

IRON COUNTY COMMISSION MEETING

January 12, 2015

Minutes of the Iron County Commission meeting convened at 9:00 a.m. January 12, 2015 in Commission Chambers at the Iron County Courthouse, Parowan, Utah.

Officers in attendance included:

David J. Miller	Commission Chair
Alma L. Adams	Commissioner
Dale M. Brinkerhoff	Commissioner
G. Michael Edwards	Deputy County Attorney
Jonathan T. Whittaker	County Clerk

Also present:

Stephen Platt	County Engineer
Cindy W. Bulloch	County Assessor
Leslie Bishop	Human Resources Director
Bruce Anderson	Landfill Supervisor

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PLEDGE OF ALLEGIANCE

Those assembled were led in the pledge of allegiance by Jon Whittaker.

APPROVAL OF MINUTES – November 17, 2014, December 8, 2014, December 12, 2014, and December 15, 2014

Minutes of the Special Iron County Commission meeting held November 17, 2014, the Iron County Commission meeting held December 8, 2014, the Special Iron County Commission

meeting held December 12, 2014, and the Iron County Commission meeting held December 15, 2014 were approved on a motion by Dale Brinkerhoff. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

REORGANIZATION OF COMMISSION ASSIGNMENTS AND APPOINTMENT OF COMMISSION CHAIR FOR 2015

Alma Adams made a motion to follow tradition and to appoint Dale Brinkerhoff as the Commission Chair for 2015. Second by David Miller. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

The Commission then reviewed their current assignments and decided not to make any adjustments.

REVIEW OF INDIGENT CAPITAL DEFENSE FUND

Michael Edwards requested that an Indigent Capital Defense Fund Application for *State of Utah v Angelo Seth Carrasco*, Case No. 141500662, be approved. The Fund provides for the expense of counsel for defendants in capital cases who are indigent and unable to afford to hire legal counsel. Alma Adams made a motion to approve the Indigent Capital Defense Fund Application. Second by David Miller. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

PERSONNEL MATTERS

Leslie Bishop presented a request to approve Holly Butterfield as a new hire in the Justice Court as a Court Clerk. This hire was a backfill of a vacated position. David Miller made a motion to approve the backfill hire of Holly Butterfield. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

Leslie Bishop presented a request to approve a pay rate change in Corrections for Anna Teeple for obtaining an Associates Degree. Leslie also presented a request to approve of a pay rate change for Orlas Demasters for completing his probationary period of one year of employment. Alma Adams made a motion to approve the pay rate change for Anna Teeple and Orlas Demasters. Second by David Miller. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

Leslie Bishop presented a request to approve the transfer of Cameron Neil from Corrections to the Patrol Division as a replacement for Jim Cook, who is retiring. Dale Brinkerhoff asked whether there would be any budget impact from this transfer. Leslie Bishop affirmed that there would be no budget impact. David Miller made a motion to approve the transfer of Cameron Neil from Corrections to the Patrol Division. Second By Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

Leslie Bishop presented a request to approve the salary of \$67,672.80 for Nicole Rosenberg as the newly elected Iron County Treasurer. David Miller made a motion to approve the salary for Nicole Rosenberg as the newly elected Iron County Treasurer. Second By Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

Leslie Bishop presented a request to approve the salary of \$67,672.80 for Jon Whittaker as the newly elected Iron County Clerk. Alma Adams made a motion to approve the salary for Jon Whittaker as the newly elected Iron County Clerk. Second By David Miller. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

Leslie Bishop presented for approval the Public Defender Contracts. Jeff Slack and Jack Burns are continuing as Fifth District Court Public Defenders at a rate of \$77,500. James M. Park and Matt Munson handle the Juvenile Court and Justice Court Contract as well as Conflict Counsel at a rate of \$57,000. Leslie indicated that there haven't been any changes to Public Defender Contracts budget. David Miller made a motion to approve the Public Defender

Contracts as outlined. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

Dale Brinkerhoff initiated a discussion regarding the Commission assignment over the recently created Court Administrator. The nature of the assignment was discussed. Dale Brinkerhoff requested that Leslie Bishop set a meeting with Lori White, the newly hired Court Administrator, Matthew Carling, Leslie Bishop and himself.

PRAIRIE DOG MATTERS

Dave Miller gave a report on prairie dog matters. He reported on the formulation of a Utah Prairie Dog state management plan that has been ongoing in concert with the Utah Attorney General and the Department of Wildlife Resources. The objectives are to provide for the rights of property owners and remove the cumbersome restrictions to use, while maintaining continuity in protecting the Utah Prairie Dog. He explained the need for maintaining the species in order to not jeopardize the progress made in preserving property owners' rights. Another objective is to assure that no fees are attached to the personal use of private property.

Evan Ludwig, a citizen, commented that there are many stories in the media regarding public projects to manage the Utah Prairie Dog, such as the recent Parowan Airport and Cedar City Cemetery projects, but that private citizens are typically overlooked. He expressed his concern that the governing agencies are more interested in maintaining their job security than in helping the private citizens. Mr. Ludwig wondered whether the private individuals' rights are not being protected in terms of the Utah Prairie Dog like the rights of municipalities have been.

David Miller explained that the management plan being formulated is intended to protect property owners' rights with sanity and balance. He expressed the need to protect the species in order to prevent a rolling back of the gains made if the Utah Prairie Dog population is not properly maintained.

Dale Brinkerhoff explained that there isn't a mitigation fee anymore for someone seeking to build a house. He explained further that a citizen who is seeking to build and has Utah Prairie Dogs on their property may come to the county and fill out a Certificate of Registration. Unlike in the past, there is no longer a mitigation fee, a positive for private citizens.

Dave Miller said that there is a bill file in the Utah legislature sponsored by Senator Evan Vickers that, if passed, will try to avoid putting the mitigation costs onto the private citizens.

BOARD APPOINTMENTS

Alma Adams presented the name of Shawn Reber to serve on the Weed Board, replacing Craig Clark who has served for many years. Alma Adams made a motion to approve the appointment of Shawn Reber to serve on the Weed Board, representing Escalante Valley, releasing Craig Clark. Second by David Miller. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

DISCUSSION OF THE USE OF COUNTY CREDIT CARDS

Dave Miller initiated a discussion regarding the use of county credit cards by personnel. The objective was to continue improving the quality of oversight. He would like to have a discussion as to which personnel have credit cards and why, what policy is in place and what changes, if any, should be made to policy.

Leslie Bishop explained that there is no formal policy in place, only the *per diem* rates set forth, as well as the list of personnel who have been issued a credit card. She stated that one of the concerns regarding credit card usage is that when personnel are traveling, the standard procedure is for them to complete a *per diem* form, providing accountability and oversight. With credit cards, that oversight and accountability becomes more difficult to achieve. Because of the increasing number of personnel holding a county credit card, it has become more difficult to

ensure that *per diem* spending has stayed within required limits. She noted that there have been some credit card charges for lunch that have definitely not been within *per diem* limits.

In the absence of a list of personnel holding a county credit card, as well as an outdated per diem schedule, David Miller made a motion to table the credit card discussion until such time as the current *per diem* rates and the list of county personnel holding a county credit card could be reviewed. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

AGREEMENT FOR RIGHT OF WAY AND EASEMENT GRANT

Delynn Rodeback of Rocky Mountain Power requested to purchase a Right of Way and Easement located in Section 28, Township 35 South, Range 12 West, Salt Lake Base and Meridian, near the county landfill. He requested that the Commission consider selling an easement document or a right-of-way document, instead of an encroachment. There was discussion comparing the virtues of an easement versus an encroachment. The primary concern of the Commission was to avoid financial responsibility for termination or relocation costs that may be incurred in the future. Delynn Rodeback expressed Rocky Mountain Power's willingness to include language in an easement agreement that included provisions limiting the County's financial responsibility in the event of termination or relocation of the easement.

Dale Brinkerhoff asked what the voltage of the proposed power line would be. Brian Stevenson of Sun Edison stated that the line was of distribution voltage, and would not require a substation to access it. Brian Stevenson further explained that the proposed power line would be an "Express Line" to service the planned, adjacent solar power facility.

Bruce Anderson, the Iron County Landfill Director, expressed that he felt it would be much simpler to locate the line on the edge of the Frank Nichols property instead of over County property. He felt that it would be a more direct path along Nichols' property versus the County's property.

Brian Stevenson responded, explaining that the proposed power line would be owned by Rocky Mountain Power, and that it would serve as the "Express Line," e.g. the line that would link all three of the Sun Edison facilities together. He then said it was his understanding that the proposed power line would replace the existing line on County property.

Frank Nichols stated the opinion that the proposed power line would benefit not only Iron County and the Sun Edison facilities, but that it would also benefit other neighboring property owners by bringing a three-phase distribution line closer. Bruce Anderson questioned whether new lines were necessary, and expressed doubt as to the County's need for three-phase power.

Dale Brinkerhoff asked whether there was an objection to the suggestion by Bruce Anderson that the proposed power line be situated on the edge of the Frank Nichols property. Brian Stevenson said that that would be a viable option, but that the engineering was nearly complete and that they would have to work with Rocky Mountain Power to re-engineer the proposed power line.

David Miller asked Bruce Anderson whether he could anticipate any future need for the three-phase power that would be available. Bruce Anderson responded that he couldn't think of any future need. David then asked Bruce whether he felt there were any drawbacks to Iron County if the proposed power line were approved. Bruce said he was mainly worried about any costs to Iron County, and the length of downtime incurred by the project. Michael Edwards asked whether Bruce had any concerns about accessing the proposed power line through the landfill gate.

After assurances that there would be no cost to Iron County, that the transfer time would be minimal, and that the landfill gate would remain secure, David Miller stated that it would be an advantage to the County to have the three-phase power more accessible. David Miller made a motion to work out language to approve an agreement to bring power along the proposed

corridor, with language that protects Iron County in the event of any termination, relocation, or addition, and that those costs would be borne by Rocky Mountain Power. Furthermore, that Iron County reserves the right to request the relocation of power infrastructure and that Rocky Mountain Power be required to cover those costs as well. Also, that the purchase price be negotiated. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

PUBLIC COMMENTS

Evan Ludwig, a resident of Cedar City commented on the pay increase budgeted for the County Commissioners. He feels that the raise may be justified because of the additional workload that now exists. However, he would like to see the raise be implemented after the County Commissioners stand for reelection.

Dale Brinkerhoff clarified that before the budgeted raises take place, a public hearing would be held. Evan Ludwig responded that perhaps the Commission should become full time. Dale stated that the Commission was already there. He continued, saying that the other elected officials have salaries of \$67,672 per year, and that the Commissioners earned about \$41,000 per year, a difference of \$26,000.

Dale recounted a conversation with someone from Cedar City who stated that a person would either have to be rich or retired to be able to run for County Commission.

Evan Ludwig then brought up the issue of the Ambulance service. He felt, though contentious, that privatization would be the best option. He mentioned rumors concerning the privatization of the St. George ambulance service by Gold Cross that imply that people would die because of poor service. It was his opinion that no one would die due to a privatization of Iron County's Ambulance service. He continued, stating that if privatization were to occur, that the private company would pay taxes and improve the quality of service. He felt that the plea being raised that the Sheriff's department be given one more year to sort things out was analogous to Senator Orrin Hatch continually asking for one more term.

Dale Brinkerhoff then gave a report concerning the Ambulance service. Dale explained that the mayors of Iron County signed a petition to keep the Ambulance service under the purview of the Sheriff's department for one more year. He then described the options outlined to the mayors of Iron County at the Iron County Coordinating Council on January 7th, 2015. The first option would be for Iron County to keep the Ambulance service. The service would then be under a seven person board which would report to the Iron County Commission. This option would include a provision to pay Iron County \$150,000 to go toward the outstanding debt service. The cities would have to agree to make up the shortfall, or operating loss, in order to make Iron County whole. He explained that the Commission committed to provide the details of the first option to the mayors of Iron County by January 12th, 2015, and that a letter would be sent today (January 12th, 2015).

The second option would be to form a municipal Ambulance service, with the cities creating their own service areas. This would be an Ambulance service ran by the several municipalities.

The third option presented to the mayors of Iron County, was to privatize.

Dale Brinkerhoff clarified that the intent of the Iron County Commission was to make the county whole. He committed that whatever path is chosen in the end, Iron County would be made whole.

Evan Ludwig concluded by saying he was cynical that the mayors of Iron County would accept the first option as explained. He then said that he felt the Commissioners were honorable men and that he supports them.

UPDATE AND SOLUTION TO THE TRANSPORTING OF DEER

Destry Batt addressed the Commission concerning the Transporting of deer from the foothills East of I-15 between Enoch and Summit. He began by relating an interview he and his father, Gordon Batt had had with Jason Nichols of the Division of Wildlife Resources. The first question they asked was what the purpose of transporting the deer might be. He relayed that Jason Nichols' answer was that the deer herd was killing the vegetation on the Parowan Front, and that it was a study to find out the success rate of transporting deer to revitalize the Parowan Front. Jason Nichols was then asked where the deer were being taken, and the answer was to Holden to reestablish the herd there. The next question they asked of Jason Nichols was concerning the cost of transporting the deer. Destry then related that Jason Nichols answered that it costs \$300 per head to transfer the deer. He commented that the process involved helicopters, and that he was skeptical that the cost could be so low. He said they then asked Jason Nichols what the casualty percentage of the transported deer was. Destry then said Jason Nichols answered that 40 of the 102 deer transferred in 2013 survived, and that they considered that to be a success and they learned a great deal.

Destry Batt then asked the rhetorical question, "How many deer need to be killed before you decide this is really not a good thing?" Destry's father, Gordon Batt interjected at this point asking another question, "What have they learned?" Destry then mentioned a petition they have distributed with 338 signatures of citizens saying they want the transport of deer stopped.

Destry Batt continued relating their interview with Jason Nichols. The next question they asked was how many hunting permits are sold on the Panguitch Lake Unit, annually. The answer given was approximately 3000 hunting permits with 125 doe permits and 2875 buck permits for all of the hunts. The Batts then asked Jason Nichols what was the time frame of the hunts. The answer was from the 15th of August to 10th of November. Destry commented that that was a long time frame to be harassed and hunted, causing the deer to lose fat reserves. Destry related that Jason Nichols couldn't answer what the net financial impact to Iron County was from the hunts. The Batts next asked what the harvest ratio of the permits issued was. Jason Nichols answered that 900 out of 2875 buck permits and 120 out of 125 doe permits were successful. The Batts expressed skepticism about that number because they hadn't seen any deer check stations in the area.

Destry Batt continued relating the interview he and his father, Gordon had with Jason Nichols of the Division of Wildlife Resources. The next question they asked was who was responsible for the idea of transporting the deer. Jason Nichols responded that there are five sportsmen's organizations along with BYU which are responsible, and that the taxpayer is not paying for transporting the deer. Destry then expressed doubt that no taxpayer dollars were spent on this project.

Destry Batt then pointed out that the Commissioners had committed to having a letter drafted on this matter, and that Mike Worthen was to write it. David Miller expressed relief because most of the parties involved regarding this transport of deer were in attendance, and that would have been the aim of a letter by Mike Worthen.

Destry Batt concluded his presentation by listing the objectives he and his father, Gordon had which were to: 1) stop the deer transport from the Parowan Front area; 2) petition a resolution from the Iron County Commission to halt any further transport; 3) seek an injunction from the courts to that same end; 4) involve Senator Evan Vickers to stop the transport; 5) secure the solid support from the Iron County Commission in this matter; and 6) petition the construction of deer crossovers along I-15 in the area between Summit and Enoch.

Several representatives from the Division of Wildlife Resources, Iron County and BYU were in attendance. Teresa Griffin, Wildlife Manager for the Utah Division of Wildlife Resources acted as voice in responding to the Batts. Teresa began by explaining that the Division of Wildlife Resources (DWR) has had the objective to reduce the numbers of deer in the

Panguitch Lake Unit. The DWR feels that the deer herd in the Panguitch Lake Unit is too populous. The DWR has observed that the deer have been causing habitat damage due to the high numbers of deer, and because they are geographically limited due to I-15. Reacting to this, the DWR has continued to issue 150 doe permits per year to reduce the pressure on the habitat. Sportsmen for Fish and Wildlife and BYU collaborated with the DWR to study what could be done with this herd. David Miller pointed out that on data from the handout given to the Commissioners by Teresa Griffin, that the objective population for the Panguitch Lake Unit is 8,500 deer, and that the actual population is estimated to be 11,700 deer. Teresa stated that 100 deer were transported in 2013, 100 in 2014, and 50 are planned to be moved in 2015, and that the transporting costs were not paid for with taxpayer dollars.

After some discussion about having the parties involved meeting in another setting to discuss details, Dr. Randy Larsen from BYU took the floor next to explain some of the details of the translocation study. Dr. Larsen explained that BYU's primary role in this study has been follow up monitoring of the transplanted deer. He reported that the survival rate of the deer transplanted to Holden in year one of the study (2013) was about 50%. In year two of the study, 90% of the transplanted deer had survived. As a control group, the BYU team tagged deer that were already in Holden. Of those in that control group, 80% survived year one, and 85% survived in year two of the study. He noted that the 50% survival rate was lower than hoped for.

Dr. Larsen went on to point out some of the positive results his team found in the study. They found that younger deer had a higher survival rate than older deer. The BYU team also found the deer to have high "sight fidelity," which Dr. Larsen described as the deer returning to the same spot where they were released after being transported. He explained that the high sight fidelity has potential to greatly enhance man's ability to reintroduce and replenish deer populations with greater control and predictability. Another positive found by the BYU team was that the surviving transported deer reproduced at the same rate as the resident deer. Dr. Larsen noted that an intensive study with radio marking and detailed analysis after the transplanting of deer was unprecedented before this study.

Alma Adams questioned Dr. Randy Larsen as to why the deer were moved in the winter, when the does were pregnant. Dr. Larsen responded that the transplanted does gave birth at the same rate as the resident, Holden deer.

Evan Ludwig, a citizen in attendance, asked what the primary cause of mortality was. Dr. Larsen explained that 85% of the deer were predated with 15% dying from various other causes. He explained that the transplanted deer tend to wander, leaving them more vulnerable to predators. He stated that less than 5% of the deer died as a direct result of the translocation.

The Commissioners left Teresa Griffin with the task of organizing a meeting of all the interested parties to come to an understanding.

DISCUSSION OF NIGHT HUNTING ORDINANCE

Lane Sutherland had requested a review of the long standing prohibition in Iron County regarding night hunting. Dale Brinkerhoff asked David Miller to read the current night hunting ordinance in force in Garfield County. The Commission considered using the Garfield County Night Hunting Ordinance as a template. Some of the more notable aspects of the Garfield County Ordinance were: a permit is required, the Sheriff must be notified when and where the night hunting is to occur, hunters must have written permission to hunt on private property, hunters are liable for any property damage they cause, and night hunting privileges will be revoked for a period of 5 years if the ordinance is violated.

Mike Worthen asked how well the Garfield County Ordinance lined up with the Division of Wildlife's ordinance prohibiting spotlighting. Mike Worthen noted that an individual may not spotlight while in possession of a weapon. Michael Edwards noted that the Federal Ordinance does not allow hunting from a vehicle, nor occupying or operating a vehicle while using an

artificial light. David Miller stated that the Garfield County Ordinance was in line with Federal law. A discussion ensued about the viability of using a hand held spotlight while hunting.

Lane Sutherland explained that the State of Utah allows night hunting, but the counties must codify the allowance of night hunting. Lane noted that the practice of night hunting occurs anyway, but by passing an ordinance it allows for both enforcement and for ethical people to participate in night hunting. David Miller noted that there appears to be individuals that would like an ordinance in place to provide a legal avenue to hunt at night. David recalled the the previous discussion concluded that night hunting in Iron County was prohibited because of abuses. He continued, explaining that the Utah State code and the Garfield County Ordinance were sufficient to be able to prevent and punish abuse.

Alma Adams relayed a text message he received from Bob Holt, a large scale farmer in Escalante valley, saying that he would like rabbit hunting denied on his property. This spurred a discussion about property owner rights, which species should be included, and how a potential ordinance would deal with vehicle and spotlight use. There was general assent as to the quality of the ordinance in terms of controlling abuses, yet allow for night hunting.

Lane Sutherland reiterated that he would just like a legal avenue for night hunting, and not necessarily on public property. David Miller asked whether any major changes from the Garfield County ordinance would be necessary if Iron County were to adopt such an ordinance. No one present voiced any major concerns. Dale Brinkerhoff stated that he had spoken with Sheriff Gower about a potential night hunting ordinance, and that the Sheriff agrees that knowing who is hunting at night, and where they are hunting would be a benefit.

Dale Brinkerhoff asked those present if there would be any problem with the reworking and rewording of the Garfield County ordinance in preparation for the January 26th, 2015 Iron County Commission meeting to hold a public hearing to pass an ordinance allowing night hunting in Iron County with the restrictions in place to safeguard public and private interest. Alma Adams expressed concern that the ordinance be explained clearly, so that hunters understand the rules and restrictions that would be in place.

REQUEST TRANSFER OF TITLE FROM IRON COUNTY TO COAL CREEK IRRIGATION

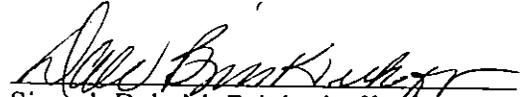
Joe Melling made a request to transfer title on a parcel of land near the overpass where Coal Creek Road passes over I-15 in Cedar City. A.P.N. B-1321, Section 3, Township 36 South, Range 11 West. SLB&M. He explained that when I-15 was established, Kitty Hawk road was cut off, and that part of Iron County Property was orphaned by the overpass realignment. He explained further that the North half of what used to be the roadway was already transferred to the Homer Jones family, and that he was requesting that the South half be transferred to Coal Creek Irrigation to be contiguous with their existing parcel.

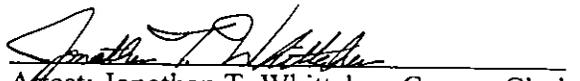
Dale Brinkerhoff said that if the road was vacated, title should have transferred to the adjacent property owners, and that this parcel must have been missed. He questioned why the road vacation transferred to the owners on the North side of the road (the Jones'), but not the South (Coal Creek Irrigation). Michael Edwards pointed out that if the road was vacated, then a Vacating Ordinance would have been recorded.

Alma Adams made a motion to defer transfer of title as explained for research, to find out whether a public hearing would need to be held, whether the road was vacated and no action would be necessary by the Iron County Commission, or whether the Iron County Commission could simply transfer the property. Second by David Miller. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

ADJOURN

David Miller made a motion to adjourn. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.


Signed: Dale M. Brinkerhoff, Chairman


Attest: Jonathan T. Whittaker, County Clerk



