

**MINUTES FOR REGULAR COMMISSION MEETING HELD AUGUST 01, 2011
BEGINNING AT 1:00 P.M. IN THE COMMISSION BOARD ROOM IN DUCHESNE,
UTAH**

Present

Commission Chairman Kirk J. Wood, Commissioner Kent R. Peatross, Commissioner Ronald Winterton, Deputy County Attorney Jonathan Stearmer, Deputy Clerk Auditor Judy Mutton, Deputy Clerk Auditor Connie Sweat, Uintah Basin Standard Reporter Steve Puro, and Commission Assistant BobbiJo Casper taking minutes of the meeting.

Opening Comments

Attorney Stearmer said the prayer. There were no other comments.

Pledge Of Allegiance

Any wishing to participate.

Tax Adjustments – Assessor

The commission reviewed the attached tax adjustment presented by Deputy Clerk Mutton. *Commissioner Winterton motioned to approve the tax adjustments as recommended by the Assessor's Office. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of Payment Vouchers

The commission reviewed vouchers # 118444 through #118530 dated July 18, 2011, in the amount of three hundred sixty two thousand nine hundred sixty two dollars and forty nine cents (\$362,962.49) as presented by Deputy Clerk Mutton. The commission also reviewed vouchers # 118531 through #118570 dated July 26, 2011, in the amount of one hundred thirty six thousand seven hundred sixty eight dollars and eighty cents (\$136,768.80) as presented by Deputy Clerk Mutton. The commission also reviewed vouchers # 118571 through #118648 dated August 01, 2011, in the amount of one hundred eighty eight thousand eight hundred ninety five dollars and twenty five cents (\$188,895.25) as presented by Deputy Clerk Mutton. *Commissioner Peatross motioned to approve the vouchers as presented by Deputy Clerk Mutton. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Air Drilling Specialties, Inc.

Deputy Clerk Sweat stated that this is a service company to oil field activity. *Commissioner Peatross motioned to approve the business license application as presented. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For B&S Diesel

Deputy Clerk Sweat stated that this is a water truck business who had a Roosevelt City license, but was told they need a county license. *Commissioner Peatross motioned to approve the business license application as presented. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Crystal Ranch, LC

Deputy Clerk Sweat stated that this business has new owners and has a conditional use permit. *Commissioner Peatross motioned to approve the business license application as presented. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Helmerich & Payne International Drilling Co.

Deputy Clerk Sweat stated that this is an oil and gas company out of Oklahoma. *Commissioner Peatross motioned to approve the business license application as presented. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Jenkins Music Of Utah

Deputy Clerk Sweat stated that this is a business that has coin operated amusement machines, video games, and kid rides. *Commissioner Peatross motioned to approve the business license application as presented. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Palmer Mfg Of Utah

Deputy Clerk Sweat stated that this company manufactures storage tanks and is out of Kansas. *Commissioner Peatross motioned to approve the business license application as presented. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For SD Equipment LLC

Deputy Clerk Sweat stated that this is an equipment rental business. *Commissioner Peatross motioned to approve the business license application as presented. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Superior Fabricating, Inc.

Deputy Clerk Sweat stated this business repairs and services oil field equipment. They are also a mobile mechanic. *Commissioner Peatross motioned to approve the business license application as presented. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Water Disposal, Inc.

Deputy Clerk Sweat stated that this business disposes of produced water from oil wells into injection wells. *Commissioner Peatross motioned to approve the business license application as presented. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Western Pump & Dredge

Deputy Clerk Sweat stated that this is an oil and gas support service and water transfer. *Commissioner Winterton motioned to approve the business license application as presented. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of The Programmatic Agreement Associated With The Gasco Energy Uinta Basin Natural Gas Development Project

Chairman Wood stated that we discussed this earlier in the working commission meeting with County/Community Planning Administrator Mike Hyde. *Commissioner Peatross motioned to authorize Chairman Wood to sign the Programmatic Agreement associated with the Gasco Energy Uinta Basin Natural Gas Development Project. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of Resolution No. 11-07, A Resolution Appointing A Temporary Justice Court Judge

Attorney Stearmer stated that he was contacted by Judge Clair Poulson and wanted to make sure that there was a temporary Justice Court Judge appointed for situations where he may have a conflict on a case. The temporary Justice Court Judge needs to currently hold office within the judicial district which is eighth district, so that would be Daggett County, Duchesne County, or Uintah County to pull these judges from. Commissioner Peatross stated that it is his understanding that Judge Poulson has contacted these individuals and they are all willing to serve in this capacity.

RESOLUTION NO. 11-07

A RESOLUTION APPOINTING A TEMPORARY JUSTICE COURT JUDGE

WHEREAS, Duchesne County operates a justice court; and

WHEREAS, the Judge Clair Poulson, from time to time, may need to declare a conflict in particular cases, and thus necessitate the need to bring in another judge to hear the case; and

WHEREAS, U.C.A. §78A-7-208 states “if a justice court judge is absent or disqualified, the appointing authority may appoint another justice court judge currently holding office within the judicial district to serve as a temporary justice court judge”; and

WHEREAS, the Duchesne County Board of County Commissioners is the appointing authority under said statute; and

WHEREAS, Duchesne County currently handles conflicts in the Attorney's and Sheriff's Offices with its neighboring counties and therefore it is appropriate for the counties to extend this approach to conflicts involving its justice court judge.

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

1. Judge Georganna A. Petry is appointed to serve as a temporary justice court judge for the Duchesne County Justice Court.
2. The following individuals are also appointed to serve as temporary justice court judges for the Duchesne County Justice Court should a conflict arise in a particular case for both Judge Poulson and Judge Petry: Judge A. Lynn Payne and Judge Jack Peterson

Dated this 1st day of August, 2011.

ATTEST:

THE BOARD OF DUCHESNE COUNTY
COMMISSIONERS:

Diane Freston
County Clerk/Auditor

Kirk Wood, Chairman

Ronald Winterton, Member

Kent Peatross, Member

Commissioner Winterton motioned to adopt Resolution No. 11-07 appointing a temporary Justice Court Judge. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Ordinance No. 11-290, An Ordinance Amending Ordinance No. 03-212 Imposing A Transient Room Tax For Duchesne County, Utah, Identifying The purpose For Which The Tax Is Imposed, Providing Definitions, Providing Collection And Remittance Procedures, Providing Appeal Procedures And Providing An Effective Date

Attorney Stearmer stated that in this last legislative session, the State of Utah decided to pull a federal government move on the counties and said that it's better that they handle things in a higher level. The State of Utah is now collecting the TRT and will send the money back to counties. There is no evidence that he is aware of that any counties were collecting these fees wrong. The purpose of this ordinance is to look at our TRT ordinance and take out the language that deals with the county collecting the tax; everything else remains the same. We still impose the tax; we just aren't a collection agency anymore. Deputy Clerk Mutton stated that previous to this ordinance, the State of Utah would collect this tax and send us a monthly report showing how much has been collected, how much their fees are, and how much we will be getting. Attorney Stearmer asked Assistant Casper if she would send this ordinance to Sterling Codifiers.

ORDINANCE NO. 11-290

AN ORDINANCE AMENDING ORDINANCE NO. 03-212 IMPOSING A TRANSIENT ROOM TAX FOR DUCHESNE COUNTY, UTAH, IDENTIFYING THE PURPOSE FOR WHICH THE TAX IS IMPOSED, PROVIDING DEFINITIONS, PROVIDING COLLECTION AND REMITTANCE PROCEDURES, PROVIDING APPEAL PROCEDURES AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Duchesne County, under Duchesne County Code Title 2 Chapter 3 Article D, currently collects transient room tax, as allowed under Utah Law; and

WHEREAS, the State of Utah has amended its code relating to the collection of transient room tax, thus necessitating an amendment to the Duchesne County Code.

NOW THEREFORE, The County Legislative Body of Duchesne County ordains as follows:

SECTION I. Title 2 Chapter 3 Article D of the Duchesne County Code shall be amended as follows:

ARTICLE D. TRANSIENT ROOM TAX

2-3D-1: TITLE:

2-3D-2: PURPOSE OF PROVISIONS:

2-3D-3: STATUTES ADOPTED BY REFERENCE:

2-3D-4: TRANSIENT DEFINED:

2-3D-5: TAX IMPOSED:

2-3D-6: EXCLUSIONS:

2-3D-7: CONVENTION BUREAU SPECIAL RESERVE FUND:

2-3D-8: CONTRIBUTIONS AND DONATIONS PERMITTED:

2-3D-9: AUDITS:

2-3D-10: REMITTANCE OF TAX:

~~2-3D-11: COUNTY ADMINISTRATIVE REVIEW AND TAX COMMISSION ADJUDICATION:~~

2-3D-11~~2~~: PENALTIES AND INTEREST:

2-3D-1: TITLE:

This article shall be known as the TRANSIENT ROOM TAX ORDINANCE OF THE COUNTY OF DUCHESNE. (1998 Code § 3.12.010)

2-3D-2: PURPOSE OF PROVISIONS:

The board of county commissioners declares that this article is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish these purposes:

A. To adopt a transient room tax ordinance that complies with the requirements and limitations contained in Utah Code Annotated title 17, chapter 31, and section 59-12-301 et seq., as amended;

B. To adopt a transient room tax ordinance that incorporates provisions identical to those of Utah Code Annotated title 17, chapter 31, and section 59-12-301 et seq., as amended;

C. To adopt a transient room tax ordinance that imposes a tax not to exceed three percent (3%), ~~and provide a measure therefor that can be administered and collected by the county in a manner that adapts itself as fully as practical to the existing statutory and administrative procedures followed by the state tax commission in administering and collecting the sales and use taxes of the state;~~

D. To adopt a transient room tax ordinance that can be administered in a manner that will provide funds for the purposes of establishing, financing and promoting tourism, recreation and convention bureaus and such other purposes as have been authorized by law for the expenditure of transient room taxes and for that purpose create, at the discretion of the county, a reserve fund comprised of any funds collected but not expended during any financial year. (1998 Code § 3.12.020)

2-3D-3: STATUTES ADOPTED BY REFERENCE:

All applicable provisions of Utah Code Annotated title 17, chapter 31, and section 59-12-301 et seq., as amended, are hereby incorporated herein and made a part of this article by this reference thereto. (1998 Code § 3.12.030)

2-3D-4: TRANSIENT DEFINED:

For the purpose of this article, the term "transient" means and is defined as any individual who occupies any suite, room or rooms in a motel, motor court, inn or similar public accommodation for fewer than thirty (30) consecutive days. (1998 Code § 3.12.040)

2-3D-5: TAX IMPOSED:

A. There is hereby levied on all persons, companies, corporations, or other like and similar persons, groups or organizations doing business in the county as motor courts, motels, inns, or like and similar public accommodations a transient room tax at the rate

of three percent (3%) of the rent for every occupancy of a suite, room or rooms by a transient.

B. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Utah Code Annotated title 17, chapter 31, and section 59-12-301 et seq., as amended from time to time, all of the provisions of Utah Code Annotated section 59-2-101 et seq., as amended, known as the sales and use tax act, and all of the provisions of Utah Code Annotated section 59-12-201 et seq., as amended, known as the local sales and use tax law of Utah, are hereby adopted and made a part of this article as though fully set forth herein to the extent the said provisions are relevant and pertinent to the administration ~~and the collection of taxes~~ by the county.

C. Wherever and to the extent that in Utah Code Annotated section 59-12-101 et seq., the state of Utah is named or referred to as the taxing agency, the name of the county shall be substituted therefor. Nothing in this subsection shall be deemed to require substitution of the name of the county for the word "state" when that word is used as part of the title of the state tax commission, or of the constitution of the state of Utah.

D. If an annual license has been issued to a retailer under Utah Code Annotated section 59-12-106, an additional license shall not be required by reason of this section, but a copy of such license shall be provided to the county within thirty (30) days after the effective date hereof. (1998 Code § 3.12.050)

E. ~~Pursuant to Utah Code Annotated section 59-12-302(1)(b), as amended, the county elects to collect the tax imposed by this article itself. The amount tax shall be collected and disbursed pursuant to shall be reported to the state tax commission as provided in Utah Code Annotated Title 59 Chapter 12 sections 59-12-211 through 59-12-215. (1998 Code § 3.12.050; amd. 2010 Code)~~

2-3D-6: EXCLUSIONS:

There shall be excluded from the rent paid or charged by which the tax is measured:

A. The amount of any sales or use tax imposed by the state or by any other governmental agency upon a retailer or consumer;

B. Receipts from the sale or service charge for any food or beverage or room service charges in conjunction with the occupancy of the suite, room or rooms. (1998 Code § 3.12.060)

2-3D-7: CONVENTION BUREAU SPECIAL RESERVE FUND:

For the purposes authorized by this article, there is created a reserve fund to be known as the "convention bureau special reserve fund", which shall be maintained separate and apart from general and other special funds of the county, and in which shall be deposited any and all funds collected by virtue of the tax imposed hereby but not expended during the fiscal year. (1998 Code § 3.12.070)

2-3D-8: CONTRIBUTIONS AND DONATIONS PERMITTED:

The county executive is authorized to accept, on behalf of the county, funds contributed, donated or supplied by any person, corporation, other governmental agency, or from any other source whatever for the purposes outlined in section 2-3D-2 of this article and, when such funds are received, they shall be deposited and used in the same manner as though they were derived from the tax imposed hereby. (1998 Code § 3.12.080)

2-3D-9: AUDITS:

Any records or other information of any person, corporation, company, or other group or organization subject to the taxes imposed by this article which relate to occupancy revenues or to the calculation, ~~collection or~~ and remittance to the county of said taxes ~~shall~~ may be subject to review and inspection by the ~~county~~ state. Audits of such records and information, or the supporting records therefor, shall be the responsibility of the state tax commission. ~~The taxpayer shall also be subject to such audits and reviews by the state tax commission as are provided for by law.~~ (1998 Code § 3.12.090; amd. 2010 Code)

2-3D-10: REMITTANCE OF TAX:

The tax shall be remitted as directed by the state county on a tax return filed on forms provided or approved by the state county at such times and with such frequency as are provided for by state law. All returns filed pursuant hereto shall accurately identify the locations where the transactions occurred and the gross sales upon which the tax for each location is computed. (1998 Code § 3.12.100)

~~2-3D-11: COUNTY ADMINISTRATIVE REVIEW AND TAX COMMISSION ADJUDICATION:~~

~~Any party aggrieved by any action of the county relating to the assessment, calculation or collection of the tax, including any notice of deficiency issued by the county, may request a hearing by filing a written request for hearing with the county clerk/auditor no later than thirty (30) days after the effective date of the county action, or the date of issuance of the notice of deficiency. The decision of the county shall be referred by the county to the state tax commission for adjudication upon receipt of a written request received within thirty (30) days of the county decision. (1998 Code § 3.12.110)~~

2-3D-11~~2~~: PENALTIES AND INTEREST:

Any person who fails to file any tax return or information required by this article, who fails to pay any tax due hereunder, or who fails to timely pay such tax, shall be subject to the imposition of penalties and interest by the state county in accordance with Utah Law Code Annotated sections ~~59-1-401 and 59-1-402~~, or any successor provisions thereto. (1998 Code § 3.12.120)

SECTION II. Effective Date: This ordinance shall become effective fifteen (15) days after its passage and upon proper publication in a newspaper published and having general circulation in Duchesne County. Following its passage but prior to the effective date, a copy of the Ordinance shall be deposited with the County Clerk and a short summary of the ordinance shall be published in a newspaper of general circulation within the County as required by law.

PASSED and APPROVED this 1st day of August, 2011.

DUCHESNE COUNTY:

Attest:

Diane Freston
County Clerk/Auditor

Kirk J. Wood
Commission Chairman

Kent R. Peatross
Commission Member

Ronald Winterton
Commission Member

Commissioner Peatross motioned to adopt Ordinance No. 11-290 and to allow Sterling Codifiers to make any format changes needed. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Minutes For Working Commission Meeting Held July 11, 2011
Commissioner Winterton motioned to approve the minutes with the necessary corrections. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Minutes For Regular Commission Meeting Held July 11, 2011
Commissioner Winterton motioned to approve the minutes as presented. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Minutes For Special Commission Meeting Held July 15, 2011
Commissioner Winterton motioned to approve the minutes with the necessary corrections. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Minutes For Special Commission Meeting Held July 28, 2011

Commissioner Winterton motioned to approve the minutes as presented.

Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.

Adjournment

Chairman Wood adjourned the meeting at 2:24 P.M.

Read and approved this 8th day of August 2011.

Kirk J. Wood

Commission Chairman

Diane Freston

Clerk/Auditor

*Minutes of meeting prepared by BobbiJo Casper*_____