

APPROVED – May 28, 2009



Thursday, April 23, 2009 – 7:30 A.M.  
Historic County Courthouse Ballroom – 3rd floor  
51 South University Avenue, Provo, Utah

**ATTENDEES**

Mayor Lewis K. Billings, Chairman  
Commissioner Larry Ellertson, Vice-Chair  
Reed Price, Utah Lake Commission  
Mark Atwood, Pleasant Grove  
Walt Baker, UT Dept. of Environmental Quality  
Dick Buehler, Dept. of Forestry, Fire & State Lands  
Stephen Clark, House of Representatives  
Mayor Jim Dain, Lindon  
Chris Finlinson, Central UT Water Conservancy District  
Mayor Howard H. Johnson, Lehi  
James Linford, Santaquin  
Dean F. Olsen, Springville  
Nathan Riley, Vineyard  
Mike Styler, UT Dept. of Natural Resources  
Mayor Heber Thompson, American Fork  
Mayor Jerry Washburn, Orem  
David Lifferth, Eagle Mountain

**Other Interested Parties**

Stephen Schwendiman, Attorney General's Office  
Greg Beckstrom, Provo  
David Grierson, Forestry, Fire & State Lands  
Gene Shawcroft, Central UT Water Conservancy District  
Bob Trombly, Provo  
Robert Moore, UT County Attorney  
LaVere B. Merritt, Consultant  
Rick Cox, URS Corp.  
John Curtis, Citizen  
Todd Frye, Bonneville Sailing & Seamanship

**ABSENT:**

Genola, Mapleton, Saratoga Springs, Woodland Hills, Provo/Orem Chamber of Commerce, Payson

**1. Welcome and call to order**

Chairman Lewis K. Billings called the meeting to order at 7:32 A.M. He asked if there was anyone here for the first time.

**2. Review and approve the Utah Lake Commission minutes from March 26, 2009**

Chairman Billings referred to the minutes from the Governing Board meeting held on March 26, 2009. It was moved to approve the minutes by Mayor Heber Thompson and seconded by Mr. Dean F. Olsen. The minutes were approved unanimously.

**3. Review and approve the monthly financial report of the Commission for March 2009**

Mr. Price presented an overview of the financial report of the Commission for the month ending March 31, 2009. With 25% of the year remaining the Zion's checking account balance was \$2,181.49 and the Zion's

## APPROVED – May 28, 2009

Money Market account balance was \$153,110.57. The Petty Cash balance was \$2.12 and Mr. Price said that account is going to be eliminated at the end of the year as it is rarely used. Account balances were listed with 31% of the budget remaining and 25% of the year remaining. There were two Money Market transfers in the amounts of \$27,500.00 and \$6,000.00. The interest earned during the month was \$181.02 and the Year-to-Date Interest Earned was \$4,775.67. Expenses for the month totaled \$33,094.77. He referred to the account balances listed in the Budget Report with 31% of the budget remaining.

Chairman Billings asked if the payment listed that was made to URS, Corp. was the final payment for their services. Mr. Price explained that it was not as \$1500 of the balance owed was retained pending the final document copies. Mayor Jim Dain moved to approve the financial report as presented and the motion was seconded by Commissioner Larry Ellertson. The financial report was approved unanimously.

#### **4. Public Meeting Training presentation**

Mr. Price stated that the Public Meeting Training presentation is required by law to be given annually to all public boards and city councils. Recommended by Commissioner Ellertson, Mr. Robert Moore, a Deputy County Attorney in Utah County, was asked by Mr. Price to make this presentation.

Mr. Moore began by passing out handouts with a summary of the key positions of his presentation summarizing the Open and Public Meetings Act, Title 52, Chapter 4, Utah Code. The purpose of this Act is two-fold; 1) State and Local agencies exist to conduct the people's business and, 2) business must be done openly. A public body is any administrative, advisory, executive, or legislative body that is created by constitution, law, rule or resolution; supported in whole or in part by tax revenue; and vested with the authority to make decisions regarding the public's business.

A meeting is a convening of a public body with a quorum present for the purpose of discussing or acting on a matter under its jurisdiction or advisory power. A meeting does not mean a chance meeting, social meeting, or if a body has both legislative and executive functions. Chance meetings should not be used to circumvent the Open and Public Meetings Act.

Electronic meetings (by means of electronic communications) can be held, but it should be listed on notices that it is an electronic meeting. Electronic meetings may not be held unless the public body has adopted procedures to govern them.

A Closed meeting which would not be open to the public can be conducted for certain reasons. There are certain specified reasons for holding a closed meeting, but it must be announced and entered into the minutes of the open meeting. Those reasons include discussion of a person's character, competence or health; strategy for collective bargaining; pending or imminent litigation; and exchange of real property; security; or investigation of criminal conduct. In the case of an exchange of real property that would eventually also have to be discussed in a public meeting.

The process to close a meeting requires a 2/3 vote with a quorum present in an Open Meeting. It must be disclosed in the minutes the names of each person voting for or against having a closed meeting, the reason, and the location. In a closed meeting a resolution, ordinance, contract or other appointment cannot be approved. However, these things can be discussed if it fits within the appropriate categories. Also, a person cannot be interviewed to fill an elected position in a closed meeting.

There are notice requirements in the Open and Public Meetings Act. These requirements are as follows:

- include the date, time, and place of the meeting;
- include an agenda that lists topics to be considered (a topic raised by the public and not listed on the agenda may be discussed but no final action may be taken);
- be posted at the principal office (or if none, at the building where the meeting is to be held);
- be posted on the Utah Public Notice Website; and
- be provided to a newspaper or local media correspondent.

## APPROVED – May 28, 2009

Last year a new requirement was added to the Open and Public Meetings Act. This requires that the notice and agenda be posted on the Utah Public Notice Website which applies to those agencies with certain budgets. (Municipalities and special districts that have a current annual budget of less than \$1 million are encouraged, but not required to post written notice on the website.) Mayor Thompson questioned if all of the items are required or if the website supersedes the other two. Mr. Moore clarified that all postings are required. The notice can be faxed to the newspaper. Mr. Price said he believes the Utah Public Notice Website emails newspapers about the meetings listed. Mr. Moore said all of the requirements should still be followed.

In the case of Emergency meetings if needed, an attempt must be made to notify all members of the Public Body and the majority of the members must approve the emergency meeting. The minutes should state the reasons for the meeting being called. Mr. David Lifferth asked if there were any limits on the actions that could be taken at an emergency meeting and Mr. Moore said there were not. An emergency meeting cannot be held because of procrastination of something that should have been previously discussed. An emergency meeting needs to deal with an issue that has to be addressed immediately.

The minutes of a meeting should be written and a recording must be kept of all open meetings. Written minutes of closed meetings may be kept, but recordings are mandatory. The exceptions where written minutes or a recording don't have to be kept are as follows: regarding a person's character, competence, or health; strategy for collective bargaining; pending or imminent litigation; an exchange of real property; security; or investigation of criminal conduct. The presiding person must sign a sworn statement declaring why minutes or a recording are not being kept.

The requirements for minutes include listing the date, time and place of the meeting. The names of all those individuals present or absent must be listed. Minutes of Open Meetings should include all matters discussed. The individual votes on each matter need to be recorded. All names of those participating in the meeting need to be stated. Copies of minutes can be requested. Minutes of Closed Meetings should include those present. Mr. Price asked if the individual names of members need to be listed for each vote taken in an Open Meeting. Mr. Moore said it can be said the vote was unanimous, but any negative votes or abstentions must be noted. However, all names for every vote should be included.

If there are any violations of the Open and Public Meetings Act in a meeting the court can take action and legally void any action that was taken during the meeting. A violation can be "cured" in a subsequent meeting by a public vote. There was some discussion on procedure if there is a violation in a closed meeting. Mr. Moore said that if someone intentionally discloses information from a closed meeting that causes harm to another person they may have to pay court costs and attorneys fees for their own defense; but he has not heard of anyone being prosecuted for violation of the Open and Public Meetings Act.

The Legislative update from 2009 clarifies that if someone who was not present wants to have information included in the minutes it is not required to be included. Written minutes are public record once they are prepared. They must be provided to the public, if requested, in draft form even before they are approved and must be available to the public within a reasonable time. Minutes before approval shall be clearly identified that they are awaiting formal approval such as "Unapproved" as a header on each page of the minutes. Another change as of 2009 requires a public body to establish and implement procedures for approval of written minutes. Mr. Moore prepared a sample resolution for the Commission to adopt for establishing and implementing procedures for the approval of written minutes. It will be reviewed and a resolution will be presented for approval in a later meeting. The recordings of an Open Meeting must be available to the public within three business days after the meeting. A recording is not required for site visits.

Chairman Billings thanked Mr. Moore for attending the meeting and for his excellent presentation.

## APPROVED – May 28, 2009

### **5. Report from the Executive Director**

Mr. Price stated that there is normally a Technical Committee meeting report; however, the scheduled presentation by Mr. Leon Harward of Utah Crossings needed to be postponed. Mr. Harward had been requested by the U.S. Army Corps of Engineers to submit a set of plans for his crossing proposal in order for them to determine jurisdiction and he had not yet had those returned from the Corps of Engineers. He is also looking further into the questions that the Technical Committee provided to him that they would like to discuss with him at the time of his presentation. Mr. Harward and his group of engineers are scheduled to present at the May Technical Committee meeting. He recognizes that his crossing plans need to address the concerns of the Commission.

The Master Plan is still in the 45-day comment period as required by Forestry, Fire & State Lands (FFSL) which ends on April 30, 2009. Mr. Dave Grierson said FFSL has received about a dozen comments. Response to those comments should be able to be made quickly following the deadline. Those comments will be incorporated into the Public Comment Appendix in the Master Plan.

The Executive Committee met and discussed how to schedule the signing of the document. It was agreed that it is important to invite the Governor and the Federal delegation to participate. It is hoped that the signing ceremony can be incorporated with the Utah Lake Festival on June 6, 2009. Mr. Price is in communication with the Governor's office and the U.S. Senate and U.S. House of Representative offices. Senator Bennett has already expressed interest in attending, calendar permitting. The Governor will be discussing attendance at an upcoming scheduling meeting. In order to get their support the date may have to be flexible.

Last month it was reported that there would be a phragmites burn and that Mr. Price would notify the Commission members when that burn would be happening since it was weather permitting. A couple of weeks ago there was a window to conducive weather to allow the burn. FFSL and the Utah County Fire crew went to the site and it was a learning experience. It was assessed that springtime was not the best time for this procedure as it was difficult to burn with the recent water level. The committee organizing this project will be meeting again in a couple weeks to plan the larger scale burn plan.

In regard to the carp removal efforts, Mr. Price stated that in a news conference held yesterday by the June Sucker Recovery Implementation Program (JSRIP) it was announced that the U.S. Fish and Wildlife Service, part of the Department of Interior, has given them a one million dollar grant for carp removal efforts. This will need to be matched with \$500,000 of state funding which Mr. Reed Harris of the Department of Natural Resources is confident they will be able to find. The news station, KSL, provided great footage of the carp removal process that showed significant volume of carp being removed. It was a very good event. Mr. Price reviewed that carp removal is one of the Commission's top priorities to help the ecosystem of Utah Lake return to a better state. He talked to Mr. Mike Mills who is traveling with Mr. Harris to Seattle to tour a plant that turns fish into liquid fertilizer and fish meal in the hopes to find a potential market that will help defray the cost of removing the fish. Mr. Mills relayed that to date 1.4 million pounds of carp have been removed. They were hoping to have removed 2.5 million pounds, but it has been shown that the goal is achievable and this was done with only one crew. By organizing additional crews it will be possible to achieve the goal of removing five million pounds per year.

The Utah Lake Festival will be held on June 6, 2009. Plans are moving forward and the next meeting will be held later today. The format for the Festival is similar to last year. There are plans for a VIP boat tour for Council members, elected officials and others to be held prior to the Festival. This will be further discussed pending the signing ceremony of the Master Plan document. Governing Board members can participate in the sailboat regatta which is accompanying the Utah Summer Games. Those interested in participating should contact Mr. Price.

Representative Clark questioned if there is a location identified for a causeway or bridge in the Master Plan. Mr. Price clarified that the Master Plan does not take a stance on a transportation corridor. It recognizes that there are proposals, but states that the Commission will study the issue and make a recommendation

## APPROVED – May 28, 2009

as specific proposals are introduced. As proposals are presented the Technical Committee will listen, ask questions of the developer, and make recommendations to the Governing Board. The Commission does not have the authority to approve transportation corridors, but does have the unity of the Governing Board elected officials. The FFSL has the responsibility to permit such a facility and the FFSL looks to the Commission for recommendations. Mr. Styler confirmed that the State had a meeting with Mr. Harward, but the State deferred to the Utah Lake Commission to hear this proposal first and make their recommendations regarding it to the State.

Mr. Lifferth mentioned that in the KSL news report yesterday it was reported that the fishermen were targeting the larger carp. Mr. Price said it was more that they were catching the larger carp by the methods they use. However, they do catch some of the smaller carp in the process. Not all of the information in the news report was completely accurate.

### **6. Discuss and approve a tentative budget for FY2010**

Chairman Billings requested that discussion be opened on the tentative budget for 2010 that was previously discussed last month. Mr. Price referred to the four page handout that was distributed to every member.

#### **General Fund**

Mr. Price reviewed that in the last meeting the concerns discussed were reviewed by the Executive Committee at their meeting last week. As a result some revisions were made. One of the questions addressed was in regard to the increase in employee wages for 2010 due to the stress of the economic times and with most of the municipalities and state agencies not budgeting employee wage increases. The Executive Committee felt it was appropriate to leave the budgeted amount to reflect last year's budget at \$107,000.

The Conferences and Workshop budget was changed from \$3,000 to \$2,000. The Accounting Services budget was altered from \$6,500 to \$2,400. Mr. Price explained that with the total budget last year at \$369,572 it was predicted that the Commission would be required to conduct an audit this year. However, because the budget this year at \$283,000 will not exceed \$300,000, which is the amount required for an audit, a financial review will only be required. The Rent account is budgeted at \$7,000 rather than the expected \$7,500. Mr. Price said the lease is due in July and he requested permission from the Board to extend the lease agreement for two years. The two year lease extension is drawn on the same terms and conditions.

The total tentative budget is \$283,400 FY2010. He pointed out that there is \$70,000 budgeted for contribution to the Capital Projects Fund.

#### **Summary of General Fund Balance**

The Commission can only have up to 25% of the budget to be held in a General Fund Balance. The idea is that government organizations use the money from the tax payers to do their work. There is a provision that allows municipalities, cities, districts, and commissions to create a fund for future projects that they know are coming. It was recommended by the State Auditor's Office that the Utah Lake Commission create a Capital Projects Fund which will be called the Utah Lake Projects Fund since the Commission makes improvements rather than building capital. This is similar to Account 6500 – Special Projects Fund which had a budget of \$45,000. That money was not fully used and so it will be rolled over into the Capital Projects Fund. With an anticipated surplus from 2009 of \$27,041 and The Projected Fund Balance as of June 30, 2009, the Projected Fund Balance will total \$64,031. Last year's budget was 369,572 and the budget for 2010 is \$283,400 which is a 23% decrease. This is primarily because the Master Planning process is completed.

#### **Capital Projects Fund (Utah Lake Project Fund)**

The total revenue from 2009 that will be rolled over into this fund equals \$30,000. The 2010 tentative budget for the Utah Lake Project Fund is \$70,000 equaling a total of \$100,000 in the Capital Projects fund.

## APPROVED – May 28, 2009

Mayor Dain asked what Mr. Price foresees these funds being used for this next year besides the phragmites burn project. Mr. Price responded by referring to a draft he has written detailing the purpose of the Capital Project Fund and the targeted projects. Under Projects the document reads, "Capital Projects identified by the plan include acquisition and improvement of access points around the lake, creation of trails with interpretive and directional signage, establishment of a Utah Lake research facility, creation, and improvement of beaches around the lake, site-specific enhancements, and other recreational improvements. Other objectives do not appear to be capital in nature. They include public education, improvements to the environment including, but not limited to water quality, habitat and shoreline restoration, expansion of preservation areas, and control of undesirable plant and animal species." As these opportunities arise, these funds will be used.

### **Tentative Budget**

The final page in the handouts showed the contributions from the municipalities, state and Central Utah Water Conservancy District (CUWCD) and the per cent of those amounts of the total budget. The Total Contribution from Members is \$278,400 at this time. On an average everyone's contribution decreased 12.7%. The population numbers were based on the most recent numbers from the Mountainland Association of Governments (MAG).

Chairman Billings complimented Mr. Price on his work and acknowledged the added effort for the initial set-up work. He commented that the increase in health benefits is due to the possibility that a staff member, who does not take health benefits, could have a possibility of a move. Should that position occur the position may need to be filled with someone who would exercise the health benefit options.

Mr. Walt Baker questioned the time period for the Ex-Officio members. Mr. Price clarified that the Ex-Officio membership of Eagle Mountain and Payson ends on June 1, 2009. It is hoped that they will commit to full membership in the Utah Lake Commission and their contributions would be inserted into the calculations. If they join the Commission the contributions for 2010 for the municipalities would adjust marginally. The State contributions would remain the same. Mayor Johnson asked what the status is with Payson City. Mr. Price said that Mr. Brent Arns made a presentation to the Payson City Council recently but has not yet reported how it was received.

Chairman Billings stated that the State Law requires that the Commission adopt a tentative budget. When that tentative budget is adopted it is held for thirty days. A public hearing then needs to be held before the budget is formally adopted.

Mayor Johnson moved to adopt the tentative budget for 2010 and it was seconded by Mayor Thompson. Mr. Jim Linford asked if the signing of the rent lease should be included in the motion. Chairman Billings requested that be a separate motion. Mr. Schwendiman responded that extending the lease is internal and should be a separate motion. The motion to adopt the tentative budget as presented for the fiscal year 2010 was passed unanimously.

Mr. Linford moved that Mr. Price be approved to sign the rental agreement for 2010 and 2011 as a two year extension. Mayor Dain seconded the motion. Mr. Lifferth asked if the rental price is guaranteed for the two year term and Mr. Price affirmed it is guaranteed. The motion passed with a request for abstention from Chairman Ellertson as he is, in essence, the landlord for the rental.

### **a. Consider approval of the Long Range Capital Project Fund Plan**

Mr. Price expressed that he would like an official approval to create the Capital Project Fund Plan. Mr. Schwendiman said that this could be approved today or approved with the formal adoption of the budget. Chairman Ellertson moved to adopt the Long Range Capital Project Fund Plan. Mayor Jerry Washburn seconded the motion and it was approved unanimously.

## APPROVED – May 28, 2009

### **b. Set date for a public hearing and final approval of the FY2010 budget**

There was discussion on if this agenda item should be tabled until next month. Mr. Price requested it be conducted today because with the signing ceremony of the Master Plan it may be possible that the June Governing Board meeting might be cancelled. Upon recommendation from Chairman Billings, Mayor Johnson moved to confirm the next meeting of the Governing Board as May 28, 2009 as a public hearing and to approve the FY2010 budget. It was seconded and approved unanimously.

### **7. Other Business**

There was no other business.

### **8. Confirm that the next meeting will be held at the Historic County Courthouse Ballroom on Thursday, May 28, 2009 at 7:30 AM**

### **9. Adjourn**

Mayor Thompson moved to adjourn the meeting. Chairman Ellertson seconded the motion. The motion passed unanimously. The meeting was adjourned at 8:27 A.M.