

**MINUTES FOR REGULAR COMMISSION MEETING HELD OCTOBER 18, 2010
BEGINNING AT 1:00 P.M. IN THE COMMISSION BOARD ROOM IN DUCHESNE,
UTAH**

Present

Commission Chairman Kent R. Peatross, Commissioner Kirk J. Wood, Commissioner Ronald Winterton, Deputy Clerk Auditor Leann Stewart, Uintah Basin Standard Reporter Steve Puro, Casey Snyder with Trout Unlimited, and Commission Assistant BobbiJo Casper taking minutes of the meeting.

Opening Comments

Chairman Peatross gave the prayer. There were no other comments.

Pledge of Allegiance

Any wishing to participate.

Consideration Of Payment Vouchers

The commission reviewed vouchers #115609 through #115793 dated October 12, 2010 in the amount of six hundred seventy four thousand one hundred eighty two dollars and eighty six cents (\$674,182.86). The commission also reviewed vouchers #115794 through #115827 dated October 18, 2010 in the amount of eighty six thousand seven hundred twenty three dollars and sixteen cents (\$86,723.16).

Commissioner Winterton motioned to approve the vouchers presented by Deputy Clerk Stewart. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Approval Of The Board Of Equalization List

Chairman Peatross stated that this list was presented earlier by Assessor Greg Garff in the Work Meeting. *Commissioner Wood motioned to approve the Board of Equalization List as presented earlier by Assessor Garff. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Memorandum Of Agreement On Behalf Of Duchesne County, A Member Of The Rural Public Lands County Council (RPLCC) 2011

Assistant Casper stated that this contract has gone up two thousand dollars from last year. Chairman Peatross suggested that we contact Mr. Robert Weidner to have him justify the increase before we consider this agreement. Commissioner Wood stated that Mr. Weidner has been doing a lot of work in the last two (2) years.

Commissioner Winterton motioned to postpone this agreement until a discussion is held with Mr. Weidner. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Resolution No. 10-14, A Resolution Requesting The Recertification Of The West Precinct Of The Duchesne County Justice Court (To Become The Duchesne County Justice Court, Effective July 15, 2010)

Deputy County Attorney Jonathan Stearmer joined the meeting at 9:12 P.M...

Mr. Puro asked if Attorney Stearmer would give a verbal history of how they got where they are now and how the elections play into this. Attorney Stearmer stated that back in 2008 the state legislature re-did the Justice Court Act for the State of Utah. In their revisions, they put in a compensation statute that said a Justice Court Judge couldn't be paid more than fifty (50) to ninety (90%) percent of a District Court Judge times their case load percentage. The AOC comes up with that number by figuring out the average case load of a District Court Judge, and then they look at the cases that come in on the Justice Courts, and then they do their formulation that kicks out a number. That became affective in May of 2008, and then in the fall of 2008, we received a letter from the AOC telling the governing body what the compensation level should be. The commission reviewed the letter and decided not to take action because it was premature. In 2009 another letter was received, and the thought was that the case load percentages the West precinct was at about thirty four (34%) percent and the East Court Precinct was at eighteen (18%) percent, in a tight budget year, the decision was made that something needed to change. There wasn't the justification for two (2) courts in the county anymore. Most counties throughout the state during the past decade have made the decision to consolidate. We looked at the statutes and the state constitution, which says a salary of a judge cannot be reduced within their term of office. There has been some question to whether or not the constitutional provisions apply, but in the statute it still says that

you can't reduce a salary during their term, which is six (6) years. We are now in 2010; the new term begins January 3, 2011. The commission passed Resolution No. 10-10. We gave notice to the Judicial Council that we wanted to close the court down, and asked for a reduction in time. There were five (5) substantial reasons of why we wanted to close the court on the calendar year or as close to January 3, 2011. The judicial council deliberated on it and denied our request for a reduction in time, because they did not have a justice court judge that was happy with the decision of closing the court. We are now onto the July 15, 2011 closure date and we still have to deal with compensation of the judges. In Resolution No. 10-13, under state law the governing bodies have to annually review the compensation of Justice Court Judges, but we can't reduce it during their terms, so if we are going to do something, this is the year to do it. There is a reduction in salary starting in their new term. There is still a question of what will happen when the court closes and we also have the election process going on right now which is retention. All of the questions would be answered if the voters choose to not retain, then the term ends January 2, 2011 and a new term would start. This goes for both judges and judges all across the state. Mr. Puro asked if Attorney Stearmer felt that the voters understand the consequences of their vote. Attorney Stearmer stated that there isn't a mechanism of the local government to get the information out, unless people ask questions like Mr. Puro is doing. Votes do matter and in this case there are consequences in these votes. Chairman Peatross stated that the main motivation to the commission on closing this is money. There is at least one hundred thousand dollars (\$100,000.00) in savings in overhead costs and other things; it could be higher. Attorney Stearmer stated that money is what it comes down to, but as far as the election goes, there are a lot of issues to decide. He would hope that the voters would be informed on what that vote means. Chairman Peatross stated that only the voters on the east side will vote on the east justice court precinct and everyone on the west side will vote on the west court justice precinct. Attorney Stearmer stated that there is also an opinion letter (see attached), that will go to the AOC from the Attorney's Office.

RESOLUTION NO. 10-14

A RESOLUTION REQUESTING THE RECERTIFICATION OF THE WEST PRECINCT OF THE DUCHESNE COUNTY JUSTICE COURT (TO BECOME THE DUCHESNE COUNTY JUSTICE COURT, EFFECTIVE JULY 15, 2011)

WHEREAS, the provisions of U.C.A. 78A-7-103 require that Justice Courts be recertified at the end of each four-year term; and

WHEREAS, the Administrative Office of the Courts has informed the Board of Duchesne County Commissioners that it is time to recertify the County's Justice Courts; and

WHEREAS, the members of the Board of Duchesne County Commissioners have received an opinion letter from the Duchesne County Attorney's Office which sets forth the requirements for the operation of a Justice Court and feasibility of continuing to maintain the same; and

WHEREAS, U.C.A. §78A-7-123 provides the governing authority of the county the power to dissolve a justice court at any time, irrespective of length of terms; and

WHEREAS, the COUNTY passed Res. 10-10 and gave the Judicial Council proper notice, under U.C.A §78A-7-123(2)(c), of the COUNTY's intent to close the east precinct justice court; and

WHEREAS, the Judicial Council voted to not grant said reduction in time, citing their history of never granting a reduction unless the justice court judge was happy with the local governing body's decision to close the court; and

WHEREAS, based on the pending closure of the East Justice Court it is unnecessary to recertify said court; and

WHEREAS, the voters within Duchesne County may still have the ultimate say in the effective closure date of the East Justice Court should they choose to not retain Judge Jack Peterson, thereby resolving any outstanding issues relating to that court; and

WHEREAS, the Duchesne County Commission has taken appropriate action (outlined in Resolutions 10-10 and 10-13) to comply with any and all state laws regarding the administration of justice courts and closing the East Justice Court (effective July 15, 2011); and

WHEREAS, the members of the Board of Duchesne County Commissioners have determined that it is in the best interest of Duchesne County to continue to provide for a single Justice Court.

BE IT HEREBY RESOLVED the Board of Duchesne County Commissioners that Duchesne County hereby requests recertification of the West Justice Court (to become the Duchesne County Justice Court, effective July 15, 2011) by the Justice Courts Standards Committee and the Utah Judicial Council.

BE IT FURTHER RESOLVED that the Board of Duchesne County Commissioners hereby affirm their willingness to meet all requirements set forth by the Judicial Council, as presented in the August 2010 Recertification packet, for the continued operation of the West Justice Court (to become the Duchesne County Justice Court, effective July 15, 2011) for the next four-year term of court, except as to any requirements waived by the Utah Judicial Council.

APPROVED and signed this 18th day of October, 2010.

ATTEST:

THE BOARD OF DUCHESNE
COUNTY COMMISSIONERS:

Diane Freston
County Clerk/Auditor

Kent Peatross, Chairman

Ronald Winterton, Member

Kirk Wood, Member

Commissioner Wood motioned to adopt Resolution No. 10-14. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Resolution No. 10-15, A Resolution Of The Duchesne County Commission Expressing Opposition To The Regional Watershed Supply Project Proposed By The Million Conservation Resource Group

Mr. Snyder stated that Erin Million has proposed a diversion out of Flaming Gorge Reservoir. Eighty billion gallons in sixteen inch pipe going five hundred sixteen miles to the front range of Colorado. This diversion will reduce the reservoir by 2/3 and destroy the fishery in both Flaming Gorge and the Green River. This will affect any future water development downstream from those points of diversion. There has been a group called "Communities Protecting The Green", it's a coalition consisting of the City of Rock Springs, City of Green River, Sweetwater County, and Rock Springs Chamber of Commerce; who have been working together and have passed a series of resolutions similar to this one, stating that their position is that they are formally opposed to it. What we are doing on our end is gathering support from every county within the water shed and will continue to work down river to San Juan County. Hopefully, this will lend some weight to the debate and put additional pressure on the Army Corp of Engineers not to approve the project. We will be talking to everyone who has something to lose. There are counties and cities in Colorado who are lining up saying that if Mr. Million can't make this work, they would like to. Chairman Peatross stated that there is no question that we are on board because this is not in our best interest; he applauded Mr. Snyder's efforts.

RESOLUTION NO. 10-15

A RESOLUTION OF THE DUCHESNE COUNTY COMMISSION EXPRESSING OPPOSITION TO THE REGIONAL WATERSHED SUPPLY PROJECT PROPOSED BY THE MILLION CONSERVATION RESOURCE GROUP

WHEREAS, Duchesne County is aware that the U.S. Army Corps of Engineers is preparing an Environmental Impact Statement (EIS) to analyze the direct, indirect and cumulative effects of a proposed water supply project in Wyoming and Colorado, referred to as the Regional Watershed Supply Project proposed by the Million Conservation Resource Group; and

WHEREAS, the Duchesne County Water Conservancy District submitted comments in opposition to the project by letter dated July 25, 2009; and

WHEREAS, the Duchesne County Commissioners submitted comments in opposition to the project by letter dated July 27, 2009; and

WHEREAS, the Duchesne County Commissioners submitted a request for cooperating agency status in this environmental review process by letter dated October 7, 2009 but has received no response; and

WHEREAS, the Duchesne County Commissioners wish to join other local governments, such as Daggett County, Utah, Lincoln County, Wyoming, Sweetwater County, Wyoming and the City of Green River, Wyoming in expressing its formal opposition to the project described above.

BE IT THEREFORE RESOLVED by the Board of Duchesne County Commissioners that:

1. The Duchesne County Board of County Commissioners requests cooperating agency status in this environmental review process pursuant to 40 CFR 1508.5.
2. The Duchesne County Board of County Commissioners joins the Daggett County, Utah Board of Commissioners, the Lincoln County, Wyoming Board of County Commissioners and the Sweetwater County, Wyoming Board of County Commissioners and the City of Green River, Wyoming in opposing the Regional Watershed Supply Project for the reasons noted in our letter to Rena Brand, U.S. Army Corps of Engineers, dated July 27, 2009 and the reasons noted in the letter from the Duchesne County Water Conservancy District to Ms. Brand dated July 25, 2009.

PASSED this 18th day of October 2010 by the Board of County Commissioners. Members: Kent R. Peatross, Kirk J. Wood and Ronald Winterton. All present and voting in favor thereof.

THE BOARD OF DUCHESNE COUNTY COMMISSIONERS

Attest:

Diane Freston

Kent R. Peatross, Chairman

Kirk J. Wood, Commissioner

Ronald Winterton, Commissioner

Commissioner Winterton motioned to adopt Resolution No. 10-15. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of A Road Right-Of-Way Dedication In Sections 21 and 28, Township 4 South, Range 1 West Uintah Special Base And Meridian And Sections 16 And 21, Township 8 South, Range 17 East Salt Lake Base And Meridian

Assistant Casper stated that this is on County Road thirty six (36) in Pleasant Valley, where Public Works Director Glen Murphy is moving a fence line back to widen the road. We went out last week to get a notarized signature from John Price who is a property owner that is affected by the project. *Commissioner Winterton motioned to approve the right-of-way. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of Minutes For Working Commission Meeting Held October 4, 2010

Commissioner Winterton motioned to approve the minutes as presented. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of The Minutes For Regular Commission Meeting Held October 04, 2010

Commissioner Winterton motioned to approve the minutes as presented. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Minutes For Working Commission Meeting Held October 6, 2010

Commissioner Winterton motioned to approve the minutes as corrected. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

Adjournment

Chairman Peatross adjourned the meeting at 2:19 P.M.

Read and approved this 25th day of October 2010.

*Kent R. Peatross
Commission Chairman*

*Diane Freston
Clerk/Auditor*

Minutes of meeting prepared by BobbiJo Casper
