

IRON COUNTY COMMISSION MEETING

March 23, 2015

Minutes of the Iron County Commission meeting convened at 9:00 a.m. March 23rd, 2015 in Commission Chambers at the Iron County Courthouse, Parowan, Utah.

Officers in attendance included:

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

Also present:

Cindy W. Bulloch	County Assessor
Nicole B. Rosenberg	County Treasurer
Leslie Bishop	Human Resources Director

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PLEDGE OF ALLEGIANCE

Those assembled were led in the pledge of allegiance by Chad Nay.

INVOCATION

An invocation was offered by Bruce Anderson.

DEPARTMENTAL REPORTS

Chad Nay, Iron County Building and Zoning Administrator, reported that he felt the area was on the road to economic recovery. To support this, he explained that his department had issued 39 more building permits in 2014 than in 2013. Chad explained that Iron County was slower to feel the effects of the recent recession than other places. Iron County did not fall as low as other places and it recovered more quickly. He attributed this remarkable fact to the local leadership in this area.

Chad Nay noted that his office was being inundated with building plans, another positive sign. Chad explained that there were many custom homes in the process of being built, and that the solar plants scheduled to be built would reflect a tremendous amount of positive growth.

Chad Nay recognized the agenda item regarding a fee waiver for Parowan City's new city offices. Chad stated that waiving fees for municipalities was a long standing practice, and expressed that he supported the fee waiver for Parowan City in the construction of their new city offices.

Chad Nay explained that there were 14 planned commercial photovoltaic solar projects. There were 8 projects over 50 megawatts (MW), and 6 smaller projects. Chad pointed out that if all of the projects were to come to fruition, they would cover 7,000 acres of land.

Chad Nay described the progress of making additional zoning options for A-20 and R-20 areas. Chad explained that there had been great interest in this from the public, with larger venues being necessary for Planning and Zoning Meetings due to public attendance and input.

Chad Nay then discussed with the Commissioners the location of the North end of the planned belt route around Cedar Valley. There was general consensus that the North end should be where it had historically been planned, which was the Summit exit. Alma Adams asked how far along in the process the belt route had progressed. Alma expressed concern over having to buy houses in order to secure property for the belt route. Chad Nay responded that the early planning that was taking place aimed to prevent such problems by establishing the right of way early.

Chad Nay reported that Mike Worthen and Reed Erickson were progressing toward developing a trail system in Iron County. This trail system would connect to the established Paiute Trail system. Chad reported that by having the additional traffic due to the integrated trails, establishing the RS-2477 rights of way would be benefited.

Chad Nay reported that his budgets were in check. Chad did express concern that due to the rapid growth taking place in Iron County, his office would require additional personnel, thus affecting the budget. However, he noted that the additional part time position for maintenance was the only need at the time.

Steve Platt, Iron County Engineer, reported that the bid opening for the crushing was successful. Gilbert Development Corporation was the winning bidder at \$4.21 per cubic yard. Steve also reported on Holt Canyon, RS-2477 roads, the Cedar Highlands Road, and the Dutch Cowboy Road.

Dale Brinkerhoff and David Miller then asked Steve Platt about the Virgin River Rim Trail. Specifically, about the combined efforts between Iron County and Kane County in restoring it from a non-motorized trail to wider, motorized trail. Steve Platt said he had not heard of it before, and would yield to Art Tait on the issue.

The SUU Mountain Center Road MOU, the Bowery Creek pavement, additional Right-of-Way for 5700 West, North of Highway 56 and Ken Richard's GIS contributions were all discussed.

Neil Forsyth, Roads Supervisor, reported that the Road Department was under budget thus far. Neil reported that upcoming impacts to the budget would be loader tires and engine replacement on the Grader. He explained that maintenance costs would be up due to a remodel of two restrooms. Neil explained that much of the remodel was done internally, saving expense.

Neil Forsyth reported that they would be working on 5700 West until early April, then move to the road base on Gentry Road. Neil explained that bids were being sent out for chip, chipping asphalt and hot mix asphalt for 2015. He noted that he was going to investigate the condition of the Summit Mountain Road to see if it could be done in April. Neil explained that, with the crushing, the Summit Mountain Road would take about 5 employees a week to complete.

Neil Forsyth stated that he was working with Ed Genouvis to procure additional pits around the county from which to draw road materials. Alma Adams noted the need to reduce haul distances.

Bruce Anderson, Landfill Supervisor, reported that the Landfill finished 2014 within budget. Bruce reported collection was positive, and budgets looked good for 2015.

Bruce Anderson explained that in terms of equipment, the haul truck repair was complete. However, the new garbage truck was down and the compactor needed a new rear end. Bruce anticipated that the compactor repair would be expensive.

Bruce Anderson reported that his yearend report reflected that 2014 saw a smaller volume than 2013. Municipal solid waste went from 40,126 tons in 2013 to 39,147 tons in 2014.

In conclusion, Bruce Anderson reported that the landfill was constructing a small transfer station just west of the scale house. Bruce reported that the expense would be minimal due to most of the work being done in house. This transfer station was envisioned to serve residential customers driving small cars or vans that might have a hard time navigating the pit.

DEPUTIZATION OF UPPER LIMIT AVIATION PILOTS

At the request of Sheriff Mark Gower, Jon Whittaker administered an oath of office as Iron County Special Sheriff Deputy to Michael Oliver Ballard, Scott Edward Banning, Richard Dean Cannon, Kent Isaac Daniels, Ryan Adam Dejong, Daniel Christopher Laguna, Eric Wayne Lenormand, Landon John William Lewis, James Douglas Kofford, Shae Mackie, Michael William Mower, Sean Reid, Gregory Richard Stine, and Chelsea Nicole Tugaw. Dale Brinkerhoff expressed gratitude to both Upper Limit Aviation as well as the pilots willing to serve. Dale noted the need to deputize these pilots in order for them to serve and to legally touch down. Scott Jolly, Community Relations and Business Development Director for Upper Limit Aviation, expressed gratitude at the opportunity and determination to serve Iron County. Lieutenant Del Schlosser of the Iron County Sheriff's Department, expressed his gratitude and noted that Upper Limit Aviation pilots had already saved a tremendous amount of man hours and money.

PUBLIC USE AGREEMENT BETWEEN IRON COUNTY AND UPPER LIMIT AVIATION

Dale Brinkerhoff explained that the public use agreement between Iron County and Upper Limit Aviation would be tabled until the next commission meeting in order for legal counsel to finalize the details of the agreement.

PUBLIC COMMENTS

No public comments were offered.

REQUEST FOR WAIVER OF BUILDING PERMIT FEES BY PAROWAN CITY

Mayor Don Landes explained that Parowan City was in the process of building new city offices. Mayor Landes noted that the demolition would occur on the parcel by the end of the month, and that he anticipated construction would be complete by fall. Mayor Landes then requested the commissioners waive the building permit fees for the new Parowan City offices as per tradition.

Chad Nay spoke in favor of granting the waiver of building permit fees. Chad explained some of the history of building inspection in Iron County especially regarding smaller cities. He noted that as requirements increased, some cities partnered with the county to provide those services. Chad expressed that because of the long-standing partnership between Parowan City and Iron County, he felt the waiver of building permit fees for Parowan city was proper.

Alma Adams noted that granting such a waiver was not without precedent. Alma Adams made a motion to waive the building permit fees for Parowan City, and that no portion of building inspection fees be paid to Parowan City because none would be collected. Second by David Miller. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

ROCKY MOUNTAIN POWER COMMUNITY PERFORMANCE PLAN FOR 2015 AND GENERAL UPDATE

Tom Heaton, Customer and Community Manager for Rocky Mountain Power, presented the annual Community Performance Plan for 2015 to the commissioners.

Tom Heaton then noted that Rocky Mountain Power was happy to interact with all of the new renewable sources of energy being developed. Tom expressed that the majority of the power purchase agreements were with Rocky Mountain Power. He then reported on various issues and projects Rocky Mountain Power had been dealing with. Tom explained that Rocky Mountain Power was pleased with the improved continuity of power. Tom Heaton and the commissioners then discussed the progress of the Sigurd to Red Butte line, the influx of renewable projects and their effect on line capacity and power quality, the importance of maintaining base load capacity, and the continued preeminence of coal as a fuel source. They also discussed the increasing cost of regulations, noting that the majority of expense involved in installing a new transmission line is regulations, with less than half of the expense being construction costs. Finally, they discussed the need to coordinate during a power outage.

Alma Adams made a motion to support the annual Community Performance Plan for 2015 with Rocky Mountain Power, that Iron County is grateful for the high quality of power it receives, and that Iron County supports coal generation as well as other forms of electrical generation. Second by David Miller. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

NOTIFICATION OF CONDITIONAL USE PERMIT APPLICATION FOR THREE PEAKS SOLAR PLANT

Reed Erickson, Planner and Special Services Coordinator for Iron County, notified the commissioners of a conditional use permit application for Three Peaks Solar. This project is anticipated to be a photovoltaic solar power plant with an associated substation, a load shifting power storage station, and a utility service facility that includes transmission lines. Reed explained that the project will be located next to the Three Peaks area, and that it would lie East of Lund highway with the transmission line crossing the highway. He explained further that this would be the first project in Iron County with a storage component included as part of the project.

Alma Adams asked Reed Erickson how the Three Peaks Solar project compared to the Red Hills Renewable project. Reed Erickson replied that the Three Peaks Solar project was larger in scale, and would include a load shifting component. Reed explained

that the storage component of the project would allow the operator to retain some of the energy produced throughout the day and release it according to demand, even if the sun were down. He explained further that Three Peaks Solar would produce 120 megawatts (MW) of electricity and of that, 45 MW would be stored. Being able to store part of each day's production and release it strategically would allow the operator to better support peak demand, which typically occurs after the sun has gone down. Reed noted that the developer has not yet determined what type of storage will be used, and that additional review will be required. He explained that Iron County would wait until the developer decided which storage method they would pursue before scrutinizing the details of that aspect of the project.

Chad Nay, Iron County Building and Zoning Administrator, explained that if all of the solar projects were to come to fruition, they would be over 7,000 acres of solar panels in Iron County. Chad mentioned that he had been questioned about future decommissioning of all the solar projects. Chad expressed that he did not foresee decommissioning of the projects. He cited of the infrastructure expense the developers were investing, and that solar panels were likely to continue to improve. David Miller concurred, stating that even after 25 years solar panels were rated at 81%.

David Miller explained some of the reasons for providing tax incentives for solar projects. The first reason David noted was jobs. He explained that during the construction phase there would be many jobs. David also pointed out that dollars invested both directly and indirectly would stay in Iron County for the most part. He noted that it would be important to emphasize using local contractors effort to keep the indirect benefits of these projects in Iron County. Dale Brinkerhoff expressed that because of the incentives offered by Iron County, the commissioners and Iron County felt they have the prerogative to require the use of local contractors. David Miller expressed a strong request to use local contractors in the construction of projects.

REVIEW COOPERATIVE AGREEMENTS WITH PAROWAN, PARAGONAH, AND BRIAN HEAD REGARDING FIRE SERVICES

Ryan Riddle, Iron County Fire Warden, explained that the cooperative agreements with municipalities were to standardize and codify cooperative relationships between cities and Iron County. Ryan noted that the cooperative agreements, as written, and as per his discussion with David Miller earlier that morning needed some improvements.

David Miller made a motion to table the cooperative agreements with Parowan, Paragonah, and Brian Head regarding fire services until April 13th. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

CONVENE AS THE IRON COUNTY BOARD OF EQUALIZATION

Dale Brinkerhoff, Iron County Commission Chair, declared the Iron County Board of Equalization open.

DISCUSSION AND DECISION FOR APPEAL OF ROLL BACK TAX FOR FMT TRUST AND THOMAS FEREE

Thomas Feree appealed the rollback tax assessed to A.P.N. D-605-4, because his property had been tied up in the courts for many years. Thomas stated that he was unable to use the property and that he desired that it stay in Greenbelt. He noted that the property would be used for Greenbelt purposes as soon as possible. Thomas expressed that it seemed unfair to value the property at \$100,000.

Dale Brinkerhoff asked Mr. Feree how long the property had not been used for Greenbelt. Thomas Feree replied that there had been no Greenbelt use since 2005, when the property began to be tied up in the courts. Thomas explained that he had sold the property and later had to foreclose but was counseled by his attorney to go through the courts. This delay caused the lapse in Greenbelt activity.

David Miller asked what the total rollback amount was. Cindy Bulloch replied that it was \$5,062.67. Dale Brinkerhoff explained that it was necessary to maintain the integrity of the entire Greenbelt program, and that this situation left the commissioners very little choice. Alma Adams requested that Mr. Feree be sent all of the applicable forms to reapply for Greenbelt.

David Miller made a motion to deny the appeal made by Thomas Feree because he had not ensured continuous Greenbelt use. In particular, he had not had any Greenbelt use since he reacquired the property in 2013. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

REVIEW AND DECIDE REGARDING SUBMITTED APPLICATIONS FOR EXEMPT STATUS FOR RELIGIOUS, CHARITABLE OR EDUCATIONAL PROPERTIES

Christine Lowder, Chief Deputy Auditor, presented the names of those organizations that had not submitted applications for exempt status by the March 9th Iron County Commission meeting. Christine reported that she had heard back from all the organizations except Boy Scout Troop 360.

David Miller made a motion to approve the applications for exempt status for religious, charitable or educational properties for the Cedar City Masonic Lodge, the Lions Club of Cedar City, and the Mountain View Baptist Church. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

RECONVENE AS THE IRON COUNTY COMMISSION

Dale Brinkerhoff, Iron County Commission Chair, declared the Iron County Board of Equalization closed, and reconvened the Iron County Commission.

LIBRARY DISCUSSION

Dale Brinkerhoff asked Michael Edwards whether he felt it was wise to move forward with the interlocal agreement. Michael Edwards replied that he felt that it would not be wise to enter into the agreement. Michael expressed that he was uncomfortable with Iron County collecting a library tax for the cities. After some discussion David Miller expressed concern that through the interlocal agreement, cities could still issue library bonds, thereby obligating Iron County. David Miller also expressed that the library funding concerns would probably need to be resolved legislatively. David noted that, currently, the state statute did not necessarily allow counties to collect a library tax on behalf of cities. He expressed his desire to be able to use those funds to best benefit a county-wide library system wherein all citizens would benefit.

David Miller made a motion to distribute the library funds in the same amounts as was done in 2014 for continuity's sake, and that the details of an interlocal library agreement be reviewed and finalized before Iron County finalizes the 2016 budget. Also, Iron County will work with the Utah state legislature to help solidify their position regarding the collection and distribution of the county library tax. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

DISCUSSION OF TAX DEFERRAL AGREEMENT WITH GRAND LODGE AT BRIAN HEAD

Because no tax deferral request form has been submitted, David Miller made a motion to not negotiate with the Grand Lodge at Brian Head regarding a tax deferral. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

PERSONNEL

Leslie Bishop, Iron County HR Director, requested approval of a new hire, Jan Hadlock in the Justice Court. This was a backfill of a vacant position.

Leslie Bishop requested approval of a new hire, Ashley Braun, as Center Activity Director. This was a backfill of a vacant position. David Miller made a motion to approve the new hires, Jan Hadlock and Ashley Braun. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

Leslie Bishop presented the name of Shawn Slaugh to receive a pay increase upon successfully completing one year of employment. However, Leslie recommended not granting this pay increase due to several factors. She noted the inequity of giving Shawn Slaugh an increase when so many other employees had received none, also that many other employees with longer tenures had not received pay increases and their salaries were compressed. Leslie noted that a salary study for employees that were under “compression” was taking place. She recommended that the commissioners table this action until July so that the salary study could be completed.

The commissioners took no action regarding the pay increase for Shawn Slaugh.

REQUEST TRANSFER OF TITLE FROM IRON COUNTY TO COAL CREEK IRRIGATION

Joe Melling, Secretary of Coal Creek Irrigation, requested the transfer of A.P.N. B-1321, located in Sec. 3, T36S, R11W from Iron County to Coal Creek Irrigation. Joe explained that the land in question had been owned by Coal Creek Irrigation, but was conveyed to Iron County to accommodate Kitty Hawk Road. Joe noted that this was done to provide access to the Iron County Road shed. Later, when I-15 was built, the land in question ceased being used as a road and was cut off by the overpass for Coal Creek Road. The land in question had not been used as a roadway since. Michael Edwards explained that because the land in question was used as a roadway it would be necessary to go through the vacation process.

Alma Adams made a motion to begin the process to vacate the land in question, vacating a 33 foot Public Use Easement on the north half and vacating the southerly 33 feet which had been deeded to Iron County. Second by David Miller. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

REVIEW CURRENT RIF POLICY AND APPROVE OR REJECT POTENTIAL CHANGES

Leslie Bishop, Iron County HR Director, explained the need to update the Reduction in Force (RIF) policy. Leslie explained that it was necessary to provide an appeals process for RIF’ed employees. Also, it was necessary to establish a process to file such a grievance. Leslie explained that RIF policies are one of the most litigated areas of human resource management.

Leslie Bishop noted that some of the changes to the policy included clarifying that “Director,” means the Director of Human Resources. Also, when a RIF is deemed necessary, the Elected Official/Department Head shall develop workforce adjustment plan. Leslie explained that merit, ability, and seniority were to be considered, resulting in a “retention score.” Other factors for determining the retention score were also discussed. She emphasized that the decision to take a RIF action and the formulation of the workforce adjustment plan must be accomplished before the RIF action is revealed.

Leslie Bishop continued, describing a closed meeting to be held with the commissioners, the elected official or department head, the HR director, and a county attorney wherein the elected official or department presents the workforce adjustment plan, presents employee lists and identifies employees with the fewest retention points. The meeting is also to discuss projected savings and factors that would mitigate the reduction in force. Then the Iron County Commission provides authorization for the RIF action and identifies the position(s) to be eliminated. More details regarding RIF are found in section 12 of the Iron County Personnel Policy.

Leslie Bishop and the commissioners discussed the topic of severance after a RIF action. Two weeks’ severance pay was deemed appropriate.

David Miller made a motion to approve the Reduction in Force or RIF policy as it was presented, with the clarification that the Iron County Commission will be the authority by which any RIF action will be approved. Second by Alma Adams. Voting: Alma Adams, Aye; Dale Brinkerhoff, Aye; David Miller, Aye.

NIGHT HUNTING DISCUSSION

Dale Brinkerhoff led a discussion regarding the upcoming Night Hunting ordinance. Logistical concerns such as who would issue the permits, how hunters would be tracked, how the fees would be handled, and who would design the permits were discussed. Jon Whitaker consented to work with Sheriff Gower to finalize the details and begin the process of public notification.

DISCUSSION REGARDING DETAILS OF AMBULANCE PROPERTY

Alma Adams led a discussion regarding the Community Impact Board (CIB) grants and debt service related to ambulance properties and vehicles. The need to repay all debts owing CIB whether grants or bonds was emphasized by Reed Erickson.

NON-DELEGATED ITEMS

Reed Erickson, Planner and Special Services Coordinator for Iron County, discussed the dissolution of the Utah Prairie Dog Recovery Program (UPDRIP). With the changes in prairie dog management, UPDRIP would no longer be active. Instead, the "Coordinating Group," would be active. Reed explained some of the goals of the group, and sought to clarify Iron County's role in the group. David Miller expressed that the primary tenet would be to protect property owners' rights.

Reed Erickson and the commissioners discussed the Extension Service, financial participation by local counties, a new hire by the BLM, recovery sites on public lands, and efforts made by other neighboring counties. David Miller emphasized that to be successful, coordination would be key.

The Iron County Commissioners then hosted a meeting regarding changes in the management of the Utah Prairie Dog (UPD). Many representatives from local cities and towns were in attendance, as well as representatives from the Division of Natural Resources (DNR), and the Bureau of Land Management (BLM). Representative John Westwood was also present.

David Miller explained that the forthcoming changes to the management of the UPD were a result of the culmination of a great deal of effort. David reported that the citizens got involved and organized People for the Ethical Treatment of Property Owners (PETPO). He noted that the federal approach to managing the UPD had become intolerable. David explained that PETPO spearheaded a lawsuit claiming that the impacts to property owners resulting from the management of the UPD through the Endangered Species Act were unconstitutional. PETPO was successful in its suit, and in the ruling it was clarified that Congress had no authority to regulate a species that was wholly intrastate. Because the species does not cross state lines it is not subject to the laws of interstate commerce. Furthermore, because the UPD has no commercial value it is not subject to the Necessary and Proper Clause of the Constitution.

David Miller explained that the purpose of the meeting was to clarify what changes would be coming and the timing community leaders could expect those changes to occur. David explained that on May 8th the new rules would go into effect. He explained that after May 8th, Utah state law would govern the management of the UPD.

Kevin Bunnell, Regional Supervisor for the Utah Division of Wildlife Resources, explain some of the details of the new UPD management plan. Kevin explained that under the DWR regulations, if private property had been mapped as UPD habitat, then a 1300 foot radius buffer zone was enforced. Under the new plan no such buffer zone would exist. Kevin explained that in the Cedar City and in Enoch areas alone, this would mean 51,000 acres would be freed up from regulation.

Kevin Bunnell explained further that if health and safety concerns arose, such as colonies near a school or cemetery or golf course, then the dogs could be removed without a permit. He emphasized that it would be necessary to report how many dogs were removed for accounting purposes. Kevin also explained that the dogs could be translocated or removed by lethal means. Another instance of health and safety concerns would be dogs within 50 feet of an occupied dwelling. He emphasized the value of translocation because it would bolster the numbers of dogs on public lands, because as number of dogs in the wild increase the restrictions surrounding them decrease.

Kevin Bunnell described how development would be eased under the new plan. Kevin explained that if the parcel to be developed were within UPD habitat, then the property owner would need to request a prairie dog survey which would be performed within one or two days to assess the number of dogs that would be impacted. The DWR would then issue them a letter within a couple of days and then they could move forward with construction. Another tremendous benefit would be that mitigation fees will no longer be required.

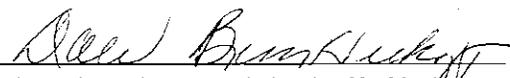
Kevin Bunnell discussed how the new rule would affect agriculture. He explained that take permits would still be available. Notably, Kevin described a compensation program that would allow for trapping and would reimburse farmers for the loss in productivity. He explained that Senator Vickers had secured the funding for this program through the legislature.

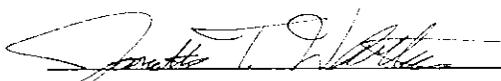
Reed Erickson described various situations that would apply under different types of land such as: federal, developed, unmapped, agricultural, etc. Reed then emphasized that under the new plan, UPD would not be the enemy. Instead elevating the population to sustainable numbers would be a common goal that would eventually free property owners and citizens from the hassle and expense UPD had caused in the past.

David Miller concluded by expressing how remarkable the progress was regarding management of the UPD. David explained that this was an unprecedented opportunity to show that a local community could protect a threatened species, and could also protect property rights. He emphasized the need to act together and that the UPD was not the enemy. David recognized that this was a change in paradigm and that the conversation needed to shift to protection of the UPD. He concluded by explaining that the restrictions would be lifted as soon as the goal was met. He expressed a desire to make a community goal of 2000 dogs for the spring count of 2016.

ADJOURNMENT

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


Signed: Dale M. Brinkerhoff, Chairman


Attest: Jonathan T. Whittaker, County Clerk

