

**MINUTES  
BOX ELDER COUNTY COMMISSION  
DECEMBER 16, 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 **DECEMBER 16, 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. Leasing of Grazing at Little Mountain – 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 Chairman Hardy.

**APPROVAL OF MINUTES**

**THE MINUTES OF THE REGULAR MEETING OF DECEMBER 09, 2008 WERE APPROVED AS WRITTEN ON A MOTION BY COMMISSIONER DAVIS, SECONDED BY COMMISSIONER VANDYKE AND UNANIMOUSLY CARRIED.**

**AGENDA: ATTACHMENT NO. 1**

**ADOPTING THE AMENDED BEC, COUNTY LIBRARY & MARBLE HILLS BUDGETS – TOM BENNETT**

**MOTION:** A motion was made by Commissioner Davis to approve Resolution 08-25, a resolution adopting the 2008 amended budgets for Box Elder County, Box Elder County Library, and the Marble Hills Special Improvement District. The motion was seconded by Commissioner VanDyke and unanimously carried.

*(See Attachment No. 2 – Resolution No. 08-25.)*

**ADOPTING THE 2009 BEC, COUNTY LIBRARY & MARBLE HILLS BUDGETS – TOM BENNETT**

**MOTION:** A motion was made by Commissioner Davis to approve Resolution 08-26, a resolution adopting the 2009 budgets for Box Elder County, Box Elder County Library, and the Marble Hills Special Improvement District. The motion was seconded by Commissioner VanDyke and unanimously carried.

*(See Attachment No. 3 – Resolution No. 08-26.)*

**INDIGENT ABATEMENTS – TOM BENNETT**

County Auditor Tom Bennett said indigent abatements are for individuals that are suffering from a hardship, disabilities or other circumstances that make it hard to pay the property taxes. Mr. Bennett said he has received two more requests that meet the qualifications.

**MOTION:** A motion was made by Commissioner Davis to approve the indigent abatements as reviewed by the County Auditor that meet criteria for the abatement process in the following amounts: \$529.08 and \$479.29. The motion was seconded by Commissioner VanDyke and unanimously carried.

**CANCELLATION OF COMMISSION MEETINGS – COMMISSIONERS**

**MOTION:** A motion was made by Commissioner Davis to cancel Commission Meetings on December 23 and December 30. The motion was seconded by Commissioner VanDyke and unanimously carried.

**MOU BETWEEN BRIGHAM CITY & BEC REGARDING PROCTER & GAMBLE – SUSAN THACKERAY**

Commissioner Davis said the County used consultants to assist with the EDA and the incremental financing. The consultants were Lewis Young Robertson & Burningham Inc. and Smith Hartvigsen. The soft costs are the professional fees in the amount of \$129,544. These fees were paid for with the bond closing. The concern that was raised was what happens if we are over budget. The last

paragraph of the MOU states the following: Should the project costs exceed the proceeds from the Bonds, the City and County mutually agree to work in concert with one another in order to find a mutually beneficial solution such that the City will be able to meet its obligation with P&G as outlined in the Infrastructure Agreement. This may include negotiations with P&G related to uses of tax increment generated in the Project Area, issuance of additional bonds, lending of certain funds from the County, and/or other mutually beneficial solutions. Commissioner Davis said this was a compromise agreement rather than holding up the bond closing. He feels fairly secure the agreement will never be necessary because the water and sewer came in \$1M under budget. They are asking for approval from the County Commission.

**MOTION:** A motion was made by Commissioner VanDyke to approve the Memorandum of Mutual Understanding between Brigham City Corporation and Box Elder County related to the Procter & Gamble Project. The motion was seconded by Commissioner Davis and unanimously carried.

*(See Attachment No. 4 – MOU.)*

#### **SOUTH WILLARD SSD/GIVING NOTICE REGARDING ASSESSMENT AREA FOR SEWER IMPROVEMENTS – KEVIN HAMILTON**

Community Development Director Kevin Hamilton said the county has been trying to find a way to assist property owners to solve an infrastructure problem in South Willard. They currently have no sewer, and the cities of Willard and Perry are working together to build a waste treatment plant. He looks at this as an opportunity to have the South Willard property owners connect to provide a benefit. Mr. Hamilton said for future development, the problem was upsizing the line. There will be 4,500 additional connections in the future. Some of the large property owners brought up the idea of a special assessment area. The properties in the assessment area would be assessed for upsizing the line. The large property owners would like the Commission to consider working on some zoning in that area. Mr. Hamilton asked the Commission to approve a notice of intent to create the special assessment area. This will be a real win for the county, citizens and the large property owners.

**MOTION:** A motion was made by Commissioner Davis to authorize the chair to sign the notice of intent to create the assessment area. The motion was seconded by Commissioner VanDyke and unanimously carried.

#### **APPLICATION & ACCESS TO PROPERTY FOR BROWNFIELDS ASSESSMENT – KEVIN HAMILTON**

Community Development Director Kevin Hamilton said this is an opportunity with the state environmental quality to do a Brownfields Assessment on the remainder of the landfill property on West Forest. The question of contamination has come up and held up some of the development opportunities. The state is very proactive in pushing along the application to do a Brownfields Assessment on the property. They will monitor the ground water for contaminates. The shooting

range has a lot of lead in the ground. The trap range management does an outstanding job, but the state will be able to tell if their ground water is seeping onto the site.

Commissioner Davis said this will be helpful for the county going forward. The county's assumption is that the property is undervalued.

MOTION: A motion was made by Commissioner Davis to approve the chairman signing the application and grant access to the property for the Brownfield Assessment. The motion was seconded by Commissioner VanDyke and unanimously carried.

**SET PUBLIC HEARING DATE FOR EAST CORINNE RE-ZONE – KEVIN HAMILTON**

Community Development Director Kevin Hamilton said the Commission sent this re-zone issue back to the Planning Commission to consider rezoning all of the East Corinne area from an A-20 to a RR-20. The Planning Commission recommended the rezoning.

MOTION: A motion was made by Commissioner Davis to set a public hearing for the East Corinne Re-Zone on January 20 at 10:00 a.m. The motion was seconded by Commissioner VanDyke and unanimously carried.

**BITNER HOMESTEAD SUBDIVISION – TAMARA WRIGHT**

County Planner Tamara Wright said the Bitner Homestead Subdivision is a one-lot subdivision located in Deweyville.

MOTION: A motion was made by Commissioner Davis to approve the Bitner Homestead Subdivision and authorize the chair to sign the plat. The motion was seconded by Commissioner VanDyke and unanimously carried.

**WEST LITTLE MOUNTAIN SUBDIVISION – TAMARA WRIGHT**

County Planner Tamara Wright said the property is currently being used as a gravel pit. They are leasing the land from the Ferrys. Joel Ferry is requesting the property be subdivided into six lots. The property is approximately the east half of Section 14 T10N R4W. The subdivision will also need a rural road agreement.

MOTION: A motion was made by Commissioner Davis to approve the West Little Mountain Subdivision and to authorize the chair to sign the plat along with recording a rural road agreement and subject to staff review with the county attorney regarding the previous contract the county thinks expired in 1993. The motion was seconded by Commissioner VanDyke and unanimously carried.

**ROCKY MOUNTAIN POWER AT PROCTER & GAMBLE SUBDIVISION – TAMARA WRIGHT**

County Planner Tamara Wright said this subdivision will house the Rocky Mountain Power substation that will serve Procter & Gamble. It is located at Waukegan Road and the Corinne Canal. The property is all owned by Procter & Gamble.

**MOTION:** A motion was made by Commissioner Davis to approve the Rocky Mountain Power Subdivision and authorize the chair to sign subject to the easements being added to the mylar. The motion was seconded by Commissioner VanDyke and unanimously carried.

**RECESS**

The Commissioners took a recess at 9:43 a.m. and reconvened at 11:13 a.m.

**ANDERSON LIVESTOCK – BOB & RONDA DAVIS**

Community Development Director Kevin Hamilton said in September 2006 the Planning Commission approved a conditional use permit for the Anderson Livestock Auction. In the spring of 2007 they applied for a building permit and were asked for an escrow account. They were granted occupancy July 2007. The ordinance allowed two years, which was September 31, 2008, to meet several of the conditions. Mr. Hamilton said there are several conditions that have not been completed.

County Attorney Hadfield is working to solve the issues. Attorney Hadfield said he is working to clear up the conditions in the conditional use permit that are not satisfied.

Bob Davis said he lives at 7700 South 1100 West in South Willard. Mr. Davis wants to bring to the Commission's attention that in 2006 the only thing that was granted to the livestock auction that he can find in the records is conceptual approval. There was never preliminary approval and a conditional use permit issued. Mr. Davis feels the Commission needs to be aware of this. He said basically they are asking for an injunction until all of the things are taken care of. He said there are numerous things out of compliance. He said they are not in compliance with any single thing. He does not know where the oversights are coming from but feels it is stretching it to call it an oversight. Mr. Davis even questions the zoning.

Kevin Hamilton said the area is zoned an A-20 which allows an agriculture industry as a use.

Attorney Hadfield said he is going to notify the Andersons of what needs to be done to be in compliance. He is trying to evaluate which option would be the best to resolve.

Commissioner Davis suggested after meeting with the Andersons, make sure the information is shared with Bob and Rhonda Davis going forward.

Mr. Davis said he is adversely affected by this auction, and it is an inadequate facility. He said we are not backing off on this. We are building steam, and we hope it gets resolved.

**REX FACER CONTRACT RENEWAL – COMMISSIONER DAVIS**

This item was cancelled.

**BEAR RIVER HEALTH DEPARTMENT ANNUAL REPORT & NEW SERVICES – JILL PARKER**

Jill Parker, Public Information Officer for the Bear River Health Department, gave an annual report. She said the annual report is part of the state code. She shared the accomplishments and new projects.

Ms. Parker said the mission statement is to prevent, promote and protect, and in these challenging economic times as dollars decrease, the health department starts to see an increasing demand for public services. She said they start to see more and more people accessing these services. They have a commitment to use the public health dollars the very best they can to serve the communities as well as possible.

Ms. Parker said there are several divisions within the health department, and she reviewed a list of the programs. She also reiterated that their commitment is to continue to provide these services in the most efficient way they can.

Chairman Hardy commented that because of the matching funds from the state and federal governments, the county gets a bang for their buck with the matching funds.

**DRAFT LETTER TO RECOMMEND ARTHUR DOUGLAS TO FSA BOARD – CHAIRMAN HARDY**

MOTION: A motion was made by Commissioner Davis to authorize the chair to draft a letter of recommendation for Arthur Douglas on behalf of the Commission. 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 60922 thru 61057, 81212 in the amount of \$394,876.68.

**PERSONNEL ACTIONS – COMMISSIONERS**

ASSESSOR/TREAS: Saundra McNeeley, separation, effective 12/06/2008  
ASSESSOR/TREAS: Stacie Nelson, separation, effective 12/06/2008  
SURVEYOR: Elgin Moore, new hire, effective 12/03/2008  
FIRE DEPT: Blair N. Westergard, separation, effective 12/05/2008  
ROAD DEPT: Eddie Shawn Nicholas, compensation change, effective 12/11/2008  
ROAD DEPT: Jason Cook, compensation change, effective 12/11/2008  
ROAD DEPT: Frank Musil, separation, effective 12/27/2008  
SHERIFF: Sandra Huthman, compensation change, effective 12/21/2008  
ATTORNEY: Brandon Maynard, compensation change, effective 12/21/2008  
LANDFILL: Gina Allen, compensation change, effective 12/21/2008  
COMMISSION: Richard VanDyke, compensation change, effective 01/01/2009  
COMMISSION: Jay E. Hardy, compensation change, effective 01/01/2009  
JUSTICE COURT: Kevin Christensen, compensation change, effective 01/01/2009  
SHERIFF: J. Lynn Yeates, compensation change, effective 01/01/2009  
AUDITOR: Thomas H. Bennett, compensation change, effective 01/01/2009  
RECORDER/CLERK: LuAnn Adams, compensation change, effective 01/01/2009  
ASSESSOR/TREAS: Monte Munns, compensation change, effective 01/01/2009

**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 11:31 a.m. a motion was made by Commissioner Davis to move into an executive session to discuss real estate issues. The motion was seconded by Commissioner VanDyke and the motion was unanimously carried.

**MOTION:** At 11:53 a.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 explained in executive session there was a discussion regarding the acquisition of property.

**MOTION:** A motion was made by Commissioner Davis to appoint Jeff Packer as the agent in this real estate negotiation and any further negotiations will go through Jeff Packer, and the action of the Commission is to reject the counter offer. 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 11:54 .a.m.

**ADOPTED AND APPROVED** in regular session this 6th day of January 2009.

---

Jay E. Hardy, Chairman

---

Rich VanDyke, Commissioner

ATTEST:

---

LuAnn Adams, Recorder/Clerk