

**MINUTES FOR REGULAR COMMISSION MEETING HELD FEBRUARY 27, 2012
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 Marea Doherty, Deputy Clerk Auditor Connie Sweat, and Commission Assistant BobbiJo Casper taking minutes of the meeting.

Opening Comments

Commissioner Peatross said the prayer. There were no other comments.

Pledge Of Allegiance

Any wishing to participate.

Consideration Of Payment Vouchers

Chief Deputy Clerk JoAnn Evans joined the meeting at 1:19 P.M... Clerk Auditor Diane Freston joined the meeting at 1:22P.M...

The commission reviewed vouchers # 120813 through 120849 dated February 17, 2012, in the amount of two hundred one thousand seven hundred thirty nine dollars and one cent (\$201,739.01) as presented by Deputy Clerk Sweat. The commission also reviewed vouchers # 120850 through #120920 dated February 27, 2012, in the amount of two hundred three thousand seven hundred sixty eight dollars and one cent (\$203,768.01) as presented by Deputy Clerk Sweat. *Commissioner Winterton motioned to approve the vouchers as presented by the Clerk Auditor's Office. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Beer License Application For Hanna Country Store

Deputy Clerk Sweat stated that this application has been signed off by the Sherriff's Department. *Commissioner Peatross motioned to approve the beer license application as presented. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Alisha Sabin, LMT

Deputy Clerk Sweat stated that this is a mobile massage therapy business. *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 A Business License Application For BOS Lease Co LLC

Deputy Clerk Sweat stated that this business is from Grand Junction, Colorado and leases equipment for the oil and gas industry. *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 A Business License Application For BOS Solutions Inc.

Deputy Clerk Sweat stated that this business does dewatering services for the oil and gas industry. *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 A Business License Application For Payzone Directional Services, LLC

Deputy Clerk Sweat stated that this business is from Bakersfield, California and does directional drilling. *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 A Business License Application For TDFI, Inc.

Deputy Clerk Sweat stated that this business does tire recycling and transporting; they are from Fillmore, Utah. *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 A Business License Application For Velvet Touch Poodle

Deputy Clerk Sweat stated that this business makes pet items such as blankets and collars. *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 A Kennel License Application For Velvet Touch Poodle

Deputy Clerk Sweat stated that Animal Control Officer Rick Carda has inspected the residence and said everything was good. This is in a residential area, but the applicant wrote a letter stating that she will not have more than three (3) pets. County/Community Planning Administrator Mike Hyde has approved the application with the stipulation that there will be three (3) pets or less. *Commissioner Peatross motioned to approve the personal kennel license application in an R-1 Zone with three (3) or fewer dogs. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Board Appointment On The Johnson Water Special Service District

Assistant Casper stated that there is a vacancy on the board and are in need of replacing Cloyd Davis who has moved. There are three applicants: Steve Cook, Don Davis, and Drew Eschler. The board has recommended Drew Eschler to fill the vacancy. *Commissioner Peatross motioned to appoint Drew Eschler to the Johnson Water Special Service District as recommended. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of Oil, Gas, And Associated Hydrocarbons Lease And Agreement With Bill Barrett Corporation

Bill Barrett & Turner Petroleum Representative Jacob Woodland joined the meeting at 1:36 P.M...

Attorney Doherty stated that we have received a letter of intent and lease agreement from Bill Barrett for the 4/648th interest that Duchesne County has in a 2.47 net mineral acre parcel. It reflects what we intended to do when we last met with Mr. Woodland last week in Commission Working Meeting. Because it's such a miniscule amount and the ordinance is discretionary we may enter into this agreement without going through the auction process. Mr. Woodland stated that it was discovered that there was 4/648th interest that was transferred to the county through tax sale. In this case, there were minerals that were transferred, so now we have a situation where the county owns 5/648ths interest. This well is scheduled to be drilled the first of April. With that, they are requesting that the county do one of two things either sign a lease for the fractional interest and join the drilling process or join through a force pooling that we could petition through the state which Bill Barrett would bill Duchesne County for their portion of the production costs. *Commissioner Peatross motioned to approve the lease agreement with Bill Barrett Corporation. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of Ordinance No. 12-296, An Ordinance Amending Ordinance No. 00-191 Adopting Seasonal Road Closures For Tabby Mountain Wildlife Management Area

Chairman Wood stated that since we don't have an agreement and will possibly have to start the process over we will postpone this agenda item. Commissioner Winterton stated that the Division of Wildlife Resources (DWR) attended last week's working commission meeting and requested that the commission consider renewing the ordinance that they thought was current, but it had expired in 2002. Assistant Casper stated that according to the minutes from June of 2002, the commission approved a four (4) year agreement with a two (2) year review period, but she cannot find that agreement. She has spoken to Randall Thacker who is also unable to find the agreement, and claims that there is only an ordinance that he can recall, but according to the minutes he is the person who presented the agreement to the commission in 2002. Commissioner Peatross stated that we don't have anything on the table and would like to have more discussion and justification for this action; he will contact Mr. Thacker. *Agenda was postponed indefinitely by unanimous consent.*

Consideration Of Ordinance No. 12-297, An Ordinance Amending Ordinance No, 11-291 To Provide Policies And Procedures For The Disposition Of Oil, Gas, And Associated Hydrocarbons

Chairman Wood stated that we had some discussion on this earlier in the working meeting. There were a few changes that were made. Attorney Doherty stated that the changes were made to clarify the prior errors that presented non-sensible dates for the process of consideration in the auctions. We also reordered the ordinance to clearly define the hierarchy of what the county can do with this in regards to the auctions. We

thought that we would hear from El Paso representative Braden Oaks today who contacted Assistant Casper a few weeks ago, but he isn't here today. Assistant Casper stated that she emailed the industry of the proposed changes a few weeks ago when this was first discussed, and was under the impression that Mr. Oaks was going to be here today to discuss any suggestions or changes El Paso had.

ORDINANCE No. 12-2971-291

AN ORDINANCE AMENDING ORDINANCE 11-291 AMENDING ORDINANCE 08-266 TO PROVIDE POLICIES AND PROCEDURES FOR THE DISPOSITION OF OIL, GAS, AND ASSOCIATED HYDROCARBONS

WHEREAS, the County has codified certain procedures governing the disposition of real and personal property held by the County; and

WHEREAS, it has come to the attention of the County officials that certain procedures ~~need to be established~~ in Ordinance 11-291 to specifically address the disposition of oil, gas, and associated hydrocarbons held by the County reflected an error in the notice provisions; and

WHEREAS, it is in the best interest of Duchesne County to establish separate rules to deal with such property holdings.

WHEREAS, it is in the best interest of Duchesne County to correct by amendment the notice provisions.

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THEREFORE, THE COUNTY LEGISLATIVE BODY OF DUCHESNE COUNTY ORDAINS AS FOLLOWS:

SECTION I. Title 2 Chapter 25 of the Duchesne County Code shall be amended adopted into the Duchesne County Code to read as follows:

~~Chapter 2.25~~

~~DISPOSITION OF COUNTY REAL AND PERSONAL PROPERTY~~

~~Sections:~~

~~2.25.010 — Disposal of Property Authorized.~~

~~2.25.020 — Personal Property.~~

~~2.25.030 — Real Property In Public Use.~~

~~2.25.040 — Real Property Not In Public Use.~~

~~2.25.050 — Approval By Commission; Record Keeping~~

~~2.25.060 — General Rules.~~

~~2.25.070 — Disposition Of Oil, Gas, And Associated Hydrocarbons~~

~~2.25.0870 — No Rights Created In Third Parties.~~

~~2.25.010 — Disposal of Property Authorized:~~

~~The Board of County Commissioners may dispose of, or control the disposition of, any county property, real or personal (including lost or abandoned property, and property whereby the county has any legal or equitable interest), the disposition of which is determined to be in the public interest and in accordance with good property management. The disposition of property or any interest therein, may be by public or private sale, exchange, exchange and sale, option to purchase, lease, lease with an option to purchase, rental, trade in, public auction, public advertisement for sealed bids, or any other lawful manner or means. Such disposition shall not be for less than a full and adequate consideration unless otherwise permitted by law, and such consideration may be other than monetary.~~

~~2.25.020 — Personal Property:~~

~~The power to dispose of surplus, obsolete or unusable personal property held by the county is vested in the county auditor, and such disposition may be made in any manner consistent with county policy. The county auditor shall have discretion, subject to the best interests of the county and its residents, and in accordance with good property management techniques, over the disposition and manner of disposition of surplus,~~

~~obsolete or unusable personal property. However, no such disposition shall be final without the approval of the commission.~~

~~**2.25.030 — Real Property In Public Use:**~~

~~**A. Recommendation of Planning Commission; Approval of Commission; Hearing Required:** The disposition of real property that is in the public use, regardless of the value thereof, shall be made only with the approval of the commission and after receiving a recommendation from the appropriate planning commission where the property is situate and the holding of a public hearing with proper notice.~~

~~**B. Included Real Property:**~~

- ~~1. Real property in public use is deemed to be significant real property for purposes of state law, and includes, but is not limited to, realty and improvements thereon in actual current use as governmental offices or other public buildings, courthouses, jails, police stations, fire stations, developed parks or other recreational or entertainment facilities, utilities, cemeteries, animal control facilities, hospitals or other health facilities, facilities for the welfare of the indigent, sanitary landfills, or any other realty or improvement thereon held for the benefit or advantage of the general public and not confined to use by privileged or particular individuals, without regard to whether that use may be classified as governmental or proprietary.~~
- ~~2. In addition to 2.25.030(B)(1), real property is deemed to be significant real property for purposes of state law if it larger than 10 acres, or has an estimated value, as determined by the Board of County commissioners, of more than one hundred thousand dollars (\$100,000.00). The County's interest in any oil, gas, and associated hydrocarbons shall not be considered significant real property or in the public use, and may be disposed of as outlined in Duchesne County Code 2.25.070.~~

~~**C. Public Hearing; Notice:** The commission shall call and hold a public hearing concerning disposition of realty under this section, which hearing may be at any special or regularly scheduled meeting of the commission. All interested persons may appear and be heard at the hearing. Public notice shall be given of the hearing, which shall contain the date, time and place thereof, a statement of the purpose of the hearing, and a description of the property or the interest therein to be disposed of. Such notice shall be published at least once prior to the hearing in a newspaper of general circulation in the county, and the hearing shall be held no sooner than fourteen (14) days after the publication of the notice thereof.~~

~~**2.25.040 — Real Property Not In Public Use:**~~

~~**A. Included Real Property:** Realty not in public use includes, but is not limited to, realty or improvements thereon existing as vacant lands; real property with vacant or unused buildings, structures or other improvements thereon; buildings used as maintenance or repair facilities and not open to the general public; buildings rented or leased by the county to private entities; or any other realty or improvements thereon not held for the benefit or advantage of the public, nor open to the general public or to a substantial portion thereof.~~

~~**B. Approval By Commission:** The commission shall approve the sale of such realty during any special or regularly scheduled meeting of the commission. No public hearing is required.~~

~~**C. Disposal Of Property:** Where property is acquired by the county for a specific purpose (such as in the case of transfers of development rights), said property may be disposed of by the county for that purpose under this section as real property not in public use. The commission may delegate the authority to dispose of this classification of property to an administrative official of the county.~~

~~**2.25.050 — Approval By Commission; Record Keeping:**~~

~~**A. Approval:** No disposition of real or personal property, in public use or otherwise, shall be finalized until the commission, at a special or regularly scheduled commission meeting, shall have reviewed and approved the disposition by motion (personalty) or resolution (realty), manner of disposition, and consideration benefiting the county; except that the commission may, on a cases by case basis,~~

~~preauthorize the final disposition of surplus property subject to such restrictions, if any, as it may deem appropriate. If such final disposition is authorized by the commission, the results of the final disposition shall be submitted to the commission for approval and ratification.~~

~~**B. Records:** The county auditor shall maintain permanent public records for conveyances of real property and transactions involving personal property greater than five thousand dollars (\$5,000.00). Such records must reflect a description of the property sold or otherwise conveyed, an appraisal of the real property conveyed, the manner of disposition, the consideration received by the county, the identity of the person to whom such property was sold or otherwise disposed of, the date of disposition, the date of approval by the commission, and the nature of the county's use of the property prior to disposition.~~

~~**2.25.060 — General Rules:**~~

~~**A. Condemnation:** If real property was acquired by condemnation, the county shall give the original owner the right of first refusal prior to the disposition thereof.~~

~~**B. Federal Interests:** If real property was acquired with federal funds, the federal government must consent to any disposal thereof.~~

~~**C. Abandonment:** Where the county has acquired real or personal property by dedication for a specific purpose, it may abandon its interests to such only through a vacation proceeding. In the case of all other assets, the vacation is enacted by resolution of the county commission at a public meeting which has been properly noticed in accordance with the open meeting laws. Once the county's interest in the property has been vacated, the ownership of the property shall inure to the original owner who dedicated such to the county in the case of personal property or wholly dedicated land, or to the current owner where the county merely acquired a right-of-way interest to the land.~~

~~**D. Tax Sale:** Where the county has acquired real property through delinquent taxes, the tax sale requirements and procedures of U.C.A. §59-2-1301 et seq., shall apply.~~

2.25.070 Disposition Of Oil, Gas, And Associated Hydrocarbons

A. Quarterly Disposition Auctions: The County Commission shall hold quarterly lease auctions (held the first commission meeting in April, July, October and January) March, June, September, and December) to consider any submitted interests above.

1. The Commission Chair shall state for the record each interested party that submitted a proposal;
2. The Commission chair shall then open each sealed proposal and state the terms for the record;
3. After all proposals have been read into the record the successful applicant (based on greatest monetary value to the County) shall be named and the lease shall be signed.
4. In the event multiple proposals have the same terms, the Commission Chair shall open the meeting to receive verbal bids from the various parties until the highest bid is received.

B. Standardized Form Of Lease: The Duchesne County Commission shall approve by Resolution a standard form of lease to be used in the disposition of its oil, gas, and associated hydrocarbons.

C. Submission Of Interest To Lease Certain Oil, Gas, And Associated Hydrocarbons: Any interested party may submit in writing its proposal to lease certain oil, gas, and associated hydrocarbons held by Duchesne County to the Duchesne County Clerk. To be considered for the next auction, the proposal shall: ~~March, June, September, and Dec~~

- Include the following information contained in a cover letter: ;
1. ~~Cover letter stating~~ the legal description of interested land, preferred auction date, and contact information;
 2. Be filed not later than the 10th day of the month prior to the quarterly disposition auction;

D. Time For Submission: Following the submission of the cover letter, ~~t~~o be considered in the next auction, the interested party must also submit a sealed proposal (or bid) using the duly adopted standardized form of lease outlined below. Such bid ~~proposal~~ must be received by the Duchesne County Clerk not later than 5:00 pm on the last business day immediately prior to the proposed

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~~auction date, which shall be the first occurring regularly scheduled Commission Meeting in each quarter identified as April, July, October and January. by the 10th day of the month prior to the quarterly disposition auction. Any sealed proposal (or bid) received after this date may be considered in the next quarterly auction.~~

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E. Notice of Auction: The Duchesne County Clerk shall publish ~~twice, once, no~~ sooner than 14 days prior to each quarterly auction, in a paper of general circulation within the county notice of each auction, including the legal descriptions of the properties and post said notice on the Utah Public Notice Website.

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F. Sale Of Oil, Gas, And Associated Hydrocarbons: Nothing in this chapter may prohibit the County's ability to sell a portion of its interest in oil, gas, and associated hydrocarbons. Except that the procedures established in Duchesne County Code 2.25.030 shall then apply before any such disposition may occur.

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~~and
Sealed proposal utilizing the duly adopted standardized form of lease outlined below 2.25.080~~ **No Rights Created In Third Parties:**

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~~This chapter is not intended to, nor shall it be construed to, create any rights, claims or causes of action in third parties.~~

SECTION III. Effective Date.

This ordinance shall take effect, fifteen (15) days after enactment, and after depositing of a copy in the Clerk-Auditor's Office and publication in a newspaper having general circulation in the County, as required by Utah Code Annotated section 17-53-208.

Dated this 27th day of ~~February, 2012~~~~December~~~~November, 2011~~.

ATTEST:

BOARD OF DUCHESNE
COUNTY COMMISSIONERS:

Diane Freston
County Clerk/Auditor

~~Kirk J. Wood~~~~W. Rod Harrison~~, Chairman

Kent R. Peatross, Member

~~Ron Winterton~~~~Kirk J. Wood~~, Member

Commissioner Winterton motioned to adopt Ordinance No. 12-297 amending Ordinance 11-291 making it a more workable document. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Minutes For Working Commission Meeting Held February 13, 2012

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

Consideration Of Minutes For Regular Commission Meeting Held February 13, 2012

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

Adjournment

Chairman Wood adjourned the meeting at 2:25 P.M.

Read and approved this 5th day of March 2012.

Kirk J. Wood
Commission Chairman

Diane Freston
Clerk/Auditor

*Minutes of meeting prepared by BobbiJo Casper*_____