



October 25, 2007, 7:30 A.M.
Historic Utah County Courthouse Ballroom – 3rd floor
51 South University Avenue, Provo, Utah

ATTENDEES:

Members

Mayor Lewis Billings, Provo
Reed Price, Utah Lake Commission
Walt Baker, Department of Environmental Quality
Don Blohm, Highland
Mayor James Brady, Mapleton
Dick Buehler, Forestry, Fire & State Lands
Stephen Clark, House of Representatives
Steve Densley, Provo/Orem Chamber of Commerce
Commissioner Larry Ellertson, Utah County
Bob Fisher, Woodland Hills
Mayor Howard Johnson, Lehi
Jim Linford, Santaquin
Mayor Gene Mangum, Springville
Mike Morley, House of Representatives
Mayor Tim Parker, Saratoga Springs
Gene Shawcroft, CUWCD
Mayor Heber Thompson, American Fork
Mayor Jerry Washburn, Orem

Other Interested Parties

Dave Wham, Dept. of Environmental Quality
Kris Buelow, CVWCD
Greg Beckstrom, Provo & Technical Committee
Lee Hansen, Saratoga Springs
Gary Bushman, Provo
Clyde Naylor, Utah County
Rick Cox, URS Corporation
Robert West, Provo
Catherine Smith, Deseret News
LaVere Merritt, Private Consultant
Leon Harward, Utah Crossing
Christina McNaughton, State Dept. of Health

ABSENT: Genola, Lindon, Pleasant Grove, Dept. of Natural Resources, Vineyard

1. Welcome and call to order.

Chairman Lewis Billings called the meeting to order at 7:35 A.M. He welcomed all in attendance. He informed everyone that the agenda is important and somewhat lengthy and to please be time-conscious so that the meeting could be adjourned close to 9:00 A.M.

2. Review and approve the Utah Lake Commission minutes from September 27, 2007.

Mayor Billings asked Commissioner Ellertson to lead the discussion for this item on the agenda as he presided as the Chairman last month in Mayor Billing's absence. Commissioner Ellertson opened discussion on the minutes from September 27th. Gene Shawcroft had two corrections; 1) Kris Buelow was in attendance and was not listed and, 2) Bruce Chesnut's name in Item 6 needed correction. There was a motion to approve the minutes with these corrections. It was seconded and approved unanimously.

3. Review and approve the monthly financial report of the Commission for September, 2007.

Mr. Price went over the financial budget for September, 2007. He pointed out the Expenses for September totaled \$15,321.92 and that all of the accounts seem to be on track for the yearly budget with the exception of Public Notices which was used heavily in advertising for the positions. He did point out the footnote stating *Original budgeted amount for the Restricted Account was \$33,070.55. Transfers to new and existing accounts totaling \$3,629.00, which were approved at the last meeting, resulted in a new balance of \$29,442.51. He entertained any questions. Chair Billings asked Mr. Price to check with one of the Provo City finance directors to be sure that the records will be audit proof. A motion was made to approve the financial report. It was seconded and approved unanimously.

4. Review and approve the recommended schedule of meetings for the Governing Board and Technical Committee for 2008.

The schedule of meetings for the Governing Board and Technical Committee in 2008 was passed out and Chair Billings asked if the hours that the meetings commenced this year would still work for everyone. Mr. Price reviewed the dates and explained that the meetings would continue to be in the fourth week of the month. The meetings in the months of November and December have been adjusted around the Thanksgiving and Christmas holidays. The January Technical Committee meeting had to be shifted to accommodate the holiday in that month to January 14. Responding to Chair Billings, Mr. Price affirmed that these dates had been previewed by the Technical Committee. It was moved and seconded to approve the 2008 meeting schedule. The motion was approved unanimously.

5. Review and approve the recommended Utah Lake Commission benefits package.

Chair Billings acknowledged that a lot of work has been put into the benefits package. Mr. Price explained that when he was hired Mr. Naylor and Gary Bushman, Provo, worked with the company, Teamworks, to put together a package that would be similar to what Mr. Price had in his previous employment at Orem. He then introduced Gary Bushman from the Provo City Human Resources Department to review the benefits package with the Board. Mr. Bushman addressed the Board and passed out handouts explaining the benefits and compensation proposed plan. Mr. Bushman explained in addition to the benefits package an Employee Handbook had been prepared with the assistance of Teamworks. Key points that were addressed included compensatory time, GRAMA, and appeal rights which are unique to government employees. In addition to the Handbook there is an Addendum which sets the introductory period to six months. It defines the Utah Lake Commission benefit structure which included reviewing averages from other government agencies in the state and also took into account Mr. Price's previous benefits with the City of Orem. He noted the differences indicate that Mr. Price was exempt from Social Security with Orem and now will pay into Social Security and loses 6.28% 401(K). His life insurance will convert to \$50,000 as opposed to 1x his salary. His vacation schedule drops from beginning at 15 days to 11 days per year. To compensate for that change Mr. Price will be provided with administrative leave until he merges into the schedule. Carol Mausser's position will begin with the outlined schedule.

The final items in the proposal concern Medical, Dental, Life, LTD, EAP and FSA /HAVE benefits. Quite a few plans were reviewed and it was discovered that only one carrier would allow a group plan to consist of one person. An opportunity was offered to the employees of opting out of the plan which is a savings of about \$6,000 to the Commission with \$3,000 of that being refunded to the employee. Ms. Mausser elected to take that option for this year. PEHP was the carrier who offered to provide the group plan with one member. This plan was reviewed by the Executive Committee and they recommended that a certain dollar amount be budgeted for the Executive Director to work within. He would have some options as long as he remained with the budget. It was decided that the budget be

equivalent to what Mr. Price had before. Mr. Bushman asked if there were questions. Responding to questions it was answered that currently Mr. Price is on the Cobra Plan with Orem for medical and is with Teamworks for dental. Mr. Price clarified that the resolution passed in July allowed him administrative days to make up the difference in vacation days provided to new-hires to allow him 18 days per year, the same as he was receiving at Orem City. He would stay at 18 days per year until caught up to the schedule as presented. Chair Billings asked the Executive Committee if they had any comments and Mayor Johnson expressed his opinion of a job well done. Commissioner Elertson concurred with those remarks as did others. Chair Billings expressed appreciation of Mr. Bushman's work and his well prepared reports. He hoped Mr. Price was happy with the compensation and noted that it's important to please the employees as well as being fair to the taxpayers and that he felt balance had been achieved. Mr. Price affirmed that he is pleased with the result and expressed appreciation for all the considerations. Mr. Densley questioned whether the holidays stipulated in the schedule coincide with the County holidays since the Commission's office shares the building with County offices. Mr. Price reported that there had already been one holiday that the County was off that the Commission had worked in lieu of different days off at Thanksgiving and Christmas. There weren't any problems with being in the building though. Mayor Brady made a motion to approve Resolution 2007-7 as presented in approving an employee handbook and adopting a compensation and benefits plan for the employees for the Utah Lake Commission and approving a transfer of sick leave for the Executive Director. When the Executive Director transferred from a member organization, he requested that his unused sick leave balance be carried over from the member organization to be used in accordance with the sick leave policy described in the Utah Lake Commission Employee Handbook. The motion was seconded and approved unanimously.

6. Review and approve the recommended amendments to the Bylaws of the Utah Lake Commission.

Clyde Naylor began by stating the Interlocal Agreement was set up with the intention that there would be things in the Bylaws that would be changed as needs changed. Article 11 of the Interlocal Agreement says that:

The Governing Board shall have the authority to appoint an Executive Committee of not more than seven (7) members of the Board. ...

11.1.2 The Board may delegate to the Executive Committee such powers and Responsibilities as the Board deems appropriate.

11.1.3 The voting, powers, and responsibilities of the Executive Committee shall be as established in the bylaws of the Commission.

Mr. Naylor stated that as they established the Bylaws, this was not taken care of at that time. He then presented an amendment to clarify the powers and responsibilities of the Board. These amendments have been reviewed by the legal committee. He presented a revised bylaw as follows that will begin in Article 10, Section 10.2 with the revisions in bold type and underlined:

Section 10.2 – Executive Committee

The Executive Committee is provided for in Article 11.1 of the Interlocal Cooperation Agreement establishing the Utah Lake Commission.

10.2.1 – The Executive Committee shall include the Chair, the Vice Chair, a representative of the Department of Natural Resources, and up to four other members as determined by the Board and noted in the official minutes of the Commission.

10.2.2 – Membership of the Executive Committee shall be reviewed and voted on in the January meeting of each calendar year. Upon resignation of any member serving on the Committee, the Board may replace that member through the remainder of the term.

10.2.3 – In order for the Executive Committee to conduct business as a committee, at least the Chair or Vice Chair with a quorum must be present.

10.2.3(a) – Assignments given by the Executive committee to members of the Committee may be conducted by those members without the necessity of the Chairman or Vice Chair being present and does not require a quorum.

10.2.3(b) – Individual members carrying out assignments must report back to the Executive Committee for approval or disapproval of recommendations unless the member is given specific authority through majority vote of the Committee ahead of time.

10.2.3(c) – Recommendations and/or final actions of the Executive Committee that deal with other than day-to-day oversight of the Executive Director must be approved by a majority vote of the Committee.

10.2.4 – The Executive Committee shall have no set schedule of meetings but may set its meetings as deemed appropriate by its members or the Board.

10.2.5 – The Executive Committee shall specifically perform the following administrative functions of the Commission as well as all others determined by the Board by majority vote as reflected in the official minutes of the Commission:

10.2.5(a) – Giving direction and oversight to the Executive Director.

10.2.5(b) – Interviewing and selecting the staff of the Commission.

10.2.5(c) – Recommending staff benefits to the Board.

10.2.5(d) – Supervising the banking provided through the Executive Director.

10.2.5(e) – Approving purchases

10.2.5(f) – Overseeing the developing of methods to obtain grants and future Member contributions.

Mr. Naylor commented that while these amendments were being prepared it came to their attention that another section in the Bylaws in Section 10.3 also needed revision. The following are the proposed changes for that section:

Section 10.3 – Technical Committee

The Technical Committee is provided for in Article 12.1 of the Interlocal Cooperation Agreement establishing the Utah Lake Commission. **The membership of the Technical Committee shall elect a Chair and Vice Chair to conduct the business of the group. The Technical Committee shall maintain minutes for their meetings.**

Mr. Naylor then invited discussion. It was asked who was on the committee that drafted the amendments. The committee included Steve Schwendiman (UT State Legislature), Robert West (Provo), Cort Griffin (UT County), and Paul Johnson (Orem).

Mayor Brady stated that for clarification in 10.2. the Chair and Vice Chair refers to the Governing Board and not another Committee. It was offered that some wording could be inserted to clarify if it was felt needed. Mayor Brady stated that in 10.2.5(d) and 10.2.5(e) it gives the Executive Committee the right of supervising banking and approving purchases and in Section 4.2.12 of the same Bylaws those powers seem to be granted to the Governing Board. He questioned how it can be distinguished between the Executive Committee's and the Governing Board's responsibilities for purchases and expenses and reviewing finances. Mr. Naylor suggested that the Board approves the Financial Statement on a monthly basis and the Executive Committee takes care of the day-to-day expenditures. There was discussion. Mayor Billings added that the Governing Board authorizes the finances by approving the Budget. It was agreed that the Executive Director should be able to make purchases without the Executive Committee having to approve every purchase. Mayor Brady suggested that in Section 4.2.12 the word "authorize" be reworded to "ratify" or simply "authorize the budget" to make sure the intent of the section is correct. Discussion continued. Representative Clark moved that it be approved to establish a purchasing line of up to \$1,000 for the Executive Director. Chair Billings requested that this issue be set aside for the moment to see if anyone had any other issues with the amendments. Discussion followed and at the conclusion Chair Billings asked Mr. Naylor if the Governing Board asked his committee to take the comments from today's meeting and make a few enhancements that would reflect the day's discussion. Mr. Naylor said they could, but wondered about the time factor. Mr. Shawcroft suggested that if a procurement code be looked at that may solve all the issues that have been discussed. A procurement code could give the Executive Director more orientation and doesn't necessarily have to be approved at the same time as the amendments. Mayor Billings asked Mr. Naylor if the committee could look at reviewing a purchasing and procurement policy. Mayor Brady suggested that with a few changes the amendments could be approved. Representative Clark retracted his motion.

Mayor Brady moved to change 10.2.5(e) to read "Approving purchases as provided in the Procurement Code" with the understanding that the Procurement Code is not written at this point but will be forthcoming. Mayor Billings suggested the wording be changed to "Policy" instead of "Code" which was accepted. Discussion followed in regard to 4.2.12 and it was agreed to incorporate into the motion that Section 4.2.12 be changed to read "Review and approve payments for all legitimately contracted and necessary expenses on behalf of the commission through the Executive Director or as determined by the Governing Board;" The motion was seconded. There was discussion to include the word "Commission" before the terms Chair and Vice Chair Section 10.2 on page 8 and page 9 of the Proposed Amendments to specify that it is the Governing Board. Mayor Brady agreed to add that to his motion. Representative Morley made a substitute motion to have the Amendments sent back to the Committee for revision. Mr. Baker seconded the substitute motion. Representative Clark suggested that the amendments not get so complicated that the Board doesn't give Mr. Price the ability to move quickly on items. Mayor Billings summarized the motion for the committee to review. Following discussion it was agreed that the substitute motion be withdrawn with the understanding that Mayor Brady's motion be

amended to remove any reference to a Procurement Policy in Section 10.2. Discussion resumed on the original motion.

The motion was restated by Mayor Brady. The motion stands that the Board accept the By-laws as presented with a text change in Section 4.2.12 indicating that instead of it reading "Authorize payments", it be replaced by "Review and approve payment of all legitimately contracted and necessary expenses...." and in Section 10.2 anyplace that it reads Chair or Vice-Chair that the word Commission be added to read Commission Chair or Commission Vice-Chair. The motion was approved unanimously.

7. Report on PCB advisory recently issued for carp and channel catfish.

Mr. Price explained that earlier this month there was an advisory release in regard to carp and channel catfish in the lake. At the Utah Lake Symposium Christina McNaughton, PhD, from the Utah Department of Health gave an impressive presentation on how the department arrived at these numbers and why they issued fish advisories. While talking to Mr. Walt Baker on the phone he agreed that the Commission should be involved in all the aspects of this issue. He introduced Dr. McNaughton.

a. Report from Christina McNaughton, PhD—State Department of Health.

Dr. McNaughton gave a brief outline of her credentials. She is a Health Hazards Assessment Manager and Toxicologist with the Department of Health. Her department was given data regarding Utah Lake and that data was analyzed. From the results of those tests they issued the advisories.

Dr. McNaughton handed out copies of her power point presentation. A brief outline of the presentation will include 1) What are PCBs?, 2) PCBs and Utah Lake and 3) 2006 Sampling on Utah Lake and 4) Implementation of new Fish Advisories on Utah Lake.

1) What are PCBs?

PCBs are polychlorinated biphenyls and are complex contaminants. They are an organic compounds with 1-10 Cl- attached to a biphenyl. They were manufactured in the U.S. and used as cooling and insulating fluids in industrial transformers and capacitors and also are a component of electronic wiring. They were banned in 1977 in U.S. due to research showing that they may be hazardous to human health. One of the most interesting characteristics of PCBs is that they are hydrophobic meaning "water fearing". They are not going to be found in the water and so any water activities such as swimming or other water activities in the Lake are not going to present an exposure pathway and will not be hazardous. PCBs will travel in the atmosphere and then fall back to earth. There is no known degradation process so the PCBs that are in Utah Lake will be there for a long time. Not all of the 209 PCB congeners are the same and the dioxin-like congeners are the more toxic. EPA has put out a way to compare the congeners by a Toxicity Equivalency Factor (TEF) which is a measure of the potential health threat. Some of the concerns associated with PCBs are with the Ecosystem. They are predominantly found in the soil, but can also be ingested by things that reside in the soil like worms. Since they don't like water they will partition into the fatty tissues and then it's really hard to get rid of them. This becomes more of a concern as it climbs up the food chain. The bioaccumulation can increase by as much as 100,000 times at the top-tier predators. This is why there is such a high concern for people eating these fish that are contaminated. Human health concerns associated with PCBs that have non-cancer effects include suppression of immune system, food, skin conditions like rashes, liver toxicity and endocrine disruption. As far as cancer related effects it has been shown in animal experiments that there have been links to PCBs. Recently in human experiments it has shown that it affects pregnant women and fetuses. The PCBs are ingested and can be maternally transferred from the mother to the child in the womb and also through breast milk. These effects can be long term on children as they grow and can produce lower birth weights, slower motor skills and a decrease in short term memory.

2) PCBs and Utah Lake

PCBs were first detected in the carp in 2005 by the June Sucker Recovery Implementation Program (JSRIP) sampling. At that time the JSRIP collected fifteen samples. The samples were filleted without the skin and the fillets and the offal (all remaining tissue) were homogenized and analyzed separately. The carp species were analyzed for a variety of contaminants including heavy metals, including mercury, and other heavy metals. When the results came back only the PCB concentrations were elevated and because of this a fish consumption advisory was issued jointly by the Utah Department of Health (UDOH), Utah Department of Natural Resource (UDNR), Utah Department of Environmental Quality (DEQ) and U.S Fish and Wildlife Service (US FWS). Responding to a question about the origination of the PCBs, Dr. McNaughton explained that PCBs are man-made contaminants. This problem was created by ourselves and is everywhere due to production. The United States is lucky because they are not producing this anymore however, there is still global transfer. It is similar to the mercury issue. A lot of the mercury seen in the United States is not from here but from Asia.

3) 2006 Sampling on Utah Lake

The first advisory was issued in May, 2006. That advisory recommended that adults eat no more than 1 meal of carp fillets per month (8 oz.) and children no more than ½ meal (4 oz.) per month. The advisory also recommended that no offal meals be consumed. In 2006 another random sampling was done. Five species of sport fish were sampled in Utah Lake at that time. Those fish were black bullhead, channel catfish, common carp, walleye, and white bass. They collected five species in each size class. Once again the fish were filleted and the offal was analyzed separately. This time they analyzed for PCBs and the results were returned to UDNR and analyzed by UDOH. When Dr. McNaughton received the results she looked at the screening values (SV) which are determined by the EPA. These values determine whether or not it warrants further investigation. The screening values were above the EPA values for channel catfish and carp so an advisory had to be issued. If they exceed the screening then an advisory has to be issued.

4) Implementation of New Fish Consumption Advisories on Utah Lake

She explained the Consumption rate table and the consumption limit table. Using those tables the advisory warning was issued at recommending no more than a .5 serving (4-oz.) for both channel catfish and carp for adults. The consumption advisory for children or pregnant women was at zero consumption. The advisory for offal was that none be consumed particularly since PCBs are so prevalent in the fatty tissues. It was determined not to issue an advisory for the walleye, black bullhead or white bass as their values were below the screening values. The joint departments issued this advisory on October 2 at a press conference. There is a fish advisory website and advisories are posted there as well. The website is www.fishadvisories.utah.gov. Temporary signs are posted at access points. Also a health pamphlet is distributed to health departments, state parks, marinas and all access points to the Lake in order to notify the public as quickly as possible. The State Department plans to do an environmental investigation to further gather resources to study the sediments in the Lake. In this study they hope to determine if the PCBs are old or if there are new PCBs coming in from the atmosphere and in what areas are they located. In closing, Dr. McNaughton stated that the Department of Health doesn't want to scare people. They just want people to eat fish wisely.

The floor was now open to questions. Mayor Washburn asked if there is a difference in measuring PCBs now than before. She answered that the detection of PCBs are solid. It's not sure if these are old PCBs or if there is new input. Mayor Billings questioned if the study will be able to detect the point source

that is creating a higher concentration of PCBs in Utah Lake than other bodies of water. It was answered that it is possible. There are a lot of different theories one being that there was a lot of dumping in the Lake in the 1950s and 1960s. Representative Clark questioned that if the PCBs stay in the fish and if the fish are harvested into fish meal or pet food, then will the PCBs continue in the food chain? She said that it could be true. Mayor Brady questioned how there could continue to be commercial fishing on the Lake with this fish advisory. It was answered that the FDA who regulates the commercial fishing industry has a different standard. It was asked if dredging would help. Dr. McNaughton responded that in South Carolina they did do dredging and it did greatly reduce the PCB levels. Discussion continued. It was questioned if the June Sucker was evaluated. Kris Buelow answered that the June Sucker is not a bottom feeder and somewhat similar to white bass, but they are going to look into it. Mr. Baker wondered if the levels could be monitored by blood test or hair sample as in mercury. It was answered that PCBs are very different and are stored in the fatty tissues. She would need to research how they test for PCBs in humans. Dick Buehler expressed concern on how the fish advisory can impact the economy, commercial fishing, the transfer of PCBs into fish meal, etc. Dr. McNaughton stated that there is a lot pressure on FDA to reconsider levels on PCBs and that may eliminate discrepancies.

b. Define the Commission's role.

Mr. Price summarized that the goal today was to define what role the Commission will play for the future and who will be the lead agency. He suggested that further discussion of this topic be added to the November 15 Governing Board agenda. Dr. McNaughton requested that the Commission take an active role and participate with the state agencies and their committees. Mayor Billings repeated that what was heard today is that people can swim and boat in the Lake and not be at risk in anyway and that information needs to get out to the public. It is also known that we have an issue and it is being addressed. This will be further discussion at the next meeting. Chair Billings thanked Dr. McNaughton for coming.

8. Report from the Technical Committee.

Greg Beckstrom, Vice Chair, reported that the Technical Committee met Monday. They discussed the advisory issue. They also heard a presentation from Ben Anderson from the Division of Water Rights. He remarked that it was very informative and they learned enough to understand some important issues. They also had some discussion on the issue of water shed planning. Chair Billings asked if the Technical Committee had formulated any specific recommendations on this last issue or would they have some by the time of the next meeting. Mr. Beckstrom stated that the Technical Committee is not meeting before the Governing Board meets again and they have not yet formulated any stand on the PCB advisory.

9. Report from the Executive Director.

Mr. Price reviewed that the Request for Proposals (RFP) for the Master Plan are due Monday, October 29. The Selection Committee will meet to hear the oral presentations from the three selected firms and will present to the Board for their approval the selected firm on November 15. He and Mr. Naylor have met with an attorney from the law firm, Kirton & McConkie, seeking assistance for the Commission. The subcommittees are forming well and Mr. Price reminded those present to be sure to get their representatives for their municipalities on the Technical Committee subcommittees. The subcommittees consist of 1) Natural Resources, 2) Land Use, 3) Recreational, and 4) Transportation. Mr. Price is meeting next week with Mr. Styler of the Utah Department of Natural Resources along with Darrin Bird, and Robyn Pearson to develop a legislative strategic plan to try to seek funding from state and federal sources. He is developing a communication policy with Mr. Naylor's assistance. This policy

will provide direction for assistance and direction of development plans for the Lake that are brought from the public to the Committee so their ideas can be incorporated into the Master Plan.

Mr. Price's Top Ten list has been keeping him focused on major issues. The Commission's email has been changed to a utahlakecommission .org domain and the website will be updated soon. The artwork for the office has been purchased, matted and framed. He is becoming more familiar with the Commission library. The Commission is creating functional subcommittees for a tool for the consultant. The Master Plan is moving along on schedule. He and Mr. Naylor are scheduled to meet with Mr. Allen Harrison of the Bear Lake Commission to reap ideas from him in the work done at Bear Lake. He is seeking grant opportunities and a friend of Mr. Price's in Washington D.C. is helping with ideas of where to seek grants. Mr. Price met with one of Senator Bennett staffers who is guiding him through federal funding aspects. He is continuing to seek support of citizens and becoming more visible in the community. Last month he presented at the Sundance Summit. The office is moving forward and getting busier. It has been a good month.

10. Other Business.

No other business.

11. Confirm that the next meeting will be held at the Historic County Courthouse Ballroom on Thursday, November 15, 2007 at 7:30 AM.

Chair Billings emphasized that the November meeting was being held a week earlier to accommodate the Thanksgiving holiday. He requested that the information be circulated.

12. Adjourn.

The meeting was adjourned at 9:13 AM.