste stream. He said that is our landfill, and it needs to be maintained and kept in place.

Reggie Petersen said over the past 6-8 months the citizens have incurred a lot of expenses. One of these expenses is built around legal costs from the referendum, expenses for the law suits and the necessity to go to the Supreme Court and the high cost to disseminate factual information by the citizen group. He said the citizens have incurred a lot of expenses. Back in February when this situation was pending the county sent out a flyer which costs the citizens \$8,555.50. He is asking the county commissioners to entertain the possibility of supplementing the citizens' effort and possibly extending to the citizens for verifiable expenses \$8,555.50. He said even though this brochure came out prior to the final certification of the referendum, it was still pending and therefore one could

assume that if you follow the state statutes each party gets equal opportunity. He said should we not be able to receive some support in this regard from the county commissioners, then he would like to make it a matter of record that, "We as a citizen group are going to have to go where we can go to get the bills paid."

Mr. Peterson said (1) he would appreciate you folks looking into the Whites Valley situation and refine that so you have specific information and facts as to what really exists there (2) the action that we are requesting some funds to help supplement the citizens' paper and expenses.

Commissioner Davis said they will address Whites Valley if it becomes a problem. He said in some respects you are better off letting sleeping dogs lie. He said the commission has already indicated their support of the water conservancy district in trying to oppose any citing of a landfill at Whites Valley.

### **COPPER HILLS SUBDIVISION – KEVIN HAMILTON/TAMARA WRIGHT**

County Planner Tamara Wright presented a four-lot subdivision by Adam and David Barrus located at 14500 North 400 West. The Planning Commission has recommended approval.

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

### **BOTHWELL RIFLE RANGE – BILL GILSON**

This item was cancelled.

### **CONTRACT FOR INDIGENT LEGAL SERVICES – STEPHEN HADFIELD**

Deputy County Attorney Kirk Morgan gave a little background of how they got to this point. He said the current contract for indigent legal services held by Richards, Caine, Allen & Pace was signed back in 2005. The contract will expire at the end of this year. On August 8 they began contacting County Attorney Stephen Hadfield about renewing the contract. They talked about some numbers, and on September 9 came in front of the county commission and discussed some proposals. At that time the commission asked them to look into the cost-of-living increase. They went back and looked at that situation and the reasonableness of the current contract. He said they are proposing the incremental yearly cost as a cost-of-living increase rather than the previous 10% increase.

Attorney Kirk Morgan said since that time Chris Beins of Evans, Grover and Beins, contacted Attorney Hadfield and asked if they could submit a proposal. Attorney Hadfield reviewed both proposals. He said the proposal from Evans, Grover and Beins was \$7,500 higher. He said that is the main difference between the two proposals. There was also a caveat in the bid proposal from Evans, Grover and Beins that if there is a substantial increase in cases that are filed, they can come

back and have the option to get a higher amount due to the increase in work. The local attorneys are asking for a yearly 4% increase.

Attorney Morgan said both sides are very good attorneys. When Attorney Hadfield looked at renewing the current contract, he approached the different courts to see if there were any problems. They all felt very comfortable with the current situation. Attorney Morgan said all things being equal, it is an economic thing.

Commissioner Davis said all things being equal; he would like to award it to the local attorneys. The commissioners recognize their involvement in the community. He noted that Richards, Caine, Allen and Pace have done an excellent job for the county as public defenders, and they have been fair with the county. As a commissioner, he does not know enough about the attorneys and he relies on the expertise of the county attorney's office that has reviewed the proposal and is satisfied with their services. It is \$7,500 less and does not have an escalation provision. He is sensitive to the issues.

Commissioners VanDyke feels the same as Commissioner Davis.

**MOTION:** A motion was made by Commissioner Davis to approve the contract based on County Attorney Hadfield's recommendations. The motion was seconded by Commissioner VanDyke and unanimously carried.

Commissioner Davis recommended that the county attorney's office always review the contract with the local attorneys.

#### **INSURANCE ISSUE – PEGGY MADSEN**

**MOTION:** A motion was made by Commissioner Davis to forgive/write-off the employee out-of-pocket owing for medical and dental for 2007 in the amount of \$111.54 for employee Patricia Bohman who terminated December 20, 2007. The motion was seconded by Commissioner VanDyke and unanimously carried.

#### **RESOLUTION #08-23/APPOINT BEC REPRESENTATIVE FOR UCIP – PEGGY MADSEN**

**MOTION:** A motion was made by Commissioner Davis to approve Resolution #08-23. The motion was seconded by Commissioner VanDyke and unanimously carried.

*(See Attachment No. 2 – Resolution #08-23.)*

#### **RESOLUTION #08-24/EMPLOYER RETIREMENT CONTRIBUTIONS – PEGGY MADSEN**

**MOTION:** A motion was made by Commissioner Davis that July 1, 2009 we put the four employees that participate in the contributory system on an equal footing with our

contribution for all other public employees. The motion was seconded by Commissioner VanDyke and unanimously carried.

MOTION: A motion was made by Commissioner Davis to approve Resolution #08-24 as amended. The motion was seconded by Commissioner VanDyke and unanimously carried.

*(See Attachment No. 3 – Resolution #08-24.)*

### **B.R.H/D./TRANSFER OF PROPERTY NAME – COMMISSIONERS**

MOTION: A motion was made by Commissioner Davis to set the public hearing for transferring the Bear River Health Department property into their name on December 9 at 10:00 a.m. The motion was seconded by Commissioner VanDyke and unanimously carried.

### **BOUNDARY COMMISSION APPOINTMENTS – COMMISSIONER DAVIS**

Commissioner Davis said the state statute requires a Boundary Commission to consist of two elected officials from the county, two municipal officials and three at-large citizens. Commissioner Davis and Attorney Stephen Hadfield were appointed from the county, Dick Owen and Neil Nelson were appointed from the municipalities and the at-large citizens are Craig Rees, Greg Iverson and Paul Larsen. Commissioner Davis said the elected officials from the county and municipalities met two weeks ago and there was a meeting with everyone last Wednesday. He said the first responsibility of the Boundary Commission is to determine if the people or organizations that filed the protests are affected entities. Kevin Hamilton is a resource person for Box Elder County. He and Paul Larsen are following up on Tremonton City's procedural compliance. The next meeting is scheduled for November 25.

MOTION: A motion was made by Commissioner Davis to approve Dick Owen and Neil Nelson to represent the municipalities and Craig Rees, Greg Iverson and Paul Larsen as at-large board members. The motion was seconded by Commissioner VanDyke and unanimously carried.

### **AGRICULTURE TRIP TO IRAQ – LYLE HOLMGREN**

County Agent Lyle Holmgren informed the county commissioners that a group of cattlemen in Box Elder County are involved in the development of an export business in sending cattle to Iraq. They will be attending a trade show in Bagdad to promote this trade and look at bringing back students to be educated at USU. They will also be visiting a processing plant. He will be gone December 12-20.

Commissioner Hardy suggested Mr. Holmgren ask RC&D for some funding.

**RESOLUTION #08-22/JOINING COUNTIES IN LITIGATION/TAX COMMISSION – TOM BENNETT**

County Auditor Tom Bennett said he is presenting a resolution asking the county commission to join with other counties in litigation against the Utah State Tax Commission for the purpose of clarifying for the Utah Tax Commission both the law under which it is required to operate and the provisions of the judiciary duty of the Tax Commission. Mr. Bennett gave the background. He said the Tax Commission said there were errors in the county's distribution of telecomm providers since 2006. The Tax Commission then attempted to redistribute that money to the cities and then withhold money from the counties to make up the difference for the correct amount. After an investigation by some of the larger counties, they found that there were errors in the Tax Commission's calculations and that the Tax Commission does not currently have any plans to go back and try and figure out where the errors were or what the correct distribution should be. Mr. Bennett said Box Elder County has been asked to join with other counties in Utah to try and figure out how much money they owe.

**MOTION:** A motion was made by Commissioner Davis to adopt Resolution #08-22. The motion was seconded by Commissioner VanDyke and unanimously carried.

*(See Attachment No. 4 – Resolution #08-22.)*

**WARRANT REGISTER – COMMISSIONERS**

The Warrant Register was signed and the following claims were approved for payment: Claims 60070 thru 60222 in the amount of \$769,132.71. Claims 60223 thru 60377 in the amount of \$705,383.76. Claims 990185 thru 990197, 60383 thru 60641 in the amount \$540,865.70.

**PERSONNEL ACTIONS – COMMISSIONERS**

COMMUNITY DEV:	Elizabeth Ryan, compensation change, effective 10/02/2008
ROAD DEPT:	Justin Shinsel, separation, effective 10/16/2008
ROAD DEPT:	Reggie Teeter, separation, effective 11/13/2008
COUNTY LIBRARY:	Robert M. Roylance, separation, effective 07/08/2008
RECORDER/CLERK:	Chad Montgomery, compensation change, effective 11/12/2008
TREASURER:	Stacie Nelson, re-hire, effective 11/03/2008
TREASURER:	Saundra McNeeley, re-hire, effective 11/03/2008
ASSESSOR:	Kory Wilde, compensation change, effective 11/04/2008
SHERIFF DEPT:	Barbara Hereford, compensation change, effective 11/29/2008
SHERIFF DEPT:	Rickey Loveland, compensation change, effective 09/24/2008
SHERIFF DEPT:	Aaron J. Boyce, compensation change, effective 10/22/2008
SHERIFF DEPT:	Juan M. Trujillo, leave of absence ended, effective 11/03/2008
SHERIFF DEPT:	Darren Phelps, separation, effective 11/04/2008
SHERIFF DEPT:	Darren Phelps, re-hire on-call, effective 11/11/2008
SHERIFF DEPT:	Paul J. Tittensor, re-hire, effective 10/26/2008
SHERIFF DEPT:	Kenneth S. Chugg, new hire, effective 10/27/2008

**RECESS**

The Commissioners took a recess at 11:37 a.m. and reconvened at 2:30 p.m.

**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 2:30 p.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 unanimously carried.

**MOTION:** At 4:40 p.m. a motion was made by Commissioner VanDyke to reconvene into regular commission meeting. Commissioner Davis seconded the motion, and regular commission meeting was reconvened.

Chairman Hardy said there was a discussion on the acquisition of property.

**MOTION:** A motion was made by Commissioner Davis that we charge our retained real estate consultant Jeff Packer with the responsibility of using the appraisal information received from Tom Singleton in making an offer on the subject property that has been discussed. The motion was seconded by Commissioner VanDyke and unanimously carried.

**ADJOURNMENT**

A motion was made by Commissioner Davis to adjourn. Commissioner VanDyke seconded the motion, and the meeting adjourned at 4:43 p.m.

**ADOPTED AND APPROVED** in regular session this 25th day of November 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