

**MINUTES
BOX ELDER COUNTY COMMISSION
APRIL 24, 2007**

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 24, 2007**. 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. Illegal Subdivisions – LuAnn Adams, Stephen Hadfield, Kevin Hamilton

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 APRIL 17, 2007 WERE APPROVED AS WRITTEN ON A MOTION BY COMMISSIONER DAVIS, SECONDED BY COMMISSIONER VANDYKE AND UNANIMOUSLY CARRIED.

AGENDA: ATTACHMENT NO. 1

FIRE SERVICE AWARD – JAY WESTERGARD

This item was cancelled.

RISK MANAGEMENT PROGRAM – PEGGY MADSEN/MONTE MUNNS

Risk Manager Monte Munns said the County has property and liability coverage through Utah Counties Insurance Pool. As Risk Manager, he attended meetings last week in Logan for the County. Mr. Munns reported on what happened at the meetings. He said they have a program called multi-line best practices program that the County can participate in. There are categories to go through and if the prerequisite is met, a credit is given against the premium. Box Elder County completed the program and UCIP gave the County a premium check in the amount of \$9,846 for participating. The counties can receive up to 5% back and Box Elder County received 97% of the 5% back. Mr. Munns said a lot of the counties take their portion of the money and use it for equipment or other things from a safety standpoint to reward the employees for doing a good job. Wasatch County had an employee event where they had a dinner for them. There is some money budgeted for safety, but there needs to be an incentive for the longer they drive safe.

Mr. Munns said there are some new requirements for this year, and the Safety Committee has already started working on them and hopes to get 100% for next year.

CHILD ABUSE PREVENTION MONTH – KATY BONDS/FAMILY SUPPORT CENTER

Katy Bonds, Executive Director and Clinical Therapist for the Family Support Center, said April is Child Abuse Prevention Month and the Center has come to raise the County's awareness of the devastation of child abuse. Ms. Bonds said a study was done which incorporated over 17,000 people for their research. What they were looking at was Adverse Childhood Experiences. It was referred to as the ACE Study. They were defined as reoccurring physical abuse, emotional abuse, sexual abuse or household dysfunction which is also defined as someone in the household that is in prison or someone who is in a domestic violence situation or someone who is an alcoholic or drug abuser or when someone is chronically depressed or mentally ill or suicidal in the home or when there has been a biological parent who has died. The study found that the higher the number of ACE's in their life, the more problems they had as adults, not just in mental health fields but also in the medical field. They found a correlation between ACE's and chronic obstructive pulmonary diseases, heart disease, depression, anxiety, obesity and hypertension. Katy Bond said she has come before the Commission to talk about preventing the ACE's for the future. There were 202 child abuse cases in 2006 in Box Elder County which is down by 4 from last year. The three core programs at the Family Support Center address each of the ACE's: parent education, therapy program, respite-care services. These programs are all free. Ms. Bond said they are a private non-profit organization. They receive money from the state and private donations. She would like to see the money spent for prevention instead of crisis intervention.

Family Support Center Chair Hazel Purdue read the following proclamation: (*See Attachment No. 2 – Proclamation.*)

MOTION: A motion was made by Commissioner Davis to proclaim April as Child Abuse Prevention Month and authorize Chairman Hardy to sign the proclamation. The motion was seconded by Commissioner VanDyke and unanimously carried.

Chairman Hardy complimented the people that work and volunteer for the Child Abuse Center.

VICTIM ADVOCATE CONTRACT – STEPHEN HADFIELD

County Attorney Stephen Hadfield presented the Commissioners with a grant to fund the Victim Advocate in the County Attorney's Office. Cindy Lorrigan is the County's current victim advocate, and Attorney Hadfield said she is doing a very fine job. The grant has a match from the County of 20% and of that 20%, 25% must be cash. Attorney Hadfield said the way they intend on matching the cash portion is with the furniture purchase, the new office and supplies. The total cash amount is \$2,543.27, and of that over \$1,300 is in-kind. The actual cash will be around \$1,100. The contract is a fiscal year contract that runs from July 1, 2007 - June 30, 2008.

Commissioner Davis said the contract is a little bit different than our county budget which is a calendar year budget. Even though we are approving a contract that overlaps year end, we will still end up revisiting the personnel issue and the full funding of the position when we go through our regular county budget analysis.

Some of the services provided by the victim advocate are as follows: Meet with the victims of crimes in the county and support them through the criminal justice system, explain how the process works and what their rights are, introduce them to the prosecutor, give them a voice in the process so they feel like they are a part of what is going on in the system. It helps them feel like they are a part of and have some say in the process. Attorney Hadfield said a lot of what Cindy does is required by statute. There are various laws that have been passed that require victims to be notified when certain things happen in the criminal process. The other thing that is helpful is she can answer victim's questions and make them aware of restitution they are entitled to, and things that they can get back and help them through the criminal process. Attorney Hadfield said they have had a couple of cases where the victims had not been addressed, and they have caused more problems for the county than can be imagined just because of the legal requirements that were not complied with. Having a victim advocate on board prevents a lot of that from happening, and also makes the prosecution's flow a lot smoother.

MOTION: A motion was made by Commissioner Davis to approve the 2007 application for the Victim Advocate Assistance Funds offered by the State of Utah in the amount of \$40,692.23 for the fiscal year July 1, 2007-June 30, 2008 and authorize the chair to sign. The motion was seconded by Commissioner VanDyke and unanimously carried.

DELINQUENT TAX DEFFERAL RESOLUTION – TOM BENNETT

County Auditor Tom Bennett said every year the Auditor's office does a May Tax Sale for the properties that are delinquent for five years. In the process Mr. Bennett noticed there was a resolution passed that did not accept any application for deferral after April 15. Mr. Bennett did not come across the resolution until after sending the first letter of notification which was sent April 7 and would like an extension.

MOTION: A motion was made by Commissioner Davis that the County extend the application for deferral deadline from the original application date of April 15 to May 1 for the 2007 calendar year only and to revert back to the previous subsequent policy for subsequent years. The motion was seconded by Commissioner VanDyke and unanimously carried.

NELSON IRRIGATION DITCH NORTH END OF AG PARK – CHAIRMAN HARDY

County Planner Kevin Hamilton said when the Tarter Gate Project was built, the site plan showed the ditch being piped; however, the County is not sure that it was ever budgeted. The ditch was relocated to the north side of the project. It used to run right through the middle of the property. Mr. Hamilton said it is a little too late this year to actually get a pipe in the ground nor does the County know what the cost would be. Mr. Hamilton suggested the County do whatever repairs need to be done to the ditch to get us through this irrigation season. Mr. Hamilton will look at his budget, take some bids and find out what the actual cost of piping the ditch is going to be and then place it in the budget for next year. If there is money in the budget the project will happen this fall. Mr. Hamilton said for right now any piping would probably interrupt the irrigation season.

Commissioner Davis said he has a conflict of interest because Russell Mills is a tax client but will take part in the discussion.

Russell Mills said until the ditch is fixed the way it was originally planned to be fixed, that he be relinquished of any liability that may be caused if the ditch fails while he is using it in the interim. Mr. Mills said Garth Day informed him that this had been overlooked. He is concerned about the integrity of the ditch for the long-term. Mr. Mills said there are some repairs that can be made to the ditch right now that he assumes the County will do to make it so he can get water right away. Mr. Mills has been extremely disappointed with the way the County has dealt with him in that he has been more than patient and more than accommodating and that has been used against him, and he has been run over. Mr. Mills was told from the very beginning it would be done this way and what he was left with was a promise from Garth Day that it would get fixed the way it was originally planned. Garth Day is now gone, and he is left with something he really has to worry about in using the water because he may be left with a \$200,000-\$300,000 liability for damage to Tarter Gate's product and their property.

Mr. Mills said from the very beginning of the project planning, he was in a meeting with the Bear River Valley Co-Op Board, and he asked Garth Day when they develop the property what are they going to do with the conveyance ditch that goes through the property. Mr. Day said they will pipe it around the northeast end of the property and the County's engineer says it will require a 30" concrete pipe. The only discussion Garth Day and Russell Mills had from that point forward until one year ago in regards to the project was Mr. Mills suggested if they engineered it using a plastic pipe they could probably reduce the cost and get away with a 24" plastic pipe instead of the concrete. Last spring Mr. Mills noted that nothing was happening there, and the ditch by that time had been obliterated and they had built the Tarter Gate Building. Mr. Mills kept on Garth Day starting in December and a week after irrigation season had already started, nothing had been done. He did not have anything, and he kept on them until they threw up an earthen ditch in a 3-4 day period and then they put water in it the following day. He was told at that time by Garth Day that this was originally in the plan for the Tarter Gate Property, and it was overlooked in the bid specifications. He said his hands are tied this year, and he did not know what he could do other than just fix temporarily and by next year he would go through a budgeting process and figure out how they would fix it. He said it may have to be done over 2-3 years, but the County will get it done. Mr. Mills said that is what was represented to him.

Chairman Hardy said lets do what we can this year to get Mr. Mills through the irrigation season. Chairman Hardy told Mr. Mills he would put the County in there and beef up that one section of the ditch and fix the head gates and then Mr. Hamilton will look at what can be done with the money in his budget.

Mr. Mills said his expectation from the County is that the County is assuming responsibility, any liability until it is improved and will work towards fixing the ditch the way it was originally planned.

Commissioner Davis said they are going to figure out a solution. The Commissioners will visit with County Attorney Hadfield, and the County will step in and assume responsibility where it is irrigated out and maintain or improve the ditch, but the Commission is not going to give a written document.

WAGON-LAND ADVENTURES FOUNDATION – GAR WORKMAN

Gar Workman, representing Wagon-Land Adventures which is the new museum being promoted in Tremonton, said Rich Woodworth was looking at the billing process for HUD. Because that piece of property is still in the County he dictated a letter which makes the County the agent for the project. It says that the County is behind the project, and it is o.k. to go ahead because the museum is in the County.

Mr. Workman said in the HUD document it calls for an agent and since it is still in the County, the Commissioners need to sign off saying they are in favor of the project. Gar Workman said the process of petitioning for annexing into Tremonton has started. The annexation will not be done in time. Wagon-Land Adventures Foundation is under some time constraints because the grant that they have will be turned in at the end of this week. They have had an environmental assessment that the public has been able to review and make their comments on. On Thursday morning they will put

all the documentation together and send into HUD. They are trying to get things finished within the next 45 days and get the HUD grant back so they can move on. Mr. Workman said this is actually an old grant that was resurrected, and they are under the gun a little bit. The amount of the grant is for \$234,000. He said \$178,000 is for real estate and the remainder is for the architect. Mr. Workman said they met with the architect two weeks ago and looked at preliminary plans. There are some options on the property which contains 34 acres on the Look-Out Point. He said with the first \$178,000 they will end up with an access road on the south end.

Commissioner Davis said the Commission does not have any reluctance of being the sponsoring entity but didn't want to convey to the public that the County is assuming any financial responsibility going forward or any legal liability associated with the development. He said the County's preference would be for the developer to annex the property into Tremonton City and Wagon-Land Adventure be self-sufficient as a 501©3 and Box Elder County not be called upon to provide financial funding in the future.

Mr. Workman said Wagon-Land is just looking for the Commission's endorsement at this time. As it goes on down the road, there are about 300 stage coaches, wagons, carriages, and horse-drawn stuff that will end up there, and they are looking for approximately 40,000-50,000 to visit the museum each year. Ultimately it should be a benefit, not only to the city of Tremonton but to the County. They are not looking for funds from the County. They are looking for funds elsewhere.

MOTION: A motion was made by **Commissioner VanDyke** that the Commissioners sign the letter as a registered entity for the Wagon-Land Foundation as outlined in the draft and that as a County Commission they are not obligating the County financially or legally in relationship to this project going forward. The motion was seconded by **Commissioner Davis** and unanimously carried.

RESOLUTION/ROCKY DUGWAY – COMMISSIONERS

Chairman Hardy said Cory Yeates is on the Cache County Council and is representing Cache County. Chairman Hardy said this road addresses a situation where it crosses Cache County and Box Elder County and if we do anything both counties have to be in agreement. One county cannot abandon one road without the o.k. of the other county.

Cory Yeates gave a history of what Cache County has done over the last four years. He said what they have tried to do in Cache County is go out and try to identify roads which would qualify under the RS2477 qualifications. What they found is upwards of 60 roads which had either been closed by the Forest Service or private landowners who have blocked access for one reason or another. In their determination of which roads really did have a history and could be backed up with surveys and old maps, they notified landowners that were claiming they continue to be public rights-of-way and expected the roads to be opened. Councilmember Yeates said of the 60 roads, they immediately had all but 15-16 of those roads opened within a few short weeks. The Selmans also had a little notice put on their corral about their road because on their map they had the rough markings of the four-mile road which showed up as one of the Cache County Roads. Through negotiations with the

Selmans they decided because the three-mile road provided the access that the four-mile road really wasn't necessary on the Cache County side, and they did abandon the road from the Selman's corral up to the county line.

Councilmember Yeates said the Council had received letters from Cache County Attorney stating their position. He said Cache County has a high degree of interest with respect to this roadway as it extends through both Counties. It is the legal position of Cache County that such a right-of-way cannot be closed without consent and agreement. Cache County is willing to participate in such a discussion, but does reserve all rights in this respect. We have a solid history of documentation that the Rocky Dugway Road was built with Cache County labor and money. We are not going to casually allow this roadway to be lost or diminished without our participation and agreement. He said that is the legal opinion from Cache County Attorney George Daines. Mr. Yeates said Ordinance No. 2004-09 was passed August 10, 2004. He then read the ordinance. (*See Attachment No. 3 – Ordinance No. 2004-09.*)

Councilmember Yeates also referred to a court case dated October 27, 1927 between Lindsay Land and Livestock Co. vs. Nick Chournos, Joseph Nelsen, W.L. Cook, Fred Sorensen, Wells Marriott and Moroni Jensen. He said the judge said all times since 1876 the said highway, when so opened up became and was a part of a continuous and connected highway system extending from Brigham City in Box Elder County eastward through Mantua, thence over the Rocky Dugway to the head of Paradise Canyon into Cache County, thence eastward across the premises now owned by the plaintiff. He mentions that the travel during all of the time since 1876 either by vehicles or by flocks and herds has been over and along substantially the same line of travel and has during all the said time, been an open, well-defined roadway. He said one of the things mentioned is the Selman Family had acquired the land up there in approximately 1952 so he feels they have a very good 75-year history. (*See Attachment No. 4 – 1927 Court Case.*)

Chairman Hardy asked the question if both Counties should be involved in the process of abandoning a road. Councilmember Yeates said according to Cache County Attorney both counties should be involved in the process.

County Attorney Steve Hadfield created a resolution and presented the Commissioners with several different maps for them to decide which would become Exhibit A. GIS Specialist Chad Montgomery explained the maps. The Commissioners made a decision.

Commissioner Davis stated the Commission should adopt Exhibit A as the map but that Box Elder County should coordinate with the Cache County Surveyor before designating the highlighted sections talked about so that all are in agreement.

Commissioner Davis said Councilmember Yeates pointed out that Cache County's intent, in providing the vacation of what was referred to as four mile, was contingent upon leaving three mile open and having a continuous access between Box Elder County and Cache County. That is also Box Elder County's desire. He said the County Commission has drafted a resolution. He then read the following resolution: (*See Attachment No. 5 - Resolution No. 07-05.*)

MOTION: A motion was made by Commissioner Davis to approve Resolution 07-05 and attach the designated map as Exhibit A with the designation of the portions affecting both Box Elder County and Cache County to be coordinated with Box Elder County and Cache County Surveyor's Office. The motion was seconded by Commission VanDyke and unanimously carried.

RETIREMENT OF ROAD SUPERVISOR JOHN COLLOM

Chairman Hardy said John Collom has been the Road Supervisor for 21 years, and has a lot of experience and will be missed in the County. The County will miss his institutional knowledge. He said today there will be a party at 12:30 p.m. honoring John Collom and his last day in the County will be next Monday. John Collom has worked 44 years for the County. Chairman Hardy said Bill Gilson applied for the position and was awarded that position. He will have a big set of shoes to fill. He then introduced Bill Gilson as the new Road Supervisor for Box Elder County.

Bill Gilson said he is going to miss John Collom, but he is looking forward to the challenges ahead.

WARRANT REGISTER – COMMISSIONERS

The Warrant Register was signed and the following claims were approved for payment: Claim 49928 thru 50065 in the amount of \$219,749.19.

PERSONNEL ACTIONS – COMMISSIONERS

SHERIFF: Jamison Zito, separation, effective 04/20/2007
SHERIFF: Ryan Hill, compensation change, effective 04/10/2007
ROAD DEPT: Bill Gilson, compensation change, effective 04/30/2007

ADJOURNMENT

A motion was made by Commissioner Davis to adjourn. Commissioner VanDyke seconded the motion, and the meeting adjourned at 10:40 a.m.

ADOPTED AND APPROVED in regular session this 1st day of May 2007.

Jay E. Hardy, Chairman

Clark N. Davis, Commissioner

Rich VanDyke, Commissioner

ATTEST:

LuAnn Adams, Recorder/Clerk