

**MINUTES OF COMBINED COMMISSION WORKING & REGULAR SESSION  
MEETING DECEMBER 9, 2013 BEGINNING AT 1:00 P.M. IN COMMISSION  
CHAMBERS OF THE DUCHESNE COUNTY ADMINISTRATION BUILDING, IN  
DUCHESNE, UTAH**

***Present***

Commission Chairman Ronald Winterton, Commissioner Kent R. Peatross, Commissioner Kirk J Wood, Deputy Attorney Tyler Allred, Emergency Management Director Mike Lefler, Public Works Director Glen Murphy, and Chief Deputy Clerk JoAnn Evans taking minutes of the meeting.

***Absent***

Commission Assistant Bobbi Jo Casper.

***Opening Comments***

Commissioner Wood gave the prayer. There were no comments.

***Public Works/Landfill Department Update.***

Director Murphy stated that they have been pushing snow and sanding the roads this past week. The temperature needs to be at least fifteen degrees for the salt to melt the ice on the roads. There are some places that did not make it above the fifteen degrees. There were also some places that were plowed very early in the morning. It then snowed again before the plows were able to get back to plow them again. It left the roads with some ice on them that could not melt because it was below the fifteen degrees.

***Discussion Of NRCS Grants***

Director Lefler read part of an email that NRCS sent to us. Marnie Wilson sent the email and this is the statement that was read. "I've been reviewing the payment requests you submitted. The SF270 for the Church Camp project is requesting \$201,715.00. There is only \$190,086.11 left in the budget. We can reimburse you for \$190,086.11, but not the remaining \$11,628.89. The SF270 doesn't show any match for the FA funds. The required match is 25% or \$83,333. We will need some documentation describing the match, along with a revised SF270 showing the non-federal share on line f. You can use the \$11,628.89 as part of the match".

Director Lefler stated that we were unaware that we would need to pay the contractor for the rest of this bill. However we need to pay it and was wondering how the commission would like us to pay for it. It is the cost of putting the crossings in properly opposed to doing something that would not work well. Commissioner Peatross stated that it should probably come out of the Roads Department budget. *Commissioner Wood motioned to approve the payment for the twenty five percent (25%) match out of the Road Departments budget. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

***Consideration Of A Five Hundred Dollar (\$500.00) Sponsorship For The Uintah Basin Water Conference***

*Commissioner Wood motioned to approve the Five Hundred Dollar (\$500.00) Sponsorship for the Uintah Basin Water Conference. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

***Discussion Of An Agreement With Herbert Gillespie For Indigent Defense Services***

Deputy Attorney Allred stated that Mr. Gillespie has not gotten back to him concerning this contract. Commissioner Peatross stated that this contract should remain the same except for the three percent (3%) annual increase. *Commissioner Peatross motioned to approve the Agreement with Herbert Gillespie for Indigent Defense Services as it remains to the current contract. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.*

*Entered into Public Hearing at 1:30 P.M...*

***1:30 P.M. Public Hearing***

***Consideration Of Ordinance No. 13-320, An Ordinance Vacating The Crescent Lake Estates Subdivision Plat*** *Mr. Kirk Beecher entered the meeting at 1:15 P.M.. Community Development Administrator Mike Hyde entered the meeting at 1:30 P.M..*

The Crescent Lake Estates Subdivision was platted with 107 lots in the 1/3 to 1/2 acre range. The lots, due to their small size and proximity to the Big Sand Wash Reservoir, were considered recreational rather than residential in nature. In 2007, the dam at the reservoir was increased in height by 26 feet to hold water rights associated with the removal of dams on 13 lakes in the High Uintas Wilderness. In conjunction with that project, the Central Utah Water Conservancy District purchased all of the lots in the Crescent Lake Estates Subdivision, either from willing sellers or via eminent domain. The lots are now either under water during times when the reservoir is full or too small to be developed that close to a reservoir. Protection of water quality is one of the goals of acquisition and vacation of this subdivision.

Administrator Hyde stated that the Planning Commission met on December 4, 2013 and no opposition was heard. The Planning Commission is recommending your approval. Mr. Beecher stated that this was a subdivision that was by the Sandwash Reservoir. The reservoir was enlarged a few years back and it put most of the subdivision under water. The Central Utah Water agency decided it would be best to purchase all of the subdivision and dissolve it.

## **ORDINANCE #13-320**

### **AN ORDINANCE VACATING THE CRESCENT LAKE ESTATES SUBDIVISION PLAT**

**WHEREAS**, the Central Utah Water Conservancy District has acquired ownership of all lots within the Crescent Lake Estates Subdivision from willing sellers or by eminent domain as part of the project that enlarged the Big Sand Wash Reservoir and have petitioned the County to vacate said subdivision plat given that the lots are now either under water or undevelopable; and,

**WHEREAS**, after giving notice and conducting a public hearing on December 4, 2013, the Duchesne County Planning Commission has recommended approval of the plat vacation as requested as there is good cause for the vacation and no personal or public interests would be materially injured; and,

**WHEREAS**, after giving notice, and conducting a public hearing on December 9, 2013, the Duchesne County Commissioners have accepted the Planning Commission recommendation and adopted findings to approve the plat vacation request.

**BE IT HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS** that:

**SECTION 1.** Duchesne County hereby vacates the entirety of the subdivision plat known as Crescent Lake Estates.

**SECTION 2. Severability.**

If any court of competent jurisdiction declares any Section of this Ordinance invalid, such decision shall be deemed to apply to that Section only, and shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared invalid.

**SECTION 3. Effective Date.**

This Ordinance shall become effective fifteen (15) days after publication.

DATED this 9<sup>th</sup> day of December, 2013.

ATTEST:

DUCHESNE COUNTY  
BOARD OF COMMISSIONERS

\_\_\_\_\_  
Diane Freston  
County Clerk/Auditor

\_\_\_\_\_  
Ronald Winterton, Chairman

***Consideration Of Ordinance No. 13-321, An Ordinance Vacating A Portion Of A Public Street Right Of Way In Boneta Townsite***

Administrator Hyde stated that the applicants own Lot 4, Block 9 of the Boneta Townsite. A survey prepared by RNR Surveying (Mr. Rodney Rowley), shows the manufactured home on this lot was installed right to the east boundary of the lot and the covered front porch extends 8-9 feet into the public right of way. A detached garage, propane tanks and other site improvements are also located in the right of way as shown by recent site photos. To facilitate a sale of the property, the owners are requesting a vacation of ten feet of this 82.5 foot wide right of way to place the front porch on private land. Mr. Jimmy Brotherson was at the planning commission meeting and asked the commission to please grant him the same type of agreement to some property that has a right of way problem as well. The commissioners all stated that his request would have to be a separate request and would have to go through the process just like everyone else would. Commissioner Peatross stated that "he wondered if the whole Townsite should be vacated". Administrator Hyde commented that there were still a few roads that are being used and there are still a few homes in the Townsite. The Planning Commission met on December 4, 2013 and determined that it would be best to vacate this right of way. Commissioner Peatross stated that we need to have this survey reviewed by the Duchesne County Surveyor.

**ORDINANCE #13-321**

**AN ORDINANCE VACATING A PORTION OF A PUBLIC STREET RIGHT OF WAY IN THE BONETA TOWNSITE**

**WHEREAS**, Hanna Oman and Joy C. Burton, Trustees, have petitioned the County to vacate its interests in the right of way described herein; and,

**WHEREAS**, after giving notice and conducting a public hearing on December 4, 2013, the Duchesne County Planning Commission has recommended approval of the partial right of way vacation as requested as there is good cause for the vacation and no personal or public interests would be materially injured; and,

**WHEREAS**, after giving notice and conducting a public hearing on December 9, 2013, the Duchesne County Commissioners have accepted the Planning Commission recommendation and adopted findings to approve the street right of way vacation request.

**BE IT HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS** that:

**SECTION 1.** Duchesne County hereby vacates its interests in the following described street right of way and returns said lands to the abutting property owners:

The westerly ten (10) feet of the public right of way of Wallace Avenue abutting Lot 4, Block 9 of the Boneta Townsite.

**SECTION 2.** Pursuant to the Utah Code, the relinquishment of the county's interests in the described right of way may not be construed to impair any right of way or easement of any lot owner or the franchise rights of any public utility.

**SECTION 3.** **Severability.**

If any court of competent jurisdiction declares any Section of this Ordinance invalid, such decision shall be deemed to apply to that Section only, and shall not affect the validity of the

Ordinance as a whole or any part thereof other than the part declared invalid.

**SECTION 4. Effective Date.**

This Ordinance shall become effective fifteen (15) days after publication.

DATED this 9<sup>th</sup> day of December, 2013.

ATTEST:

DUCHESNE COUNTY  
BOARD OF COMMISSIONERS

\_\_\_\_\_  
Diane Freston  
County Clerk/Auditor

\_\_\_\_\_  
Ronald Winterton, Chairman

\_\_\_\_\_  
Kent R. Peatross, Commissioner

\_\_\_\_\_  
Kirk J. Wood, Commissioner

Director Hyde stated that the commission should also review the agreement that the Oman's have already signed.

**RIGHT-OF-WAY ENCROACHMENT AGREEMENT**

**I. PARTIES**

This Agreement is entered into, \_\_\_\_\_, 2013, by and between Duchesne County, hereinafter referred to as "County," and Hannah Oman and Joyce Burton, Trustees of the Hannah Oman Trust, hereinafter referred to as Owners.

**II. RECITALS**

WHEREAS, Owners desire to maintain an existing garage within the public right-of-way of Wallace Avenue abutting and serving Lot 4, Block 9 of the Boneta Townsite, located in Section 28, Township 1 South, Range 4 West, Duchesne County, Utah as depicted on Exhibit A which is attached hereto and by this reference incorporated herein.

WHEREAS, County will allow such garage to remain within the right of way, subject to the conditions listed below.

**III. CONSIDERATION**

NOW THEREFORE IT IS HEREBY AGREED by and between the parties as follows:

- A. COUNTY'S PERMISSION. County grants permission for Owners and their heirs and assigns to maintain an existing garage at the location depicted on Exhibit A.
- B. MAINTENANCE. Owners specifically agree that the garage will be maintained in an attractive and safe manner and assume all maintenance responsibilities that arise from the existence of such improvements.
- C. INTERFERENCE WITH UTILITIES. The garage shall not be allowed to interfere with public or private utility facilities, such as, but not limited to, water meters, fire hydrants and utility poles or pedestals, as determined by the jurisdiction owning, operating or maintaining such facilities.

- D. INDEMNIFY, DEFEND AND HOLD HARMLESS. The County, its officers, agents and employees, shall not be liable for any loss, injury, death, or damage arising out of or in any way related to the existence, construction, maintenance, or use of the garage. Such indemnity to the County shall include reimbursement to it for any cost to defend any suit initiated as a result of the encroachment allowed herein. Owners and owners' heirs and assigns agree to defend, hold harmless and indemnify the County, its officers, agents and employees, from any liability or claim for loss, injuries, death, or damage to persons or property arising from or in any way connected with the existence, construction, maintenance or use of the subject garage.
  
- E. RELOCATION/REMOVAL. Owners further understand and agree that Owners shall bear the cost of any relocation or removal of the subject garage if the street should be constructed in the future, if utility maintenance is necessary, if Owners fail to conform to any term of this Agreement or if otherwise determined to be in the best interests of the County by the County Commission. Such future determination to relocate or remove, if made by the County Commission, shall be conclusive, final, and not subject to any further review or appeal, it being understood by Owner that the original grant to use public right of way was solely a license, revocable at will by the County.
  
- F. BINDING NATURE OF AGREEMENT. All terms of this Agreement shall be binding upon Owner, and the heirs and assigns of the subject property and the subject garage.
  
- G. COMPLETE AGREEMENT. This Agreement represents the complete agreement between the parties, there are no other understandings, promises, or agreements, either oral or in writing, other than those which are contained herein, and this Agreement is a final written expression of all the terms of the Agreement and is a complete and exclusive statement of those terms.
  
- H. ATTORNEYS FEES. Should the County, for any reason, need to use an attorney to defend itself in any future litigation as a result of the above permitted encroachment, or to enforce the terms of this Agreement, before or in court, arbitration, or appeal, Owners shall reimburse the County, any and all reasonable costs of such enforcement or defense, including reasonable attorney fees, administrative time expended, or any other litigation expense.

DUCHESNE COUNTY

ATTEST:

\_\_\_\_\_  
 Ronald Winterton  
 County Commission Chair

\_\_\_\_\_  
 Diane Freston  
 County Clerk

OWNER:

\_\_\_\_\_  
 Hannah Oman  
 Trustee of the Hannah Oman Trust

STATE OF UTAH                    )  
   ) ss.  
 COUNTY OF \_\_\_\_\_ )

Personally appeared before me Hannah Oman, Trustee of the Hannah Oman Trust, and acknowledged the foregoing instrument to be her voluntary act and deed.

Date: \_\_\_\_\_

Before me:

\_\_\_\_\_  
 Notary Public for Utah

\_\_\_\_\_  
 Joyce Burton

Trustee of the Hannah Oman Trust

STATE OF UTAH )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

Personally appeared before me Joyce Burton, Trustee of the Hannah Oman Trust, and acknowledged the foregoing instrument to be her voluntary act and deed.

Date:

Before me:

\_\_\_\_\_  
Notary Public for Utah

*Re-Entered into Combined Commission meeting at 1:58 P.M...*

*Commissioner Peatross motioned to approve Ordinance No. 13-320, An Ordinance Vacating The Crescent Lake Estates Subdivision Plat. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.*

*Commissioner Wood motioned to approve the ordinance vacating a portion (10 feet) of a public street right of way in the Boneta Townsite, and the right-of-way encroachment agreement AFTER the Duchesne County Surveyor has reviewed the property and agreed with the survey that was submitted by Mr. Rodney Rowley. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

*Community Development Director Mike Hyde left the Public Hearing at 1:59 P.M...*

**Consideration Of Vouchers**

*Deputy Clerk Auditor Connie Sweat joined the meeting at 2:10 P.M... Clerk/Auditor Diane Freston entered the meeting at 2:12 P.M...*

The commission reviewed vouchers # 126775 through 126862 dated December 9, 2013, in the amount eight hundred thirteen thousand eight hundred ninety seven dollars and twenty four cents (\$813,897.24) as presented by the Clerk Auditor’s Office. Commissioner Peatross motioned to approve the vouchers as presented by the Clerk Auditor’s Office. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

**Consideration Of Tax Adjustments – Auditor**

*Commissioner Wood motioned to approve the tax adjustment as presented. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

**Consideration Of A Beer License Application For The Big G On 40**

*Commissioner Wood motioned to approve the beer license application as presented by the Clerk Auditor’s Office. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

**Consideration Of A Business License Application For Denton Welding, Inc.**

*Commissioner Wood motioned to approve the business license application as presented by the Clerk Auditor’s Office. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

**Consideration Of Tax Adjustments – Assessor**

*Assessor Greg Garff & Deputy Assessor Cheryl Fabrizio entered the meeting at 2:20 P.M...*

The commission reviewed the tax documentation as presented by the Assessors Office. Commissioner Peatross stated that he was contacted by both of the individuals (Jonathan James Wilkerson & Craig Stansfield) that did not get their greenbelt applications in to meet the Assessor’s Office deadline. They both stated that they had just over looked getting the applications filled out. The commissioner reviewed the timelines as to when each party was notified by the Assessor’s Office and in each case recognized that there had been sufficient time for either party to have completed the

documents. *Commissioner Peatross motioned to deny the request to forgive the greenbelt rollback for the two properties. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.*

*Community Development Director Mike Hyde re-entered the meeting at 2:35P.M...*

*Entered closed session at 2:53 P.M...*

***Closed Meeting –***

*Commissioner Peatross moved to go into and out of closed session for the purpose of discussing pending or reasonably imminent litigation issues at 2:53 P.M. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.*

*Re-entered Combined Commission Meeting at 3:11 P.M...*

***Consideration To Take Action Discussed Under Closed Meeting***

*No action was necessary.*

***Consideration Of Minutes For Combined Commission Meeting Held October 28, 2013***

*Postponed*

***Consideration Of Minutes For Combined Commission Meeting Held November 18, 2013***

*Postponed*

***Consideration Of Minutes For Combined Commission Meeting Held November 25, 2013***

*Postponed*

***Consideration Of Minutes For Combined Commission Meeting Held December 2, 2013***

*Postponed*

***Consideration Of Minutes For Special Commission Meeting Held December 4, 2013***

*Postponed*

***Commission Calendaring***

*Entered recess at 3:18 P.M...*

*Re-entered Combined Commission Meeting at 5:59 P.M...*

***Adjourn***

*Chairman Winterton adjourned the meeting at 6:00 P.M.*

*Read and approved this 23<sup>rd</sup> day of December 2013.*

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*Ronald Winterton  
Commission Chairman*

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*Diane Freston  
Clerk/Auditor*

*Minutes of meeting prepared by JoAnn Evans* \_\_\_\_\_