

MINUTES
BOX ELDER COUNTY COMMISSION
MAY 22, 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 **MAY 22, 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

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 MAY 15, 2007 WERE APPROVED AS WRITTEN ON A MOTION BY COMMISSIONER VANDYKE, SECONDED BY COMMISSIONER DAVIS AND UNANIMOUSLY CARRIED.

AGENDA: ATTACHMENT NO. 1

FOLLOW-UP BUSINESS**RESOLUTION 07-07**

County Recorder/Clerk LuAnn Adams explained congress has a bill HR811 that will require our county to purchase new voting equipment for the 2008 Elections. She said the current DRE voting machines the County owns were purchased by the federal government. Utah took the “punch card buyout” in order to have our equipment HAVA compliant by 2006. Box Elder County has invested a lot of additional funds to warehouse the machines, revamp the election process to accommodate the machines and also train election personnel on the use of the new machines. Ms. Adams said additional expenses associated with a change in another new voting system would be a huge burden to the County.

MOTION: A motion was made by Commissioner Davis to pass Resolution 07-07, a resolution expressing Box Elder County’s disapproval of the proposed “Voter Confidence and Increased Accessibility Act of 2007”. The motion was seconded by Commissioner VanDyke and unanimously carried.

(See Attachment No. 2 – Resolution 07-07.)

COUNTY LEASED WATER/BEAR RIVER CANAL COMPANY – CHAIRMAN HARDY

Chairman Hardy said it was brought to his attention that the Bear River Canal Company leased the County Fair’s Property water shares to an individual who has more water on his property than he has acres. In order to keep the County from losing water, it is recommended the County not allow this to happen and to solve this problem. Chairman Hardy feels it would be more appropriate to lease the water to the Bear River Canal Company and take an operating fee. The Canal Company can then release the water to whomever and wherever it is needed so the County does not lose it to re-appropriations from the state.

MOTION: A motion was made by Commissioner Davis to authorize Chairman Hardy to negotiate for the lease of the water shares to the Bear River Canal Company, and that the County might prove up the County’s rights and maintain the County’s interest in these water shares. The motion was seconded by Commissioner VanDyke and unanimously carried.

MOU FOR USU EXTENSION & BOX ELDER COUNTY – MIKE PACE

Extension Agent Mike Pace said in the past there has been an agreement with Box Elder County and Utah State. Mr. Pace said this agreement was supposed to be signed in January but it did not get completed. The only change from last year’s agreement is changes in the budget side of the MOU.

MOTION: A motion was made by Commissioner Davis to approve the Memorandum of Understanding and authorize the chair to sign. The motion was seconded by Commissioner VanDyke and unanimously carried.

Mike Pace reported that it appears to be a good year for bugs. There are Mormon Crickets out west and the County has spots where they are popping up, and the warm weather has sped up the hatching cycle. He is hoping they will be spraying in the next couple of weeks.

TRANSPORTATION/CAR POLICY – PEGGY MADSEN

Personnel Director Peggy Madsen reviewed the revised Transportation/Car Policy and said the intention is to implement by July 1.

MOTION: A motion was made by Commissioner VanDyke to adopt the Transportation and Vehicle Allowance Policy as amended. The motion was seconded by Commissioner Davis and unanimously carried.

NORTH BOX ELDER COUNTY FARM BUREAU POLICY DEVELOPMENT – NORRIS STENQUIST

Norris Stenquist and Spencer Gibbons, representing Farm Bureau, came before the Commissioners. Norris Stenquist said he appreciates the opportunity to meet with the Commissioners and present the Farm Bureau's Policy Manual and to let the Commission know about the procedures they go through to develop Farm Bureau's Policies. He said it begins at a grass roots level. In the next few months they will be meeting with the policy development committee and the new policies will be put into suitable language and presented at the Annual Farm Bureau Convention to be held in November. The policies will be discussed by representatives and voting delegates throughout the state so the language is acceptable to all individuals. That becomes the policy. In addition it is carried to the national level and incorporated into the National Farm Bureau Policy. The program and policies are developed at a grass-roots level.

Chairman Hardy has read the policy manual and feels it is a good book and believes the County Commission can support it wholeheartedly. Chairman Hardy said the Commissioners would like to work in correlation with Farm Bureau and not against the organization.

Mr. Stenquist thanked the Commissioners for the opportunity to present the booklet.

Commissioner Davis said one of the major things is to keep the line of communication open. He said we are not always going to be 100% in line with one another.

LUCAS JOHNSON ONE-LOT SUBDIVISION – KEVIN HAMILTON

County Planner Kevin Hamilton said the Lucas Johnson Subdivision is a one-lot subdivision located in the Collinston area. The lot is 4.93 acres.

MOTION: A motion was made by Commissioner Davis to approve the Lucas Johnson one-lot subdivision located in the Collinston area. The motion was seconded by Commissioner VanDyke and unanimously carried.

SUNRISE ENGINEERING/SOUTH WILLARD FEASIBILITY SEWER STUDY – KEVIN HAMILTON

Scott Archibald from Sunrise Engineering said he is before the Commissioners to make sure everyone is on the same page, and there are no surprises down the road. He said it is their understanding as they proceed with the study that one of the main objectives is to have the study comply with the Division of Water Quality Standards and requirements for a capital facility plan so the district in the future can apply for funding with the state, and that they can stand as an entity all on their own. He said by meeting those requirements there are several hoops they are required to perform in that study.

Mr. Archibald said the study consists of two parts: (1) engineering (2) environmental. Sunrise Engineering proposes they do the background information, develop alternatives for collection and treatment and then prepare cost estimates. They determine end user rates and get to a point where they pretty much know which direction or which alternative is the most favorable alternative for that area to pursue. They will send the conceptual plans out to the environmental agencies. The agencies comment to see if there are any issues with the conceptual plans. Mr. Archibald is concerned that the historical preservation office might ask for an additional study. Once all the information from the environmental side comes in, Sunrise Engineering would finalize it. The district would then have a decision whether they want to pursue funding with the state or not. If it is developer driven, the developers can pursue it. If the district wants to pursue funding in that area of the district, the state would help with the portions that would impact the existing residents out there. Public Hearings would need to be held for the support, and the state would require the County Commission or the district adopt a resolution to hook the existing homes within any major infrastructure within 300 feet if funding is pursued.

Commissioner Davis said his original understanding was the County conducted a study for Willard and extended it to Perry and this is an addendum to the original study.

Scott Archibald said this would be its own study. He said there is a huge benefit from the previous studies, and there is a lot of institutional knowledge there. Mr. Archibald said Sunrise Engineering is willing to come in and do the studies for \$23,500. Mr. Archibald said it is a lump-sum fee to get through the items as numbered. They are planning on doing the preliminary environmental review. If one of the agencies requires an additional study like on the historical preservation that will require additional money. Mr. Archibald said there is also a carry-over benefit from the study the County conducted five years ago.

The Commissioners directed County Planner Kevin Hamilton to finish the contract.

LETTER OF SUPPORT/PLEASANT VIEW ON SKYLINE DRIVE TO UDOT – KEVIN HAMILTON

Bruce Talbot, Pleasant View City Planner, said he is asking Box Elder County to join forces in asking UDOT to classify the Skyline Drive Road in their system. Mr. Talbot said in order to qualify for various levels of funding; the road needs to be classified. Mr. Talbot then presented a map.

MOTION: A motion was made by Commissioner Davis that Box Elder County support the request from Pleasant View City to the Department of Transportation to include Skyline Drive on the functionally classified road system. The motion was seconded by Commissioner VanDyke and unanimously carried.

MAY TAX SALE ITEM TO APPROVE – TOM BENNETT

County Auditor Tom Bennett presented a list of parcels with delinquent taxes owing to not be included on the May Tax Sale on Thursday, May 24 due to illegal subdivisions and other ownership questions. Mr. Bennett feels it would be in the best interest to withdraw these parcels from the sale.

MOTION: A motion was made by Commissioner Davis to approve the County Auditor's recommendation to withdraw parcels from the Tax Sale on May 24. The motion was seconded by Commissioner VanDyke and unanimously carried.

MOTION: A motion was made by Commissioner Davis to approve the method of sale for property tax sales for the 2007 year as outlined in adopted Ordinance 205. The motion was seconded by Commissioner VanDyke and unanimously carried.

APPOINTMENT OF BOARD MEMBER – VONEENE JORGENSEN/BRWCD

Voneene Jorgensen asked the Commissioners to appoint a new board member to replace Jon Adams. She said a public notice was given for an invitation for anyone in the Brigham City area to put a name in to serve on the board.

MOTION: A motion was made by Commissioner VanDyke to appoint Holly Bell to serve on the Bear River Water Conservancy Board to fill the unexpired term of Jon Adams which expires December 2009. The motion was seconded by Commissioner Davis and unanimously carried.

GREENBELT ISSUE – KIMBLE BLACKBURN/TYLER JENSEN

Tyler Jensen, attorney representing Core Properties who owns a couple of parcels of property in Box Elder County, said they go by the names of Chateau River Subdivision and Lookout Point Subdivision. Mr. Jensen said they are here today primarily for Chateau River Subdivision. Mr. Jensen said that property was owned by Chateau River. The lien holder on the property foreclosed

back in late 2001 or early 2002. There was a new title holder on the property. The several parcels that make up the

Chateau River Subdivision were eventually sold back to Core Properties and continued under the general name of Chateau River Subdivision. The problem arose in the 2005 tax year. Mr. Jensen said when property either changes its status or if the County Assessor is questioning the status, the Assessor's Office will routinely send out a notice to the title holder of record. That title holder is responsible to reply and let the Assessor's Office know whether the status has actually been changed or what is going on with the property. Mr. Jensen said unfortunately in this instance for whatever reason there was a mix-up. Core Properties was the title holder of record but for some reason the notice was sent to the previous title holder who was the lien holder who completed the foreclosure process. Notice was sent in June and then a delinquency notice was sent in July regarding the application to be put back into greenbelt. Durbano Metals was sort of an adversary partner in this. They were the ones that had foreclosed and although they had later sold back, they did not communicate back to Core Properties that the County was contemplating changing the status from agriculture to residential. As a result in or about August his client finally received word sort of through the grapevine that the County was moving these particular parcels from greenbelt to residential and the tax amount is a difference of \$10,000-\$11,000. It was \$200.00 for being in greenbelt. Mr. Jensen's client, Core Properties through its manager Kimble Blackburn, contacted Ms. Gunderson of the County and said this is the first I am hearing about all of this, can you please send me an application because I did not know this was going on. Shortly thereafter in early August Mr. Blackburn changed office locations and Mr. Blackburn did not receive the documents. In or about October of 2005 Mr. Blackburn received documents on Lookout Point Subdivision, and it refreshed his recollection that he needed to look into the Chateau River Subdivision property. He did that and called Ms. Gunderson again, and she said it is now too late and referred him to Mr. Munns. Mr. Munns talked to Mr. Blackburn. Mr. Jensen said another letter was sent by Mr. Blackburn to the County Commission in about December of 2005 requesting the ability to file for greenbelt and in about February 2006 he received a letter back from the Commission stating they were not going to do anything about it. Mr. Jensen said they are here simply petitioning that this be re-looked at and reconsidered. He said it is their contention that by not sending the documents to Core Properties at their listed address, those due processes and statutory obligations were not satisfied.

County Assessor Monte Munns said there was a change in ownership and by law Mr. Munns is required to then send notice. Mr. Munns believes that given the information he has, he sent notice. Ms. Gunderson said she sent notices on different occasions. She tried to find information from Premier Title. She received an address from Premier Title after the first notice was returned. Mr. Munns then gave the addresses of where that information was sent to. He said they did not get any response. Mr. Munns said the end result of what they said was true. They did not receive it and by the time they got into conversations, it was past the deadline. Once it goes past the deadline Mr. Munns' hands are tied as to what he can do. After some discussion with the Commission they said it has gone past the time, and the County put some time into trying to make sure the application was delivered to the owner. Mr. Munns said as far as the 2005 tax year the greenbelt status wasn't given. He said what that creates is, it isn't just the issue of the property being removed from greenbelt and the evaluation for a current year being changed, but it is the rollback issue that is approximately \$12,000.

Kimble Blackburn, Manager for Core Properties, said when it came to his attention he immediately called and asked what he needed to do because Durban Metals had sent a notice in the mail saying this was delinquent. Carol Ann Gunderson said she would send out an application to fill out. Mr. Blackburn received information on Lookout Point at his old office and it was forwarded. He set the delinquent notice on his desk, and at the time he had about 10 projects he was trying to work on, and he noticed it was still sitting on his desk. When he called Ms. Gunderson she said it came back to her. She said that she sent the notice to his address and it came back to the County. He then asked what he needed to do now, and she said it is now too late and was referred to Monte Munns. Mr. Munns explained the situation, and Mr. Blackburn wrote a letter after talking with Mr. Munns in early December to Commissioner Scott Hansen. Mr. Blackburn never got a response to that letter until he wrote another letter in February saying it has been two months since he wrote this letter in December, and I had not heard any response. Mr. Blackburn did finally receive a response from Commissioner Davis which said the Commission has talked about this and is sorry, but it didn't meet the criteria to be put in greenbelt status. Mr. Blackburn's contention was he made sure Lookout Point was taken care of because he got the information and sent it right in. He said he got the letter from Commissioner Davis the letter, as well as an application to make sure this didn't happen again. It was addressed to him, Core Properties, as the manager of Lookout Point and Chateau River Subdivisions. Mr. Blackburn filled the application out and sent it in. The County put Chateau River Subdivision in greenbelt status and took Lookout Point out for 2006. Mr. Blackburn immediately wrote to Carol Ann Gunderson in July of 2006 and said the County sent the application out at the end of February and he filled it out and sent the money in to make sure this did not happen again. The County has put Chateau River Subdivision into greenbelt and has taken Lookout Point Subdivision out of greenbelt. This was in July of 2006 and Mr. Blackburn said this can't happen; it is killing him. Mr. Blackburn told Carol Ann he realized there were some mix-ups and would she please take care of it. At that time Mr. Blackburn asked Carol Ann to send a letter in writing stating this had been taken care of. He heard nothing until he got a tax notice in November saying Lookout Point was now out of greenbelt and was being taxed at a residential rate. Now we are talking about another large piece of property that is 100 acres of ground coming out of greenbelt and going into residential status. This year he received nothing and did not realize Ms. Gunderson had retired. Mr. Blackburn wrote another letter around the first of May saying he had not heard anything and asked what is the status of this property? He has not received anything back in response to that letter either. Mr. Blackburn is very frustrated. He has called, stopped by the County and gone downstairs to try and pick things up. He has tried to find out everything he could and yet it seems like whatever he turns in, it is not making it through the system.

Monte Munns said the Assessor's Office never did have a sign-up for Lookout Point Subdivision. In looking at the property, it is not fenced and not being used for agricultural purposes. He does not think it qualifies. Mr. Munns said there is no question about Chateau River Subdivision being used as agriculture. He said it is being used.

Monte Munns said the issue is the property was being used for agricultural purposes after it came to their name and it has continued in agricultural use. The issue is the law requires the County to send

signups which they put in a good faith effort to do so. He said it was obviously unsuccessful which created a rollback. They would like the rollback to be refunded to them. The issue is the rollback. Commissioner Davis said earlier Mr. Munns came to the Commission and told them this is the information we have and as far as notification, the Assessor's Office feels like we have exercised due diligence in serving the notification and even though we would like to forgive them, the law does not allow them to. He said we have gone through the proper procedures and want to know what the Commission wants to do. The Commission said we have complied; the Commission is not going to grant any exceptions because once an exception is granted, the flood gates open for a lot of exceptions.

Attorney Jensen made a point that their issue was not the secondary notice and the efforts that were made by Monte and Carol Ann after the fact, but it was the fact that when the original notice was sent out, it did not go to his client. It went to the previous owner. When the delinquent notice was sent out, it did not go to his client; it went to the previous owner. By August when he eventually found out, the time line was so fast and things had to happen like clockwork in order to make it work and unfortunately there was confusion there. The bottom line from Mr. Blackburn's position is if the original notice had been sent to the proper place, they would not even be here.

The Commissioners will take under advisement for a week.

AMENDMENT/CLARIFICATION OF RESOLUTION 07-05 – COMMISSIONERS

County Attorney Steve Hadfield said it is his understanding that the map which was attached to the resolution has been misleading to some. He said in talking to each of the Commissioners individually, he does not think there has been any confusion on the Commissioners' part, but it appears the resolution as worded may be causing some confusion as to which road the County was planning on returning to the Class B status.

Chairman Hardy said they all understood the right road that they wanted. The County changed the cattle guards and made the improvement on the road going up the Rocky Dugway and over to Three-Mile. He said that is the road the County worked on. He said there is also another road that comes up the Rocky Dugway and continues on thru that is called Four-Mile. The Commission never discussed what, if anything on that road.

Commissioner Davis said when the Commission had the discussion on the adoption of the resolution, Corey Yeates was in attendance from Cache County. Mr. Yeates shared an ordinance adopted by Cache County that basically said when Cache County considered the petition for vacation of Four-Mile, it was done contingent upon the fact that Three-Mile would remain a public road. When the Commission had the discussion of what constituted Rocky Dugway, they said from the Cache County side coming into Box Elder County, Cache County identifies Rocky Dugway differently than Box Elder County does. Box Elder County identifies Rocky Dugway as the road that goes from Mantua up to Clay Valley and then it becomes Four-Mile and Three-Mile. When Cache County refers to Rocky Dugway, they refer to the complex of road structure, the Four-Mile, the Three-Mile and feeding into the Mantua Valley. When the Commission had the discussion about

which map to adopt, it was said to adopt the map that outlines the roads that are in the area, which includes Three-Mile, Four-Mile, the Rocky Dugway section from Mantua to Clay Valley. But until the Commission has had a meeting with Cache County Representatives, the Commissioners are not going to highlight those specific areas the County is limiting improvements to because the County is going to continue to have access to Avon/Liberty Road through Three-Mile, but Four-Mile on the Box Elder County side has not been vacated. There has been a petition for that vacation, but that has not taken place. The County hasn't vacated Three-Mile. When the petition for the vacation was filed, it was contemplated that both Four-Mile and Three-Mile would be included in the petition. The County has not vacated anything. The County is claiming they are both County roads. The road the Commission intended and corresponded with Cache County over was the Rocky Dugway that extends the Three-Mile Road and accesses the Avon/Liberty Road and goes through Section 31. Commissioner Davis feels the attorney for Selmans has indicated the County is making improvements to the wrong section of road. The public looks at that and says the County doesn't know what it is doing. On the preliminary map the Commission received, there is designation on the Four-Mile Road that this is the Rocky Dugway Road. The Commissioners still reserve the right to make improvements on the Four-Mile Road. The County is not limiting improvements to Three-Mile only. The initial intent was to improve the section between Box Elder County and Cache County commonly referred to as Three-Mile.

Commissioner Davis said the Commissioners have set up an Executive Session with Cache County Council today over in Logan at 11:45 a.m.

The Commissioners clarified there was no mistake made.

WARRANT REGISTER – COMMISSIONERS

The Warrant Register was signed and the following claims were approved for payment: Claim 50456 thru 50550 in the amount of \$255,134.93.

PERSONNEL ACTIONS – COMMISSIONERS

SHERIFF:	Jonathan Larsen, new hire, effective 05/14/2007
SHERIFF:	Alexander Evans, compensation change, effective 05/09/2007
ASSESSOR/TREAS:	Kory Wilde, compensation change, effective 05/04/2007
JUSTICE COURT:	Maria Busby, compensation change, effective 05/06/2007

EXECUTIVE SESSION

MOTION: At 11:04 a.m. a motion was made by **Commissioner Davis** to move into an executive session at 11:45 a.m. to be convened at the Cache County Council Chambers to discuss imminent litigation. The motion was seconded by **Commissioner VanDyke** and unanimously carried.

MOTION: At 12:50 p.m. a motion was made by Commissioner VanDyke to reconvene into regular Commission Meeting. Chairman Hardy seconded the motion, and regular Commission Meeting was reconvened.

Chairman Hardy explained that imminent litigation issues were discussed.

ADJOURNMENT

A motion was made by Commissioner VanDyke to adjourn. Chairman Hardy seconded the motion, and the meeting adjourned at 12:52 pm.

ADOPTED AND APPROVED in regular session this 29th day of May 2007.

Jay E. Hardy, Chairman

Clark N. Davis, Commissioner

Rich VanDyke, Commissioner

ATTEST:

LuAnn Adams, Recorder/Clerk