

APPROVED  
November 19, 2009



Governing Board  
Thursday, September 24, 2009, 7:30 A.M.  
Historic Utah County Courthouse, Suite 319  
51 South University Avenue, Provo, Utah

**ATTENDEES:**

Councilman Mark Atwood, Pleasant Grove City  
Walter L. Baker, Utah Dept. of  
Environmental Quality  
Mayor Lewis K. Billings, Provo City  
Don Blohm, Highland City  
Dick Buehler, Utah Division of Forestry, Fire, and  
State Lands  
Councilman Mike Cobia, Mapleton City  
Commissioner Larry Ellertson, Utah County  
Mayor Randy Farnworth, Vineyard Town  
Christine Finlinson, Central Utah Water  
Conservancy District  
Mayor Toby Harding, Woodland Hills  
Councilman David Lifferth, Eagle Mountain City  
Councilman James Linford, Santaquin City  
Rep. Mike Morley, Utah State Legislature  
Councilman Dean F. Olsen, Springville City  
Mayor Timothy Parker, Saratoga Springs City  
Michael Styler, Utah Dept. of Natural Resources

**INTERESTED PARTIES / VISITORS**

David Grierson, Utah Division of FFSL  
Leon Harward, Utah Crossing  
Dale Warburton, Utah Crossing  
Bryan Nield, Utah Crossing  
Reed Harris, June Sucker Recovery Program  
W. Allen Steadman, Steadman Brothers, LLC  
John Captain, Visitor

**INTERESTED PARTIES / VISITORS**

Rick Cox, URS  
Ken Leetham, Saratoga Springs City  
John Hendrickson, Eagle Mountain City  
Tom Twedt, Bio West  
Bob Trombly, Provo  
Ryan Merrell, BYU Civil Engineering  
Devin Allen, BYU Civil Engineering  
Lew Cox, LKL Towing  
Marc Heilesen, Sierra Club  
Mia B. Love, Saratoga Springs City  
Anny Merrill, Division of Water Resources  
Bruce Chestnut, OEM  
Keshia Meikle, BYU Civil Engineering  
Alan Seawright, Telekinesis Entertainment  
Claudia & David Cottle, Bear Lake Watch  
Nathan Ochsenhirt, Eagle Mountain City  
Dennis Astill, Anderson Geneva  
Lee Hansen, Saratoga Springs City  
Paul Goodrich, City of Orem  
Lindsay Leininger, BYU Daily News  
Rachel Steffensen, BYU Communications  
Robert West, Provo City  
Jay B. Crowther, Self  
Stephen Schwendinman, Attorney General  
Office  
Joel Clark, Kiewit Western Company

APPROVED  
November 19, 2009

**ABSENT:**

Lindon City, Lehi City, American Fork City, Genola Town, Orem City.

1. Welcome and call to order.

Mayor Lewis K. Billings called the meeting to order at 7:32 a.m. He welcomed the board and visitors and noted that it would be a significant meeting of the Commission.

2. Review and approve the Utah Lake Commission minutes from August 27, 2009.

Mayor Lewis Billings asked for corrections of the Utah Lake Commission meeting minutes held on August 27, 2009. It was noted that on item two, the chair was addressed as major and was corrected to read mayor. With that noted correction, Councilman David Lifferth moved that the minutes of the August 27, 2009, be approved and Mayor Tim Parker seconded the motion. The minutes of August 27, 2009, were unanimously approved.

Mr. Reed Price, Director of Utah Lake Commission, introduced the new Executive Assistant, Carin Green. He reported she had been on the job for two and a half weeks and was very competent, capable, and beat a group of almost 100 applicants to win the job. He stated that all will be excited to work with her in the future. He then noted that Carol Mausser's husband received a job in California back in January. Carol had stayed in Utah for about eight months and then decided to finally move down to be with him.

3. Review and approve the monthly financial report of the Commission for August, 2009.

Mr. Price explained that after the month of August there was 83.3% of the fiscal year remaining. He stated that in the Zion's Checking Account the balance was \$1,266.25. The Zion's money market account balance was \$341,790.44. There were two transfers made in August of \$5,000.00 and \$7,000.00 from the money market to the checking account. Interest earned on the investment was \$308.83 for the month. Expenses for the month of August totaled \$12,930.38. The budget balance listed, with total year-to-date transactions for this fiscal year, at \$24,554.82. He stated those were the highlights of the expense report. Mr. Price reported that the Commission was in good standing. Mayor Billings asked if there were questions from the group concerning the report. Commissioner Larry Ellertson presented a motion to approve the financial budget report of August 2009; the motion was seconded. The financial report was unanimously approved.

Mr. Price addressed a concern brought to his attention in regards to the monies of the Commission. He stated that while the financial review was being conducted, Ray Bartholomew, Squire and Company, pointed out that with the money market account balance at \$340,000, the Commission was somewhat at risk having it all invested with Zion's National Bank. Mr. Bartholomew recommended that the Commission diversify its funds. Mr. Price requested that he be allowed to open an account with the Utah Public Treasurer's Investment Fund, known as the PTIF. He stated that these funds operate similarly to the money market account and the interest gains had a slightly better return than the usual money market account. It was suggested by Ray Bartholomew as well as Provo City's accountant that the Commission transfer the money as a protective measure because it was considered a very safe fund to invest the Commission's monetary assets. Mr. Price asked permission from the Governing Board to transfer most of the funds. He stated the Zion's accounts would continue to be used and funds would continue to be transferred as needed.

Mayor Billings stated that the Executive Committee had reviewed the proposal and he recommended to the Governing Board that it be done. He explained that all of the member entities pay into the accounts of the Commission at the beginning of the year, and as the year progresses, the balance drops down. He said

Mr. Price wanted to move the funds into the state pool, which is a common place for most governmental entities to place their money because of the security and management by the State Treasurer.

Mr. Lifferth asked if the proposed account was FDIC insured. Mr. Billings explained that the state pool is not insured by FDIC, but does have the full faith and credit of the state of Utah.

Chairman Ellertson motioned that the Board authorize the moving of the requested funds to the state pool. Mr. Walter Baker seconded the motion. Mayor Billings commented that by state law, there are very strict restrictions on where the State Treasurer can invest the funds. Motion carried and Mr. Price was authorized to move the funds.

#### 4. Report from the Technical Committee.

Chairman Bruce Chesnut of the Technical Committee reported that the Technical Committee had met with Forestry, Fire, and State Lands regarding the proposal from Utah Crossing. He stated that he along with Dave Grierson, Reed Price, and Greg Beckstrom went up and met with the state concerning receiving nominations and the review process the state would be going through. The Technical Committee members had seen the full presentation of the FFSL process on Monday at their meeting. It was brought to light during the Technical Committee meeting that the Transportation Subcommittee could be resurrected to work with MAG transportation in addressing the nomination issues and fulfilling additional responsibilities as required.

Mr. Mike Mills updated the Technical Committee on the carp removal efforts at their last meeting. More information by Mr. Reed Harris would be forthcoming to the Governing Board today.

Mayor Billings complimented the Technical Committee on all the work that they continue to complete. The Governing Board was pleased with the participation and attendance at the meetings of the Technical Committee and noted to Mr. Chesnut how important their work is.

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

Executive Director Reed Price reported on the Utah Lake Commission status and the projects they are working on. He stated that in addition to Mr. Chesnut's report on the carp removal, Mr. Reed Harris of the June Sucker Recovery Implementation Program (JSRIP) had further information.

Mr. Reed Harris stated that they were in the process of getting the carp removal project underway with a goal to remove about six million pounds of carp over the next year. He stated that it has been funded by a grant from the US Fish and Wildlife Service with additional stimulus funds and also state funds. He reported that the JSRIP was also looking into obtaining a piece of land located near Lincoln Beach that had a little pond to store the fish and a makeshift harbor already in place where they could harvest the carp and process the fish for fertilizer. However, he stated the JSRIP was running into problems with obtaining the land as the legislature was restricting the state purchasing additional lands. The legislature was concerned that the state held too many pieces of property around the state of Utah. Mr. Harris stated that the project could not move forward with disposal of the carp until there was a location and process facility to bring the carp. He stated that processing the fish would subsidize the costs of the carp removal. Mr. Harris was seeking support and help from the Governing Board and its members in order to obtain an appraisal on the proposed property to see how much it would cost noting JSRIP was only allowed to pay the appraised value of the land. Further steps would be discussed at that time.

Representative Mike Morley explained the state had funds set aside for authorizing purchasing land, if all information is complete and accurate. He felt that the purpose for this land request would meet the stated criteria. He asked Mr. Harris if the JSRIP had sufficient funds to step in and initiate the purchase of the property if needed. Mr. Harris replied that it all depended on how much the property would cost and also depended upon negotiations with the land owner. He stated that the owners were looking to develop a major condominium development at the chosen location. Mr. Harris felt that the only avenue the JSRIP

APPROVED  
November 19, 2009

could address at this point was getting an appraisal on the property located near Lincoln Beach. After the appraisal negotiations could possibly begin,

Representative Morley asked for clarification if the owner was willing to sell the land at this point. Mr. Harris replied in the affirmative. Mayor Billings reassured Mr. Harris that the Commission and other leaders would like to work with him and JSRIP in this endeavor of obtaining the land. Mr. Morley clarified the state's position on acquiring property. He stated the state is over 70 percent government-owned by either the federal or state, which has annoyed both citizens and legislators alike. He stated that bartering for the land is a more palatable way of acquiring land rather than outright purchasing. He also added that since this land had a specific purpose, he could not see a big problem in acquiring the land.

Mr. Jim Linford asked how large the piece of property was and if the JSRIP had considered leasing the property. Mr. Harris explained that the total acreage of property was 46 acres and JSRIP was only looking at about 15 acres near Lincoln Beach. He stated the specific location and acreage was sufficient to get the boats in, store fish, and other things necessary for this project. Mr. Harris stated that the owners did not want to develop the land the JSRIP needed, however, the JSRIP needed to look at the property for future use also, with either leasing or purchasing. He stated the property purchase was presented as an all-or-nothing idea, but he felt that negotiations were still possible depending on the value of the land.

Mr. Dick Buehler said that one of the things that made this particular piece of property most attractive was the fact it was adjacent to a settled boundary, and the Division of Forestry, Fire and State Lands already owns the marina located there. The marina and pond are on sovereign lands. He stated that the Division already had some amenities that could contribute to the success of the process as well as have it adjacent to the county operation, which would be an efficient set up.

Mayor Billings told Mr. Harris the city, county, and Commission would like to work with his group on acquiring this property for the carp removal project. He asked Mr. Harris how many pounds of carp were removed and what the initial goal or target was. Mr. Harris replied six million pounds was the total amount decided for this year and so far the project was on schedule, if not ahead. Mayor Billings congratulated him on the process and stated it was good news to hear how it was progressing.

Mr. Harris also invited the Governing Board and public to the Utah Lake Symposium at 10:00 a.m. on October 14, 2009, at Utah Valley University. He stated it was always well attended. He said there were a variety of guest speakers who will inform people about specific issues related to Utah Lake. People would also be able to ask questions. Mayor Billings emphasized Utah Lake Symposium was an incredible opportunity to get a lot of exposure and information out to the public about the Lake and various projects. He asked Mr. Harris if the presentations could be video captured with signed releases from the presenters. Mr. Harris stated he did not know if the speakers were in favor or not, but would check into what needed to be done. Chairman Billings asked Mr. Price to work with Helen Anderson to see if the Symposium could be recorded. He suggested that the videos could be available upon demand on the website.

Mr. Price continued his report concerning the phragmites removal. He stated that it was sprayed and the area was dying. He stated that this was a good sign and a burn is scheduled in the winter to remove the bio mass.

After receiving permission from the Governing Board for development of a Public Outreach PR campaign by the BYU students in the PR department, he had made contact with the professor and the students. He stated the students were bright and had fantastic ideas to promote the lake and educate the public about the lake's value. He announced their final presentation would be in the afternoon on December 10, 2009, if any of the Governing Board wanted to attend. He asked the members to notify him if they had interest in participating in the presentation.

Mr. Price stated with the primary elections over, at least four members of the Board would be leaving, and more than half the members would be returning after the elections. He wished everyone luck and stated he would be communicating with the candidates on the goals and objectives of the Utah Lake

Commission so the candidates would be informed and up to speed when they joined the Commission after the election.

6. Presentation by Mr. Leon Harward, Utah Crossing, Inc.

Mayor Billings announced that Leon Harward and Utah Crossing, Inc. were present to give a presentation on the proposed bridge. Mr. Price gave some historical background stating a bridge proposal had been talked about for quite some time. The Commission had attempted to address the bridge idea while working on the Master Plan for Utah Lake. It had been proposed that one of the stated objectives would be that a bridge be built, but the Commission did not feel it was in the best interest to state the Commission felt a facility was needed. The Commission believed if and when a proposal to have a bridge constructed was submitted, the Commission would study the proposal and determine if their recommendation to the permitting authority would be positive or negative. The Commission did not know when the Master Plan was adopted in June, that a proposal was coming forth so quickly. He stated Mr. Harward has been working on the present proposal for several years and had been in touch with many of the members of the Board and government entities. Mr. Harward has now submitted an official nomination or proposal to the Division of Forestry, Fire, and State Lands for a permit for a bridge to cross Utah Lake. The process of review has begun with the Resource Development Coordinating Committee (RDCC) at the state level which consists of representatives from all the different state and federal agencies. The proposal is under the official public comment period right now. He stated that the Board would have the Utah Crossing, Inc. presentation to explain the project and a later presentation of the proposal review process. He invited Representative Ken Sumsion to introduce the project and its history to the Governing Board.

Representative Sumsion stated for over four years he has had discussions with Utah Crossing, Inc. He reported on statistics he had. He stated he represented Eagle Mountain, Saratoga Springs, and Lehi, which is the fastest growing area in the state of Utah and his house seat, represented over 85,000 people. He noted that citizens in his area complained a lot about transportation problems. According to the University of Utah, MAG, and other entities, the population growth and demographics is estimated on the low side of 500,000 to as high as one to two million in the next 30 to 50 years. He stated Fortune 100 to 200 companies were looking to locate in the area because of the resources available. With that estimated growth, Representative Sumsion was concerned about future transportation on established as well as future roads. He stated an east/west corridor was needed, and the bridge was a possibility. When evaluating crossing the lake, initial discussion had been for a causeway but the causeway would have had a negative impact on the lake. With the anticipated growth in the Saratoga Springs area, he could see an increase in the number of parked cars of those trying to get to the other side of the lake. He stated that the proposed transportation facilities would help the current growth but could not handle future traffic. He introduced Mia Love, a mayoral candidate Saratoga Springs who voiced her support for the project.

Mr. Leon Harward of Utah Crossing, Inc. gave historical information concerning the bridge proposal. Utah Crossing had teamed up with FIGG Bridge in January 2009 to design a bridge. With the history of the causeway splitting the lake in half and the environmental concerns having a negative impact, the causeway idea was discarded. At that time, the idea for utilizing a bridge became a viable option. The group of Utah Crossing (UC) consists of Leon Harward, Brian Nield and Mike Vilanzich, from Salt Lake City, who have a combination of over 60 years of professional experience in real estate and related venues. He stated FIGG Bridge Engineering had been chosen as the exclusive bridge designers and the support maintenance company for this project. Bridges designed by FIGG fit the surrounding environmental areas. FIGG has been in business over 30 years and has several office locations throughout the US and 54 foreign countries and is currently constructing bridges at a cost of over 18 billion dollars. He noted FIGG was the company

APPROVED  
November 19, 2009

that replaced the collapsed Minnesota bridge. Utah Crossing, Inc. has elected FIGG to design the proposed bridge.

Mr. Harward stated the letter of nomination was submitted. He said the bridge FIGG designs would entail approximately six miles from Saratoga Springs to Vineyard. Utah Crossing will finance, build, operate, and maintain the project with no state or federal money involved at all and no risk to any of the government agencies – a risk-free package Utah could enjoy. A special-use permit is required from state lands for this proposal and UC is working to complete the process. He anticipated the first phase of construction would take about three years to complete, the bridge itself would be sustainable and eco-friendly, built of high strength and quality, and would be a safe bridge. Electronic tolling would be used, working with UDOT to follow their process. The proposed bridge would provide emergency travel back and forth between the east and west. This provides an east/west corridor going from 800 North in Orem/Vineyard, going up into Provo Canyon and then continuing west and going over to Saratoga eventually going west from there. The first phase of the bridge will be built with two lanes and a divider and the second phase of the bridge will be constructed once the traffic situation matures and the need is evident. The second phase would take the traffic to six lanes. The bridge design itself will be 35 feet above the compromise elevation of the lake. In the center of the bridge will be a hump with the elevation of the bridge rising to 50 feet in order to allow any boat, maximum size, to continue to utilize the lake and pass through. In the design, the foundations are at water-line level with the pylons put into the lake bottom. He stated that everything will be built off-site and a temporary framework will be put in place. The foundations will be brought in and then set in place. The pylons will be pounded into the foundations. The components will be set in place from pylon to pylon, and then the framework removed, with each component being tensioned down before moving to the next one. The Governing Board members were invited to ask questions.

Mayor Tim Parker was appreciative of the bridge project instead of a causeway because he felt it would be a better solution for the traffic flow. However, he was concerned about the origin and destination placement. He stated as far as he understood, the bridge had originated outside of the regional transportation planning process. As an elected official, he was responsible to the citizens and was concerned about the impact the traffic would have on Saratoga Springs. He said although the majority of the land the proposed bridge would be built on is sovereign land, owned by the public the location at either end of the bridge would be on private property. He questioned Mr. Harward on the real advantage of this location of the bridge and the revenue generated by the tolls. Mayor Parker stated that he had evaluated the travel situation and felt the benefits would not be advantageous for those who live three miles outside the base of the bridge on the Saratoga Springs side. He stated there were already several east/west corridors under construction or in the planning stages including Pioneer Crossing. He cited several examples of problems the location of this bridge may cause for those in Saratoga Springs and surrounding areas. He asked if Mr. Harward and his group would be willing to look at cooperative planning with MAG and/or the Utah Lake Commission in terms of confirming if the present alignment is in the best public interest. He stated he was against the present alignment locations.

Mr. Harward explained that Utah Crossing, Inc. had met and talked with every known agency over the past four years. They had taken into consideration safety factors, the drive times, the areas involved and environmental issues. The June Sucker Fish Reintroduction Program made it very difficult to disturb the Provo area as a destination. He said that his group had worked with MAG and had looked at the regional study project, and after a lot of study they had chosen the present two termination locations.

Representative Mike Morley stated his support for a bridge and had worked with Representative Sumsion for establishment of the bridge. He explained the termination points were discussed for over four years and the present location is the best solution. Terminating in the Provo Bay area was the first option and the place that everyone wanted to see this go, however, there were several obstacles that made it

impossible. Besides the June Sucker program, the Army Corps of Engineers were concerned about the wetlands and also had environmental concerns. All of this considered, the Provo Bay area was difficult, if not impossible to achieve. Additional studies and plans were evaluated at the legislature and elsewhere and the current alignment was chosen due to its proximity to population centers and the fact it ties into an established east/west corridor of 800 north which is a very wide road, and continues the east/west corridor up Provo Canyon and into the Heber City area and over into I-80. Representative Morley reminded everyone that a group of investors was carrying the risk and did not involve the taxpayers' money and as a private venture, problems that arise could be mitigated without public risk.

Mr. David Lifferth complimented the Utah Crossing group in fulfilling a need and investing their money towards the planned project. He stated that he did not believe either county, state or federal government would be putting in a bridge within any foreseeable future. He was aware of transportation problems in Eagle Mountain and appreciated the corridors under construction but believed there needed to be other transportation options. He stated more public/private partnerships were needed to address problems.

Mr. Michael Styler asked if the Utah Crossing was financially better off than they were about seven months prior. At that time when the Department of Natural Resources first heard of the plan, the funds were not available to build the bridge. He asked Mr. Harward if additional investors had come forward.

Mr. Styler was concerned about a partially-built bridge which would become the responsibility of the state. Mr. Harward explained no construction would be started until the money was in place. He assured the Governing Board it would not be a half-done job. As far as the traffic, it was a risk his investors would be willing to take. He stated Utah Crossing was trying to eliminate and mitigate all the concerns and consider every issue which could arise. Mr. Harward summarized stating the bridge was a sound project; and after a lot of research, the evidence found a bridge to be viable choice. He said the Utah Crossing group was planning on completing the project once started.

7. Presentation by Mr. David Grierson, Strategic Planner, Utah Division of Forestry, Fire & State Lands on the review process FFSL will follow as it reviews the Utah Lake crossing proposal.

Mr. Price introduced Mr. David Grierson, Strategic Planner for the Utah Division of Forestry, Fire and State Lands to present the process to be followed concerning the present bridge proposal. Mr. Price stated that since the bridge falls outside of the regulations or jurisdictions of the Army Corps of Engineers, the responsibilities for reviewing and approving this project came under the State Division of Forestry, Fire, and State Lands, which is the manager of the lake bottom. With a private organization proposing to build public facilities, the nomination process for FFSL has taken on a unique turn and an outlined process to review and determine if the project should be permitted has been established.

Mr. David Grierson presented to the Governing Board the process that had been determined and implemented by FFSL for the Utah Crossing Proposal. He stated this process was going to be open, transparent, and protective of the Lake and FFSL was going to be as thorough as possible. He explained that the steps were as follows:

- Nomination from the Utah Lake Crossing came in as a 23-page document. The proposal was checked for legal description and acceptable use. With the use of sovereign lands, FFSL checks the proposal against the public trust doctrine including state laws, case laws and property laws. After researching the laws, existing uses, and permits, the proposal is reviewed by different entities including Resource Development Coordinating Committee (RDCC), Forestry, Fire, and State Lands (FFSL), the advisory council and legal personnel of FFSL as well as Mountainland Association of Governments (MAG), and the Utah Lake Commission (ULC) due to the recently adopted Utah Lake Master Plan.
- The review of the nomination will include stipulations and conditions such as water quality, air quality, wildlife resources, cultural resources, UDOT, and about 23 state agencies which will look at the proposal with a focus on each agency's expertise.

APPROVED  
November 19, 2009

- In the RDCC process there is an opportunity for the public to make comments. This can be done through a link on the Utah Lake Commission website.
- After review including public comments, the Utah Lake Commission may or may not make a recommendation. The Commission can wait on their recommendation until after they have an opportunity to hear the public's comments. The Governing Board can decide to either endorse or oppose the nomination through a resolution. MAG can also endorse or oppose depending on how the project is viewed by its members.
- After review a competitive lease process may be initiated. An ad in the newspapers is taken out in the public notice section. The ad would state that a nomination for a bridge across Utah Lake was received and FFSL would entertain any competing nominations for that same piece of land. After 30 days, a simultaneous auction would open all the bids at the same time and the highest bid wins. The highest bid would involve the rental on the land that goes across the lake in the proposed area as well as the revenue-sharing portion. The bids are evaluated on five criteria including: The income potential, the ability of proposed use to enhance adjacent state lands, the proposed time table, the applicants' ability to perform, including financial, and the desirability for the proposed use. As a division FFSL would then select the highest bidder and best use.
- An alternative direction would be a non-competing process. FFSL has lands that are nominated by cities, counties or towns, or even the federal government for use. To bring in competitive bids is contrary to the taxpayers' interest. FFSL advertises they have a nomination which is part of the public trust responsibilities. One advantage of a noncompetitive bid is FFSL can negotiate with the applicant to change anything that needs to be done prior to this advertisement.
- After the competitive/non-competitive process is completed, the nomination becomes an "application." As an application, the relationship between the applicant and FFSL has legal implications based on the Utah Administrator Procedures Act (UAPA). During the process, the parties involved are the applicant and/or non-successful applicants if the FFSL had a competitive-bid process; and if not, the parties are the applicant and division, and as far as the appeal process goes. The applicant is asking the Division of Forestry, Fire, and State Lands for an agency action which would affect sovereign lands. Then property rights and/or other criterion which is required of the applicant to work within are imposed.
- After the proposal becomes an application, it is checked for completeness and at that time, fees can be assessed which can include application fees, appraisal fees (if appropriate), advertising fees, and other fees as assessed to cover the costs to the government.
- After FFSL has an application, then by rule the Division must prepare a Record of Decision. All records of the processes and procedures that have occurred are included comments made in public meetings, all the hearings, and other meetings held to establish stipulations, or provisions for the lease from the nomination up to the signing of the Record of Decision are included in the permanent Record of Decision. FFSL may look into a variety of conflicts including liability, wildlife and water quality conflicts, maps, seismic problems, etc. and address or find a resolution to the conflicts prior to the Record of Decision .
- Prior to the director of FFSL's signature of the Record of Decision, the terms of the Record of Decision will be reviewed by the Sovereign Lands Coordinator and legal counsel for rule and statute, policy consistency and other areas to assure it is consistent with the Utah Lake Master Plan, and/or the rules of FFSL and statutes of the State of Utah. By this point, FFSL would prefer Utah Lake Commission to have come out with a position or recommendation for the Record of Decision. The RDCC has asked for a second review of the Record of Decision at this point. After the second review, the director of the division would execute the Record of Decision. After signing, there is a 20-day period for appeals. If there is an appeal, it would go to the Executive Director of DNR who is Mike Styler, and then if it is appealed further, it would go to the District Court.

APPROVED  
November 19, 2009

Mr. Steve Schwendiman, an attorney with FFSL, stated that this process was under UAPA and is called adjudication. Adjudication is a legal process where the Division is adjudicating whether or not the process should go forward and the lease should be granted. This is not a planning process, but adjudication of two parties, which is why it goes through an appeals process.

Mr. Grierson explained that the Record of Decision is broken down into three parts:

1. The record includes all the information involved up to the point where the decision starts to be formed. It goes through everything including the public trust land analysis, physical analysis, viability, and ability of the applicant to perform, the desired use, etc. The findings, facts, and conclusions of law become part of the record and are included in the Record of Decision. If the Record of Decision is appealed, then that record actually goes into the dormant record status and goes to the district courts. All of this information is an important part of developing the decision.
2. The decision portion of the application gives stipulations, the start date, term of the lease, and all other important components of the lease which affect the rights of the applicant. The more important parts of the lease itself are the stipulations.
3. The approval portion of the Record of Decision makes it legally binding on the Division and on the applicant, if the applicant executes the lease. Several signatures will be on the lease, but Dick Buehler's signature, the Director of the Division of Forestry, Fire and State Lands, would make it official and begin what is deemed the Time-Zero period which is a 20-day appeal period. The appeal information is also included as a part of the record if either party wants to appeal the decision. The Record of Decision could be a yes decision and continues to the lease. The Record of Decision could also be no. It could also be no with provisions where the application would go back to the applicant and it is either renegotiated or he can choose to not go any further.

The lease is either a standard lease or includes provisions. The specific lease provisions would be the term of the royalty and revenue sharing for payments to the state which would repay the state for the use of the sovereign lands. The lease could have possible stipulations including financial, construction, operations, maintenance, or others. Presently a performance bond may become a stipulation to the lease. Prior to obtaining signatures, the lease draft is reviewed by legal counsel on both sides. The lease is signed by those leasing the land and executed by the Director and this initiates a Special-Use Lease Agreement.

Mr. Grierson then defined terms that are used in the process. Sovereign land in this case would be the portion of the bridge above the lake bed to the settlement boundary. Since the actual end points are on private lands, FFSL would not look at the terminal points of the bridge for determination of permitting privileges.

FFSL has requested the Utah Lake Commission to hold a public hearing on this issue within the public comment period, which ends at the end of October, 2009. At a public hearing the public can come, hear a presentation by the proponent, and then have opportunities to make comments. He also stated there was a page on FFSL's website where people can make comments, (<http://Forestry.utah.gov/sovlands/utahlake/bridgecrossing.php>); join a mailing list to be kept up to date on public meetings, hearings, and also to be sent documents. A link to FFSL's website is available on the Utah Lake Commission website.

The public comments made will be responded to. These comments will become a permanent part of the Record of Decision. In the few instances where there is no response to comments, it would be because the comments were not timely and came in after the commenting period ended.

Mr. Grierson explained the role and composition of the ID Team. This team would help FFSL identify and determine special stipulations such as structural specifications, specific stipulations, or provisions in the lease. They would address the issues or concerns through the public comments made and validate or resolve the concerns.

APPROVED  
November 19, 2009

After identification, the ID team could make suggestions or other mitigation which may alleviate some concern in the construction and/or operation phases of the bridge. Members of the ID Team would consist of at least one person from the Utah Lake Commission, an economic expert who would look at the financials and assure this is a viable company and validate their financial stability. Other members of the team would be from the natural resources area, the parks and recreation side, to address the boating aspects and fish, and other natural resources. Other members may include experts in geology, water quality and even air quality. Additional entities of the ID team would include UDOT and/or structural and technical engineers that can look at the specifications and design of the bridge to assure safety; members from Mountainland Association of Governments and the FFSL legal team. The member composition of the ID team may change in the future. (FFSL is not aware of any cultural resources which could be an impact, and so at the present time there is no reason for addressing cultural impacts.)

The approach of the ID team would be to evaluate public and entity comments, define valid issues and concerns, and evaluate acceptable risk to the state. For instance, it has been a concern that the bridge may not be completed, but FFSL could require a performance bond. With the bond, if the company did not complete the project, Utah State would own the bridge, so it would not be a huge risk to the state. There were other things that FFSL could mitigate which would lessen a risk to the state. He stated that through this entire process, there would be constant communication to make sure everyone was on the same page and know what is being asked in order to not surprise or undermine the proponents of the bridge. After the issues are addressed, a standard of performance would be defined, and then converted as lease provisions.

Mr. Grierson defined the term of "Parties" used in the process. He stated the most prominent parties involved are the applicant and the Division because of the adjudication between the Division and the applicant itself. Adjacent land owners may have some status as a party depending on how the project will affect their rights. These parties would have the ability to appeal the Record of Decision. The main "party" involved in this adjudication is basically the applicant itself. Mr. Grierson again reiterated that FFSL and those involved were trying to be as open and transparent as possible and also be protective of the lake. Commissioner Larry Ellertson asked if this was a linear process or if there was some simultaneous concurrent part of the process that included the ID Team. Mr. Grierson explained that the ID Team would be assembled to begin evaluations as soon as the comments were generated and compiled.

Mr. Walt Baker asked if there was any mechanism in place to address other proposed uses, screening alternatives, the best location, or public-versus-privately funded issues. He stated that the Lake is a resource which belongs to the citizens of the state of Utah. He questioned if this bridge proposal was serving the broader purpose of transportation and the broader purpose of Utah Lake. He stated he was concerned about the screening process of the alternatives, whether it is the location or other concerns, and the secondary impacts associated with the completed bridge and not just the construction of it. He wondered if FFSL could independently look at and screen the other purposes to see if this is the best location and the best project.

Mr. Grierson explained the group, which included the Technical Team as a whole had already discussed and addressed Mr. Baker's concerns. He stated because the terminal points of the bridge itself were on private land, it would probably skew the application a little bit. He stated the area involved is only about six miles of impact on the sovereign lands and the location for the bridge appeared to be one of the shorter distances and have less impact on the sovereign lands as far as the Division was concerned. The bigger and broader mission was the responsibility of the public trust. FFSL was also checking with the Utah Lake Commission's Transportation Subcommittee who will look at the endpoints to see if this alignment is best. He stated at present, there was no mechanism in place to discuss or evaluate the items addressed by Mr. Baker. According to the procedures, FFSL needed to have competitive bids based on competing leases for that acreage and such. Mr. Baker asked Mr. Grierson what FFSL's bigger picture of the project was. He

APPROVED  
November 19, 2009

stated the bigger picture was more than just the footprint of the proposed bridge stated; FFSL does not look past the present project that is submitted.

Mayor Billings asked if his understanding was correct in that MAG, the regional transportation planning process, and Utah Lake Transportation Subcommittee would weigh in and give their input into this concern. Mr. Grierson answered in the affirmative.

Mr. David Lifferth asked if anyone had expressed an interest in a competing bid or an alternative proposal to what Utah Crossing has presented. Mr. Grierson said no, there wasn't.

Mr. Lifferth asked if a public hearing as part of this governing body would be scheduled and when it would occur. Mayor Billings stated that it would be discussed. He said that if there were other questions, they could address those to Mr. Harward and Mr. Grierson after the meeting.

Mayor Billings stated the Commission was trying to identify all the questions that perhaps needed to be addressed, evaluated, and answered and how the proposal will or will not agree with the Utah Lake Master Plan. He stated he would like to hear from the public and listen to their input and comments. He stated the next Governing Board meeting may be the place to hold a public hearing if it is within the time frame given by Mr. Grierson. He said the meeting would give the Governing Board an opportunity to facilitate that public hearing. Mayor Billings recommended additional time should be added to the scheduled two hours, and possibly move the meeting to the evening. The Board discussed the date, change of time and change of location for the next meeting and the necessity to make it a public hearing. He asked if the members of the Governing Board could be in attendance at the meeting if it were held in the evening and to make a commitment to attend. He stated a poll would be taken of the Board later to determine what the best date and time for the public hearing would be in order for the Governing Board to attend. Mayor Billings stated that ground rules would be set for the public meeting so that everyone who would like to speak will have an opportunity.

Chairman Ellertson moved that the next Governing Board meeting coincide with the public hearing with a tentative date of October 29, going to an evening time period at 6 p.m., with extended time of up to four hours, and be held in a larger location. Motion was seconded and was unanimously approved.

Mayor Billings asked Mr. Harward and Mr. Grierson to be in attendance at the public hearing also. He stated as soon as the Board was polled, everyone would be notified of the intended date, place, and time. The meeting would also be placed on the Utah Lake Commission's webpage and FFSL webpage in order get the word out. He clarified if the meeting was not possible on the evening of Thursday, October 29, then the Governing Board would meet at the regularly scheduled date and time on Thursday, October 22, at 7:30 a.m.

8. Adjourn.

It was motioned and seconded that the meeting adjourn. The motion carried. The meeting adjourned at 9:12 a.m.