

Utah Lake Study Committee Meeting
December 1, 2006
Utah Lake State Park Visitor Center
7:30 a.m.

ATTENDEES:

Members

Mayor Lewis Billings, Provo
Mayor Jerry Washburn, Orem
Mayor Gene Mangum, Springville
Mayor Howard Johnson, Lehi
Mayor Heber Thompson, American Fork
Mayor Bertis Bills, Payson
Mayor Jeff Acerson, Lindon
Commissioner Larry Ellertson, Utah County
Clyde Naylor, Utah County

Other Interested Parties

Stephen Schwendiman, Attorney Generals' Office
Van King, Kennecott Land Company
Mike Styler, Dept. of Natural Resources (DNR)
Robert West, Provo
Greg Beckstrom, Provo
Michael A. Vail, Genola
Chris Finlinson, CUWCD
Jim Price, MAG
Chris Tschirki, Orem
Lee Hansen, Saratoga Springs
Reed Harris, JSRIP-DNR
Kris Beulow, JSRIP-CUWCD
Chris Keleher, DNR
Ty Hunter, State Parks
Steve Densley, Provo/Orem Chamber of Commerce
David Bailey, Utah Farm Bureau

1. Welcome and call to order – Mayor Billings.
2. Review and approve minutes of October 26, 2006. The minutes were unanimously approved as written.
3. Reports:
 - i) **Feedback and comments received since last meeting: LaNice Groesbeck.** Two letters and information received on e-mails were distributed. Responses to those who made comments will be prepared.
 - ii) **Proposed amendments to Interlocal Cooperative Agreement: Clyde Naylor.** Two documents were distributed. One was a summary of proposed changes and the other was the revised agreement with the proposed changes incorporated. (Copies on file at the Provo Office of the City Recorder.) Changes were a result of public comment received on the agreement.

There were no concerns with the amendment to **Article 2.1** which addressed water rights and leaves control in the various jurisdictions.

There were no concerns with the amendment to **Article 5.6**, which provides that an entity may withdraw from the Commission if its financial obligations to the Commission are current.

Discussion on the amendment to **Article 7.2.4** regarding the power of eminent domain were as follows:

- There may be occasions when it could be lawfully exercised.
- Using that term could create issues, and, if the Commission has that ability by law, does it need to be restated.
- The Commission could work with a local entity for eminent domain, but could not proceed on its own.
- If this is not included, one might conclude that the Commission would never be a partner in eminent domain.

There were no concerns regarding amendments to **Article 7.4** clarifying that the Commission has no superseding authority.

There were no concerns regarding amendments to **Articles 8.3, 8.4, and 8.5** which clarify that the Commission will make suggestions, recommendations and provide information, but the individual jurisdictions maintain the control.

Article 10.1.6. The appointment of a Utah County legislator generated discussion regarding the requirement of a legislator to live in Utah County. There are legislators who represent Utah County residents who do not reside in Utah County.

Article 12.1.7 is a new section adding the Army Corps of Engineers as a member of the Technical Committee. Discussion included adding verbiage “and other appointees as deemed necessary by the governing board” or “includes but is not limited to” to consider additional members of the Technical Committee. Others could be involved in subcommittees or assist in other ways.

Discussion on **Article 13.1**, Funding, included the following comments:

- The Article was revised to identify how funding would be divided between the members, set the formula, and provide opportunity for changes in the future.
- Include “other grants” that may be awarded.
- Maintain consistency throughout the document for required votes. (Article 10.8)
- How should grants be considered in the formula? Grants would be for a specific purpose and not part of the operating budget.
- The proposal is for the initial startup budget that would not include any grant. Percentages could change in subsequent years.

There were no comments on the proposed amendments to **Article 16.2** regarding status of Members’ Employees.

iii) **Final comments regarding proposed funding model: Clyde Naylor.** Copies of the proposed budget and formula for cost sharing were distributed. Comments on the budget follow.

- The purpose is to identify all participating agencies to facilitate a Master Plan.
- The line-item budget includes a consultant to work on the Master Plan.
- A restricted account is included to fund changes in line items, if needed.

Comments on the funding formula included the following:

- The first page includes the breakdown of each entity by population, percentage of shoreline and percent of land area.
- The next page includes the cost to each entity based on population, miles, land area and a combination of all three.
- The last page includes comments to the formula.
- Proposal #4—combination of all three factors—is recommended for dividing the costs of the initial budget between the entities.
- The budget assumes 50% of the funding will come from local governments and the other 50% from other entities, i.e., the County, State, and CUWCD..
- The impact of grants on the split was discussed. Matches for a grant would be split the same and would be included as a line item. Cost could skyrocket to fund the match for a grant.
- None of the amounts are prohibitive in terms of the end result, including the Master Plan. It would be more expensive for each city; there is an advantage to work together.
- In-kind contributions can often be used as a grant match.
- Grants from nonfederal partners can be used as match for federal grants.
- There is control in deciding the grants with accompanying match for which the Commission would apply.

iv) **Final recommendations regarding study area boundaries: Greg Beckstrom.** The proposed Study Area map was distributed. Comments were as follows:

- The Technical Committee views the Master Plan as the most significant effort of the Commission for the first year.
- In order to accomplish the many goals of the Commission, the Technical Committee felt the map needed to include more than the shoreline and a few hundred feet behind the high water elevation point. This is the basis for the map recommendation.
- If the purpose was purely planning, the map would be broader. If purely for municipal review of projects on the Lake, the map would be less inclusive. The proposal is an attempt to reach the middle ground of the two not entirely compatible perspectives.
- As the Master Plan proceeds, a likely outcome may be another line for the boundary. However, inclusion of those areas in the Master Plan now seems the best way to understand all the issues.
- The approved boundary map will become Exhibit 1 in the Interlocal Agreement.
- Blue lines on the map represent approximately the 4,495 foot elevation.
- The red line represents the proposed boundary of the study.
- For simplicity, roads or section lines were used to determine the boundary.
- A larger area is considered in some places because of significant water flows into the river and channels or springs that discharge into the Lake.
- The hash marks represent the area between the red line and the Lake (the study area).
- An adjustment in the boundary line would have no impact on the financial formula.
- Some suggested that better markers could be found and expressed concern that perhaps more of their city was included in the study area than had been anticipated.
- The study area should not be viewed as a nondevelopment area. In fact, many areas included are designated clearly for development. A byproduct of the study may be the drawing of a new line.

v) **Review revisions to proposed resolution authorizing signing of Interlocal Cooperative Agreement: Robert West.** No public comments were directed to revision of the resolution authorizing the Agreement. It was suggested that the resolution could approve the agreement, the funding formula/appropriation and appoint the member to the Governing Board and the Technical Committee..

vi) **Other thoughts.**

- Funding for cities may be difficult in the 2nd and 3rd quarters of the fiscal year. Making budget adjustments shouldn't be a problem as the budgets are adjusted often for other reasons.
- The County is on a calendar year and could possibly fund the Commission with its portion until the city's fiscal year budgets are approved.
- Nothing can be done until the Legislature acts.

The MOTION to have the resolution include approval of the agreement, the funding formula with funds to be available July 1, and appointment of the representatives to the Commission and Technical Committee was approved.

4. Discussion and deliberation to consider approval of Interlocal Cooperation Agreement establishing the Utah Lake Commission.

The following articles were amended as noted.

Article 7.2.4:

7.2.4 "Except as otherwise provided herein, to **lawfully cooperate and/or contract with other entities, members or parties to accomplish the purposes of this agreement.** ~~exercise the power of eminent domain. in its own name.~~

The MOTION to approve this amendment passed.

Article 10.1. 6:

10.1.6 ~~An appointed Utah County representative of the legislature~~ A member of the Utah Legislature residing in whose District includes residents of Utah County, appointed jointly by the President of the Senate and the Speaker of the House; and

Comments:

- No one would be appointed who would not support this proposal.
- This contract goes for 50 years and the legislature leadership will change.

The MOTION to approve this change passed.

Article 10.8:

10.8. Majority Vote.

The presence of the Board members entitled to cast a majority of the votes of the entire Board shall constitute a quorum for the transaction of business. Unless otherwise requiring a **2/3 or greater** ~~seventy-five percent (75%)~~ vote, a majority vote of the total votes of the entire Board, whether or not all Board members are present, shall constitute action by the Board.

The MOTION to approve this change passed.

12.1.7 One appointed representative of the Utah Regulatory Office of the U.S. Army Corps of Engineers appointed by the Utah Office. (To serve on the Technical Committee.)

12.1.8 Additional members appointed by the Governing Board. (To serve on the Technical Committee.)

Comments:

- The same flexibility to add members to the Governing Board or the Commission should be allowed the Technical Committee.
- Some felt the ability to add members was already provided in the agreement.
- The Interlocal Agreement can be amended at any time to add or delete members.

The MOTION to add Articles 12.1.7 and 12.1.8 passed.

Article 13.1:

13.1 Funding; Investment and Disbursement of Funds.

The Governing Board shall provide for the investment and disbursement of funds and their periodic review. As an initially agreed upon funding formula, the State of Utah will contribute 35% of the annual budget; the Central Utah Water Conservancy District will contribute 15% of the annual budget; and Utah County and local public agencies who are Members of the Commission will contribute 50% of the annual budget. **Additional funding sources shall include Federal grants, if awarded, and contributions from other funding sources as approved by the Governing Board.** ~~the members of the Commission.~~ Utah County and local public agencies that are Members shall contribute based on a formula developed by the Members that includes the following equally weighted factors: population, land area and shoreline miles. Other sources of funding could include fees and contributions from other voting members of the Board, Ex Officio Members, other Federal agencies, State agencies, local governments, grants from private individuals or organizations, developers, and businesses. Failure of a member to provide its contribution shall constitute a breach of this Agreement. The funding formula set forth above may be modified by a 2/3 vote of the Commission Members, but such changes shall not take effect until the beginning of a new budget year.

Comments:

- Grants are not part of the initial budget and allocation proposal.
- The Director of the Commission should go after the grant funding sources so cities and the State would not compete with the Commission for the funds.
- If an entity applies for a grant to help with their share of the funding for the Commission, it should come back through the Commission.

The MOTION to adopt the above wording passed.

The MOTION to make the changes approved today and authorize the attorneys to make the changes by December 10 passed.

A MOTION was made to adopt the Interlocal Agreement as amended.

Comments:

- The formula for non-shoreline communities is extremely high compared to the shoreline communities that will receive the most benefit.
- The idea of one representative on the board for the eight south county communities sharing the cost was presented.
- The rate is already reduced because the shoreline percentage would not be included.
- The voice of the South County communities should be heard. Those communities have a tremendous influence on the water, watershed and the Lake, but not necessarily the shoreline.
- Those cities need to see the value and the return on that little amount of money.
- The issue of “special deals” was raised. This type of arrangement would have to be explained to councils approving the resolution and funding formula.
- These comments relate to the funding formula and not to the Agreement, which says the local governments will share 50% of the cost that will be divided up according to a certain formula.

The MOTION to adopt the Interlocal Agreement as amended passed.

5. Discussion and deliberation to consider approval of the boundaries for the Utah Lake Master Plan Study Area (known as Exhibit 1) of the Interlocal Cooperation Agreement above.

A MOTION passed to approve Exhibit 1, the map provided by the Technical Committee, with the caveat that the boundary may be adjusted as the actual terrain is reviewed and a legend is added.

Funding Formula.

Comments:

- Each entity should commit to funding effective July 1, 2007. The Commission should not wait until then to start the hiring process, etc.
- The suggestion to reevaluate the funding formula for non-shoreline communities and allow one representative for them was raised.
- One non-shoreline community has already voted to join the Commission. If the value is not there for the non-shoreline communities to want to share in the cost, they can serve as ex officio members.
- This entire discussion started as a result of the TMDL issue which impacts all communities. There would not be any one city that would benefit more than another in this issue.
- A discussion with the South County Mayors on this issue was suggested.
- The Commission would be hurt if those cities on the south don't have a voice.
- Those signing the agreement will be paying members whose names will appear in Appendix 1. The Governing Board may amend the Appendix as members come or go.

The MOTION to accept the tentative budget and funding formula #4 (a composite of population, shoreline and land area) passed.

6. Discuss next steps.

- The Interlocal Agreement final draft will be prepared by December 10 and a copy will be provided to each city, entity, and all others who have expressed interest by January 1, 2007.
- Included will be a new version of the resolution encompassing all three elements of agreement approval, approval of the funding formula and appointment of a representative.
- Final action of legislative bodies is targeted for the end of January 2007.
- Presentations from the Study Committee and the Technical Committee can be requested when making city council presentations.
- Information on the Commission can be found at www.utahlakecommission.org.
- Steve Clark, a member of the legislature, will sponsor the resolution and has placed it on the Priority Bills List.
- A briefing for the Governor and legislative leadership may be in order, including the new Orem Representative, Stephen Sandstrom.

7. Other Business.

A report was given on the recent Utah Lake Symposium.

Mr. Naylor was asked to provide a document with major milestones reached by the Commission and anticipated future milestones to be used when making presentations to city councils, etc.

Individuals asking how to become involved in the Commission should be invited to attend the meetings.

Winter fishing for carp started last week. 17 tons of carp were caught in two days, which is about double the catch experienced this past summer.

8. Public Comment.

David Bailey, Utah Farm Bureau, commented on the eminent domain language in the agreement and asked if there was a sense of needing to exercise that in the future. He asked about representation on the Commission of the shoreline landowners. The response was that there is no perceived need currently to pursue eminent domain, but it was included should a need arise to support a community in the future. Shoreline property owners are represented by and should address any concerns or issues to their local government representative. Mr. Bailey was told that the statute requires members of an interlocal agreement to be public agencies. It was clarified that the Commission will not take any rights from the landowners and property owners are encouraged to participate in the Technical Committee or subcommittees. The Commission can be a benefit to the landowners by providing the opportunity to discuss Lake issues. This concept is not like anything that has previously been proposed. The Bear Lake Commission has had tremendous success with this format.

9. Set date, place and time for next meeting.

The next meeting will be held Thursday, January 25, 2007, at 7:30 a.m. at the Utah Lake State Park Conference Room.

Appreciation was expressed to Mayor Billings, his staff and Clyde Naylor in facilitating the progress of the Commission to this point.

10. Adjourn. The meeting adjourned at 9:55 a.m.