

**MINUTES OF COMBINED COMMISSION WORKING AND REGULAR SESSION  
MEETING HELD APRIL 08, 2013 BEGINNING AT 9:00 A.M. IN CONFERENCE  
ROOM #1, IN DUCHESNE, UTAH**

***Present***

Commission Chairman Ronald Winterton; Commissioner Kirk J. Wood, Commissioner Kent R. Peatross, Deputy County Attorney Marea Doherty, Public Works Director Glen Murphy, Property Owner Don Sawyer, and Commission Assistant BobbiJo Casper taking minutes of the meeting.

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

Director Murphy reported that the Road Department finished the Tabby Swale Road in Hanna and suggested that the commission look into passing an ordinance restricting logging trucks on that road during the spring thaw. He also reported that he has a crew on the Strawberry River Road and a crew putting gravel down in Fruitland on County Road #217.

Director Murphy also reported that Chet Hovey has one more bill coming in for engineering services on the Landfill. Mr. Hovey would like to schedule a meeting within the next few weeks with the State of Utah DEQ to discuss the cover over the top. They want six feet and we want three feet.

***Discussion Of Road Issues***

*Uintah Basin Standard Reporter Steve Puro joined the meeting at 9:14 A.M...*

Mr. Sawyer stated that his garage was flooded last spring and he has submitted an estimate and bid sheet to the commission for the damages to replace his garage. Chairman Winterton stated last summer Director Murphy and he looked at Mr. Sawyer's garage after a flash flood. Mr. Sawyer stated that the county dug a nice ditch, but they didn't clean it out for over two years so when the flood came, the ditch filled up and the overflow went into his garage causing cracks in his concrete and washed all of the gravel out from underneath it. Director Murphy stated that it wouldn't have mattered if the ditch was clear or not, there was a lot of water. Mr. Sawyer stated that if the ditch would have been cleaned out, the culvert would have taken care of the water. Chairman Winterton suggested that the full commission view the garage and ditch to see what we are dealing with. Commissioner Peatross asked what makes Mr. Sawyer think it's the flood that caused the breaks in the floor of his garage. Mr. Sawyer stated that because of the gravel being washed out, it caused all of the cracks in the concrete because there isn't anything there to hold it. He has had a lot of damage in his garage and he wants it fixed. If it happened now, there wouldn't be a problem because the drain ditch will take care of it and feels that the problem has been solved. Commissioner Peatross stated in looking at the pictures and the age of the garage, he isn't convinced that the flood is the reason for the damage in the floor. That floor could have been poured with old river bed gravel or something like that and doesn't feel that it's the county's obligation to take it on. He is more than happy to go out and look at it. Chairman Winterton stated that they will go look at the garage tomorrow afternoon.

*County/Community Planning Administrator Mike Hyde, Mark Mecham & Angel Mecham joined the meeting at 9:24A.M...*

Mr. Mecham stated that his son plans to build a home, but was recently stopped by a Sheriff's Deputy stating that the access road is not a county road. Administrator Hyde stated that the pavement ends west of Mr. Mecham's home where an oil well access begins. Director Murphy stated that Nyle Mecham is claiming that he was told by a former Public Works Director that the road was going to be vacated, but it was never done. This is a class B road. Commissioner Peatross stated whatever they were told in the past, the road was never vacated and never went through the process. Commissioner Wood stated that when he drove a bus there, they went to the end of the road until Nyle Mecham's kids didn't ride the bus anymore. Attorney Doherty stated that the vacation process would have been done through the Attorney's Office and she has not found anything showing the road was vacated. Administrator Hyde stated that when he spoke to Mr. Nyle Mecham he said the road is now a private driveway and that if things don't go his way he will contact a lawyer. Mr. Mecham stated that if the county wants to go south and realign that road, he is willing to give a right of way to resolve the dispute. Director

Murphy stated that he will review this option to see if it could be a solution. Administrator Hyde suggested that he prepare a draft letter to Mr. Nyle Mecham letting him know the county's position. Attorney Doherty stated that we should take whatever steps possible for an alternative solution, so let's wait until Director Murphy looks at the road before we send a letter out.

### ***Discussion Of An Incident Action Plan For The Duchesne County Fair Grounds***

*Emergency Management Director Mike Lefler, Chief Deputy Clerk JoAnn Evans, Fair Board Chairman Debbie Thayne & Scott Mabe joined the meeting at 9:48 A.M...*

Deputy Clerk Evans stated that she attended training last week for insurance where she learned about incident plans for emergencies. She feels that the county should put one in place and has concerns such as the demolition derby. Director Lefler stated that this isn't anything new and invited Mr. Mabe to discuss this with us. We have worked with him in the past on incident action plans. Safety is number one, we also need communication, an incident command system, know what our risks are, and determine who has the ultimate authority. It's going to take a lot of effort and it all needs to be addressed in the plan. Commissioner Peatross stated that the reality is, we haven't had a formal approach on security. We need the Sheriff in the room to help devise this plan and have a joint command system. Mr. Mabe stated that he put together an incident action plan for Carbon County and did a training exercises working out all of the issues beforehand. How we work together and fill in the gaps is the biggest issue. We also put together a map showing where everything is such as access control points and line up the objectives. Chairman Winterton suggested that Director Lefler put something together to present at the LEPC meeting in June. Director Lefler suggested that we invite Sheriff Travis Mitchell to our next risk management meeting to discuss this.

### ***Consideration Of A Pre-Disaster Mitigation Plan For Duchesne County As Required By The Federal Emergency Management Administration (FEMA)***

Director Lefler stated that the last time we adopted this plan was in 2005. The Uintah Basin Association of Governments (UBAOG) has helped us with this new plan and we need to adopt it before we qualify for FEMA funds. There are a few changes that need to take place, but they are minor changes updating the personnel. He will contact UBAOG to see if this needs to be adopted by resolution.

### ***Discussion Of Property Taxes***

*Treasurer Colene Nelson, Scott Adams, & Jeri Lynn Adams joined the meeting at 10:24 A.M...*

Treasurer Nelson stated that the Adams were in bankruptcy and no taxes were paid. Now, the bankruptcy has been lifted and the taxes are due back since 2006. This is their primary residence and it is going to the tax sale this year. Mr. Adams stated that they paid the court and a portion of that was supposed to go towards the taxes, but it appears that never happened. Commissioner Wood stated that the documents should say what the money you were paying to the trustee was for. Treasurer Nelson stated that she might have a copy of the documents; she will research then come back.

*Treasurer Colene Nelson, Scott Adams, & Jerry Lynn Adams rejoined the meeting at 10:53 A.M...*

Treasurer Nelson stated that we did receive one payment, but we ended up sending it back to the trustee. The Adams took out chapter 13 bankruptcy in 2006 and then changed it to chapter 7 in 2010. Mrs. Adams stated that we thought we were doing our part. Attorney Doherty stated that this is a different situation; they thought that they were being paid. Since 2006 the bankruptcy protected them, they weren't someone who just wasn't paying. Treasurer Nelson stated that the Adams are willing to set up payment arrangements to get caught up if we can help with the penalty fees and interest. There is two thousand two hundred seventy three dollars and eighty cents (\$2,273.80) worth of interest. Commissioner Wood proposed that if the Adams pay \$579.12 a month for twelve months, then work out paying 2013, the county will take off the interest. If 2013 doesn't get paid before the tax sale in 2014, it will go to the tax sale. Mr. and Mrs. Adams were fine with the proposal.

### ***Consideration Of An Employee Confidentiality Agreement***

Attorney Doherty requested that this be forwarded to next week.

**Consideration Of A Training Reimbursement Agreement**

Attorney Doherty requested that this also be forwarded to next week.

**Tax Adjustments – Assessor**

*Deputy Clerk Auditor's Connie Sweat joined the meeting at 10:41 A.M...*

The commission reviewed the attached tax deferrals presented by the Clerk/Auditor's Office. Commissioner Peatross motioned to approve the tax deferrals as recommended by the Assessor's Office. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

**Consideration Of Payment Vouchers**

The commission reviewed vouchers # 124527 through 124630 dated April 08, 2013, in the amount of two hundred fifty one thousand two hundred forty three dollars and fifty seven cents (\$251,243.57) 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 A Business License Application For Allreds Amazing Maids**

Deputy Clerk Sweat stated that this is a mobile maid service. *Commissioner Wood 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 Exterior Home Makeovers**

Deputy Clerk Sweat stated that this is a handyman service. *Commissioner Wood 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 K Bar A Welding & Construction, Inc.**

Deputy Clerk Sweat stated that this is a trucking business with seven trucks. *Commissioner Wood motioned to approve the business license application as presented. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

**Consideration Of Minutes For Working Commission Meeting Held March 25, 2013**

Commissioner Peatross motioned to approve the minutes with the necessary changes. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

**Consideration Of Minutes For Combined Commission Meeting Held April 01, 2013**

Assistant Casper stated that these minutes are not ready for consideration.

**Consideration Of Minutes For Special Commission Meeting Held April 01, 2013**

Commissioner Peatross motioned to approve the minutes with the necessary changes. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

**Closed Meeting –**

*Commissioner Peatross moved to go into and out of closed session for the purpose of discussing pending or reasonably imminent litigation at 11:36 A.M. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.*

*County/Community Planning Administrator Mike Hyde rejoined the meeting at 12:12 P.M...*

*Re-entered Combined Commission Meeting at 1:22 P.M...*

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

*No action was necessary.*

*Entered recess by general consent at 1:22 P.M...*

*Re-entered Combined Commission Meeting at 1:30 P.M...Meeting was relocated to Commission Chambers...*

***Public Hearing 1:30 P.M. – Consideration Of Ordinance # 12-308, An Ordinance Amending The Duchesne County Zoning Ordinance Regarding Oil And Gas Wells***

*Jeff Henderson, Doug Dennison, Alexis Adams, Tracy Adams, Alex Keeler, Bryson Bench, David Allred, Braden Oaks, Mike Woodward, Megan Rhoades, Misty Roberts, B. Joy, Brooke Gilbert, Angie Brandt, Tausha Brandt, Shatrina Kenney, Kelley Louise Huemoeller, Jared Thacker, Shane Reary, Dan Karren, Andy Jones, Joe Sager, Brad Mecham, John Weight, Allan Smith, Paul Percival, Bruce Jenkins, Toni Jenkins, Linda Blue, Gary Blue, Kelsy Carter, Dallas Jones, Ed Johnson, Kent Murray, Bert Carter, Suzanne Carter, Kathy Nielson, Ty Alderson, Leon Rough, Brent Carter, Colleen Carter, Jeff Crozier, Gordon Moon, Coby Abegglen, Chica Beynon, Johny Thayne, Rijan Brandt, Jane Gurr, George Gurr, Allen Rydman, Susan Rydman, Jeff Smith, Jason Gilbert, Barbara Turner, David Higginson, Irene Hansen, Wayne Garner, Jesse Duncan, Thomas Winterton, Brad Hill, Tammie Lucero, Greg Todd, Gibson Peters, Reed Durfey, Chris Chapman, Robert Russell, Russell Cowan, Roger Chapman, Sean Nazer, Mike Hurley, Paul Evertsen, Ross Ruchti, John Rogers, Garrick Hall, Trent Potter, Stacy Hadlock, Bill Hansen, Jeff Hartley, Frank Marold, Ray Morlan, Sean Lytle, Audrey Lindsay, Grant Lindsay, John Beck, David Nelson, Alex Avila, Bruce Allgued, Roger Keller, Ryan Chapman, Shane Long, Tim Trujillo, Lori Trujillo, Curtis Turner, Kellie Kinghorn, Rodney John, Gary Dietz, Jed Scott, Hohn David, Lowell Brown, Lee Peacock, Paul Powell, Bruce Stillsworof, Joe Fieldsted, Jeff Stevenson, Mark Daniels, Toney Goerge, Brock Parkhurst, Shon McKinnon, Zach Baldwin, Dwayne Davies, Cheyenne Bateman, JD Horrocks, Don Bramley, Marcia Korver, Kristen Cummings, Kelly Jones, Troy Rohrer, Don Richards, Don Wager, Jake Woodland, Heather Ivie, Val Oman, Bill Walsh, Shirley Weathers, Mike Angus, Chris Paramore, Paul Paramore, Cheryl Raines, Jeff Schnars, Rickey Townsend, James Wild, Kelly McCarthy, Scott Hacking, Frank Steed, & Todd Kleinfelder entered the meeting at 1:30 p.m.*

Administrator Hyde stated that the public hearing today is regarding the regulation of the placement of oil and gas wells in the county on private lands. It has nothing to do with the placement of oil and gas wells on federal, state, or tribal lands. Duchesne County first started regulating the placement of oil and gas wells on private lands in October of 2005 when Ordinance No. 05-240 was adopted. It established a 660 foot set back from exiting dwellings in three different zones in the county, zones with 1/2 , 1, and 2 1/2 acre minimum lot sizes. In 2010, we began to see a lot more drilling on private lands within the county. In January of 2011 the county amended this ordinance and started to require a conditional use permit. During the last three years, we have issued sixteen conditional use permits for those wells. Since that time, we have seen even more drilling in the county. The question has come up whether or not our regulations should apply on all private lands and not just lands in those three higher density residential zones. The commission asked the Planning Commission to look into that. The Planning Commission held their public hearing on this proposal on March 6, 2013 and recommended an ordinance to the commission in the packet; it is referred to as Alternative 1. Since the Planning Commission meeting, the Utah Petroleum Association has provided you with a letter dated March 25, 2013 with an Alternative 2 to the ordinance. After that was proposed, the staff attempted to develop a compromise ordinance that took the Planning Commission's recommendation and tried to build in some of the proposals of the Utah Petroleum Association in hopes that Alternative 3 would be a good compromise. These alternatives have been out for comment the past few weeks and judging from the response, nobody is happy with Alternative 3. The goal is to strike a balance between the rights of surface owners, mineral royalty owners, and all of the people who are employed in the oil and gas industry in the county. The big issue is the setback distance from dwellings. In alternative 3, it would still require the 660 foot setback and it would be required from primary and secondary dwellings or all buildings open to the public. There is a provision in the ordinance for the property owner to waive the setback and allow a reduced distance. Commissioner Peatross asked where the 660 foot setback came from. Administrator Hyde stated that in 2005 we looked at what Carbon County was doing (who was using the 660 foot setback) and the commission at that time felt that was reasonable.

Chairman Winterton opened the hearing for comments and presentations.

Lee Peacock, President of Utah Petroleum Association, stated that this is very important to the oil and gas industry and Duchesne County. We obviously are in support of Alternative #2 which was presented by our organization.

Doug Dennison with Bill Barrett Corporation presented the attached spreadsheet and stated that we appreciate the opportunity to speak on this ordinance. We agree with the goal you are trying to achieve, where we disagree is the process for getting there. We agree that we need to communicate with all stake holders in the process and agree that the

county needs assurance in the process that communication is happening and that we are implementing the appropriate mitigation actions to minimize the impact to the neighbors. As Administrator Hyde stated, where we disagree is in the setback. A setback to him implies a prohibition; in fact the ordinance says that you will not have a well pad within 660 feet of a dwelling unit unless you are able to get a waiver. The concept that we have proposed of a threshold is really not a prohibition it's a concept where if you get within a distance, and UPA proposes 500 feet, that all of that communication has to take place and you have to start considering a lot more mitigation measures. One of the key concerns is the impact that this ordinance has on private property rights, most significantly the mineral owners. We have concerns that there are parts that are redundant with other local and state regulations, there is potential for you to get into legal challenges. This has the potential to eliminate drilling locations or reduce the efficiency for the mineral to be extracted. This would impact everyone. We also have concerns with the latest alternative and it's hard to interpret. At Barrett, we firmly believe that the UPA proposal is a reasonable alternative to getting to where you want to be. We respect private property rights and that there are parts that need to be amended to make sure that it's consistent with your code and state law. We feel strongly that a 350 foot threshold is more appropriate. This is a distance that we can effectively mitigate the impacts, but still efficiently develop the mineral resource for those mineral owners. There are a lot of facts that you have to consider when staking a pad, it gets complicated and the key of the UPA proposal is hoping that the county can adopt a process where we have a lot of flexibility to site these locations where the county and residents have the confidence that we are addressing their concerns. An issue that came up during the Planning Commission hearing is the erroneous opinion that people have that, through directional or horizontal drilling, we can put a well pad anywhere we want to get to the bottom hole we need to. This is not the case. We don't do a lot of horizontals, but we have learned through experience that the maximum reach we have from the surface hole to the bottom hole is 700 feet to produce the oil. He asked Mike Angus to discuss the last two slides of the spreadsheet.

Mike Angus, with Bill Barrett Corporation, stated that we can't push a hole anywhere we want, we are running rods down those pumps so where you start making s-curves and reaching out 1200 feet and then dropping down on your end point you have a tremendous amount of wear. We have this waxy crude and all of these things complicate matters. If we can't stay in a more vertical direction, it will triple our operating costs. The economics for us is critical in how well we efficiently can produce this oil and bring the revenue into the county. We are very unique here because of the yellow and black wax.

Chairman Winterton asked for comments from surface owners.

Bill Walsh stated that he and his wife Shirley Weathers live full-time in Fruitland at 10395 S. Lower Red Creek Road. We have lived here for 17 years. We operate a tourism business and a consulting business from the home we built on our 40 acres. We appreciate the opportunity to share a surface owner perspective on County Ordinance #12-308. We have direct experience. Two years ago, we were approached by an oil and gas operator to drill on our land. Like most other surface owners in the County, we do not own our minerals. To engage effectively in negotiations, we spent months trying to learn about our options, rights, and their limitations. Understanding first-hand the critical need to know something of what this is about and the difficulty of doing that, we became committed to helping other surface owners short-cut what we had to go through. We established a website called the Utah Surface Owner Resource Center. We have become involved in this Ordinance process to advocate for ourselves and other surface owners in hopes of getting some standards and protections on the books that could help us hold onto something of the lives we hoped to live on our land in the event that a company decided to drill an oil well there. I'd like to say this for the record: Our involvement with surface owner education and advocacy is just that nothing more. This is not about "environmentalism." We are not affiliated with environmental groups. We have not been contacted by any environmental groups. We are not doing anyone's bidding. Rumors suggesting that we have any kind of environmentalist agenda are totally untrue. We also want to acknowledge the numerous contributions the industry provides in our County. As Administrator Hyde indicated, the Commission has three Alternatives to consider. He provided background and summarized the three Alternatives. As he said, Alternatives #1

and #3 both accomplish what the Commissions set out to do in response to the reality of oil and gas encroachment countywide and requests to extend standards from county citizens. What I want to do is to try to lay out our sense from a surface owner's perspective of what the industry's version, Alternative #2, will mean if some key elements of it are approved. Alternative #2 was written by the Utah Petroleum Association and submitted to the Commission two weeks ago, along with a letter stating the industry's opposition to Alternative #1 and challenging the County's right to engage in the development of any regulatory actions relating to oil and gas. Alternative #2 dramatically weakens the existing standards and reduces the surface lands in the County covered by the standards. Here's how:

- "Private Minerals" -Alternative #2 strips coverage of County standards from all surface lands that overlie federal/Indian and state minerals by specifying that the Ordinance applies only to "Private surface with " private minerals." We don't know how much surface land this will affect, we're certain it's a lot.
- "Thresholds" in place of "setbacks." Alternative #2 replaces the term "setbacks" with a concept called "thresholds." While "threshold" is not defined, it leaves surface owners in the A-5 and A-10 zones exactly where they are now, without any County regulatory support in negotiations with a company on well location. As we read it, if a well head "will be located 500 ft. or closer to an existing primary or secondary dwelling . . . or building open to the public," the surface owner who believes their lifestyle, safety, etc., will be unacceptably diminished by having a well located close to their house, they have no way to prevent that.
- "Mitigation." Alternative #2 mentions "mitigation" as the enticement to sign the surface use agreement. "Mitigation" is an option for companies to discuss issues with surface owners and offer ways to deal with industrial impacts, and has been a reality for a long time. However, lines 151-152 of Alternative #2 raise concerns where it says, "Nothing in this Chapter shall require an operator to compensate a building or dwelling owner for any mitigation pursuant to this chapter." The provision seems unclear, but it may mean that mitigation measures offered that entice the surface owner to sign may later wind up having to be paid for by the surface owners.
- It is also important to note that Alternative #2, because it applies countywide will significantly reduce the standards and surface owner protections that have applied to A-2.5, R-1, and R-1/2 zones since 2005. For example, the existing 660 ft. setback for those surface owners will be gone. Surface owners in those zones whose land overlies federal/Indian or state minerals will lose coverage by all standards.

A few additional points:

- a. The 660ft. offset provision in the existing standards and in Alternatives #1 and #3 is not mandatory. It does not prevent negotiations that could result in waiver by the surface owner.
- b. If #1 or #3 were to pass, in cases where livability and/or safety concerns cause the surface owner to choose to hold to the offset, directional drilling and other technologies do increase the cost of doing business, but as DOGM's maps show, they are already the rule by operator choice in Duchesne County, rather than the exception.
- c. Alternative #1 and #3 are not attempts to increase the size of government. They represent a normal and appropriate response by a County Commission to address the reality of changes in an important economic activity as oil and gas operations have expanded. That expansion had resulted in County citizens facing negotiations with producers about matters that heavily impacted their lives and had difficulty getting their needs, concerns, and requests met. They looked for County standards and found that those the County had didn't apply to them. The Commission decided to correct that. Supporting County citizens equitably under similar circumstances is the right thing for local government to do.

What's at stake here is a choice among

- Alternatives #1 or #3 that will extend existing County standards countywide--standards that we've seen no evidence have placed unreasonable burdens on the industry,
- OR
- Alternative #2 that will
- o dramatically reduce those standards countywide--most notably one that gives

surface owners a choice to have a well setback 660ft. from their home--including for those they have applied to since 2005; and

- o eliminate all surface lands from coverage by the standards that happen to overlie federal, Indian, or state minerals.

We and many other surface owners engaged in the public process to develop or amend zoning regulations and publicly supported Alternative #1 at the Planning Commission's Hearing. The industry rejected that so we attempted to help create a compromise version combining elements from all interested parties (Alternative #3). Now that the industry has rejected that too and called for approval of its Alternative #2, what to do?

We understand that this is a very difficult issue, but we recommend that the Commission

- Take Alternative #3 off the table, since it seems to have attracted far more criticism than Alternative #1
- Vote to approve Alternative #1, the version that was developed, considered, and passed by the Planning Commission and received no opposition during its development.
- Please vote today without entertaining amendments that would reduce the already minimal standards and protections for surface owners in split estate situations these are the ones you originally sought to maintain and extend countywide.

Trent Potter, County Farm Bureau President, stated that we have been heavily involved with this issue for the past few years. We have been trying to help our members in this issue and it has been brought up that mineral rights are a private property right which we understand but also the surface owner has a property right as well and mineral does dominate that surface right. We have been trying to help with the friction with the surface owner and the mineral development to alleviate some of that and help in the negotiations. He was concerned with the 660 foot setback until he read further in the ordinance of a provision that the surface owner has the option to allow the placement of the location closer if they desire; with that provision he felt comfortable with the 660 foot setback. At the Farm Bureau, our position is that we are comfortable with the 660 foot setback with the provision allowing the surface owner to adjust that in the surface owner agreement if he so desires.

Commissioner Peatross asked if you have a pivot, you don't want an oil well in the pivot so the best place to put the oil well would be on the edge of your property, but what if there is an adjoining surface owner that says "I don't think so, that's too close".

Mr. Trent Potter stated what if there is a residence there, he understands that this ordinance prohibits being too close to the dwelling and it would force the well back into the pivot. There is not a good answer.

Chamber of Commerce Director Irene Hansen stated that she is the county cheerleader and she feels that she is the luckiest person in the world. Not only because she represents such a great county, but she also represents the hard working people, retired people, tourism people, and the hardest working most dedicated people in the world. People who have taken lemons and made lemonade that have taken some of the hardest cards that could have been dealt to a county and have come up with a royal flush. Today she is not necessarily here for the oil companies because there are company men all over the United States and economic development directors that are begging for that investment and are aggressively begging and doing whatever it takes to get noticed who are saying don't take your money to Utah, take your money to Oklahoma, Texas, North Dakota, or North Carolina. Our company people who live here are taking the case to Corporate America to keep investing in Utah and the Uintah Basin. There is a huge groundswell of interest in other areas and we know what we have to lose. We are the envy of Rural America. Twenty years ago there was a fifteen percent unemployment rate and one out of three homes were going back; losing seventy percent of our assessed value in our county. She isn't here today for the oil companies, she is here for the people who can't pick up and move. She is here for the car dealers, the construction companies, and the hair dressers. She is asking and begging to not take the economic consequences of these decisions; she has never said that the sky was falling and back when it was, she took two nickels, rubbed them together, and tried to make million dollar opportunities for this county. She

doesn't know what the straw is that's going to break the camel's back, all she knows is that these companies are under never ending onslaught of regulation. People trying to put them out of business, people trying to stop our way of life making it so our kids can't stay here. We just built two brand new high schools, how do we take on that debt if we don't have a vibrant economy. We are the envy of Rural America; two out of three remote counties like ours are going out of business. Go to Rifle, Colorado and see what the antibusiness climate there has done. Please take the economic part of this in consideration and we can find a win-win solution that doesn't hamstring industry to the point that they start saying hmmm, I bet there is another chubby lady in Texas that would like to talk to us.

Roger Chapman, President of RNI Trucking and Dalbo stated that he was born here and went to school with some of you folks. Our company, in 2009, had a payroll of twenty three million, in 2012, we had a payroll of fifteen million; that's a big number, but it's a huge decrease. The climate is a little tough out here. We are maintaining but as Irene said, the jobs are leaving. There are states and counties that are much better to work with that don't have these frictions as some of these other counties. He understands that we need to build responsibly, but we can do that without choking our customers. The 660 foot setback is twice too far and he owns a lot of property in the county, but doesn't have any oil rights. In 2009, our company employment was thirteen hundred, today we have six hundred. Our accounts payable as of 2012 is thirty eight million dollars; that's money that goes into this community and goes back and flows into our schools, streets, and a lot of things. He was here when it was pretty much farming and he has nothing against farming but it's a tough business and its not nearly as good as oil; we need this business badly. He wants his kids to be able to go to school here and to be able to get jobs here. As Irene said we have two new high schools and they are trying to build a third. It's been fifty years since we have been able to build schools in this community. This is huge; there is nothing better than to educate our children. The only reason we have this opportunity is because we can drill and produce oil and gas in the county; it's a huge detriment to push these oil wells back more than 300 feet.

Allan Smith, President of Utah Royalty Owners Association stated that our main goal is to educate our members, surface owners and royalty owners giving them good tools to work with. They are better negotiators with oil companies to negotiate good viable fair and equitable mineral lease and or surface use agreement; that is the point of our association. He is not sure which proposal he likes best. He has his doubts on the 660 foot spacing for the fact that puts thirty one acres off limits. A good deal of the spacing within Duchesne County, are forty acre spacing's. If there are any kind of an environmental situation or an endangered species anywhere that only leaves a pad four to five acres available to locate on. That is going to be very difficult, what he would like to see is a variable spacing or a threshold. He would like to suggest a compromise in behalf of the association of a 500 foot spacing. To answer Commissioner Peatross' question about a neighbor being able to veto, a few years ago he was working with Newfield in the Pleasant Valley area where he has a one hundred sixty acre farm and he has a pivot out there. Newfield was proposing four wells, but one of the well sites was out in the middle of his pivot. He was able to negotiate with Newfield and they moved the well to the far corner, and he happened to be out doing some raw sites with DOGM and he told them that he would like to nominate Newfield for the 2011 Earth Day Award. He went to DOGM and made his presentation. DOGM said that this was the first time a rancher or farmer has stepped up to offer an award for an energy company. Newfield won that award and he is proud that they received that for going above and beyond the call of duty. He has also done the same with Bill Barrett Corporation and it's very possible to negotiate with these companies in an admirable way and thinks that the discussion today is to protect the rights of the surface owners. He has his grave doubts whether you want to rely upon the Health Department; he has seen some abuse there. If he had his choice, he would go with Alternative #2, removing Tri County Health's role and going with a 500 foot setback.

Chairman Winterton asked to hear from the Division of Oil, Gas, & Mining.

John Rogers stated that our position is to remain neutral. We feel that the county has the right to enact a setback if they so feel. Uintah County and Carbon County have one, so

our position is not to come in and tell the county how to enact this. This is entirely up to the county, we are not going to come in and tell the county that they can't do this. We aren't going to push either way on this; we aren't going to say that you have to have a setback. That is how we come down on this; we aren't going to either way and will support whatever you do.

Chairman Winterton asked for someone to speak from the Governor's Energy Board.

Gibson Peters stated that Cody Stewart asked him to come listen, he wasn't expecting to speak. We respect the opinion of DOGM.

Chairman Winterton asked for comments that are different than what has already been presented to avoid repetition.

Frank Marold stated that he lived here since 1994 in the Strawberry Pinnacles area. He feels that nobody in the room wants to be dependent on foreign oil and wants to take advantage of our resources in the basin to do what's right in America. He can also appreciate the economic impact that it has in the area and what the energy does for the economy out here. He realizes that it's a tremendous boost to the local economy. It's important for surface owners to be treated fair and equitably. It seems that nobody wants to talk about the small individual surface owner rights. He thinks that there is a big elephant in the room that nobody wants to talk about and that's property values. He has 240 acres and a gentleman to the north of him has five acres and his neighbor has been approached by an industry to put a well on his property and has negotiated to purchase 2.5 acres of their 5 acres. This leaves his neighbor 2.5 acres with a pipeline and a well site adjacent to the other piece of property. To him, that doesn't seem fair and equitable. The energy company needs to realize that the piece of property is not going to be usable in the future and the energy company should extend the offer to purchase the entire acreage. We need to consider actual property values as a whole and what's going to happen to the property. He understands that mineral rights people have the right and that we need to develop these properties but to go from a recreational area and turn it into oil field, then do so and buy the land and develop it and move forward. Don't pick and choose and leave the people that have a use for their recreational property left with property that has lost value. Now that you are adjacent to oil wells, roads, and pipelines, you have nothing to offer or a place to go for the weekend. There should be better consideration for property owners and surface owners in the compensation on present values and future values and the taxing moving forward.

Commissioner Wood stated that just to reiterate, mineral owners and mineral leasers also have a property right. We understand that point, but appreciate your comments.

Reed Durfey with Newfield Production Company stated that he wants to give you some numbers on increased costs on directional drilling. It costs us a minimum \$200,000 to do so. \$100,000 is for the extra drilling costs and we have to have all of the heavy equipment to do so which is another \$100,000 so it's an average of \$200,000 on a 660 foot directional. There is definitely some added costs and thinks that we all as companies compete with other regions amongst ourselves internally and it can definitely be an impact. Not saying that we won't continue to drill directional, but if you can drill vertical and get to the same spot without the setbacks that obviously is what we will do. There is horizontal stuff that is coming into play that will hopefully unlock a lot of other stuff, but when you start competing with capital budget internally within your company and start losing out because it's cheaper to go somewhere else, that's where our capital will go.

Commissioner Peatross asked Mr. Durfey if he has had any issues that couldn't be resolved because of the setbacks that he is dealing with now.

Mr. Durphy replied by stating "no", he is pretty sure that they have been resolved because of the SUA's, but what you are introducing now is the SUA was with the property owner now and as you explained earlier was with your neighbor saying "no, you can't move it that way". That's where we are going to run into problems, now you have two voices. We are able to work through issues and try to be a good neighbor and make sure it fits everywhere. There is going to be a time where you aren't going to be able to

put it where you need it and you aren't going to be able to drill a well. We are trying new technology and drilling horizontals and that helps a lot within our operation where we can start drilling the 640 or 1280 horizontals where you have 1 foot print touching on a lot more acres, but that's still determined at what an economical pace that can be too.

Shirley Weathers stated that she is a surface owner in Fruitland and asked if there was any change in the word "any" between the existing ordinance and Alternative 1 for example or has any ordinance had the setback option since 2005.

Administrator Hyde stated that since 2005, the county has been required a setback of 660 feet from any existing dwelling. The proposed ordinance would clarify that to be a primary or secondary dwelling as stated on the county tax rolls, but "any" has always been there.

Mrs. Weathers stated perhaps we may still be looking at the same situation with regards to working with the neighbors and with the process. She would like to suggest from her experience that having an oil well installed in the midst of a community of people with dwellings has heavy impacts on neighbors. The 660 foot setback from a dwelling is negotiable, it's not mandatory. When we were approached to have a well drilled on our property, the first thing we did was get together with our neighbors because we knew that it would affect them as much as it did us. She doesn't think that we need to be concerned that neighbors are going to exercise a veto power that's going to create great hardship. She thinks what we will do is get together with the industry and our neighbors and look at the situation and will work together and solve it. She hopes that we can resolve this and give balance for surface owners.

Tammie Lucero with Uintah County Economic Development stated that energy is important in the entire basin and we are all connected. Uintah County is a little different where we don't have as much private land, but we are very supportive of energy and we think that we can all work together.

Lowell Braxton, Western Energy Alliance, stated that he is not sure why you have to vote today and feels that there have been compelling arguments from all sides. He hopes that you can take more time and try to work something out for all parties that is better than the three options you have today.

Commissioner Peatross asked Mr. Braxton if in the event you had an individual who is hardnosed do you have a suggestion for how to develop a mediation process that could help?

Mr. Braxton replied by stating the surface owner protection act could be invoked where its designed to function only between a mineral owner and surface owner when the mineral owner is going to occupy some part of that surface, you can invoke that at a county level. Have your attorney look at that. Another thing, people of good faith can sit down and negotiate.

Dan Karren stated that he has been a small business owner for 35 years and has lived here his entire life. As you make your decision today, he hopes that you can appreciate the property rights and that you don't take our ability to negotiate away. The companies are very eager to work and solve situations. As a property owner, he doesn't want anyone telling him how to negotiate letting people across his property. He has property where 330 feet is adequate to cross and property where 660 feet is not enough. He wants to be able to sit down and negotiate and not have an iron clad setback. He owns the property, he will decide. The key word is negotiation and he would encourage the commission to be very careful when they take our property rights and say this is a mandate.

Thomas Winterton stated that he is a small business owner. His business is very heavily impacted by the oil industry. He would like to remind the commission to be very careful when looking at other counties; our area is very unique and sometimes wonders why they even give us the time of day. We have transportation, federal, and jurisdictional issues and our crude is hard to refine. There are already a lot of strikes against the oil industry to be here in the first place. Don't base our county on what works in another one.

Wayne Garner stated that he works for EP Energy and is a property owner. We have always been able to negotiate with landowners and come up with a compromise. In 2005, he fought the ordinance and now you want to make it effective in the whole county, We have all of the restrictions as industry and have been able to live with the current ordinance, but when you modify it and take it to the whole county, it puts that much more pressure on the industry. We have to battle for these dollars and those dollars will be taken away just as fast. When you make these decisions, there are serious repercussions over alternatives 1 and 3. EP Energy is in favor of #2, but there needs to be more time to discuss this with the industry.

Don Wager stated that he runs South Slope Reclamation and has been involved in the oil industry for 45 years. He has never discovered, except for a few cases, a company that is not willing to negotiate. They have done an enormous amount of good in the Uintah basin. Private property owners a lot of time try to make decisions that impact us here. Our livelihood is here, our company and our tax base is here and you shouldn't rush to judgment today on something that should be allowed more time. Variable distancing on setbacks depends on where you're at. Don't give an arbitrary number to something that can be moved. Don't make one pat rule that puts a stamp on what we do here as an industry. The economy has only been good here because of oil and gas. They put a phenomenal amount into our economy, our students, jobs, and the base economy of the Uintah Basin. Split Estate Law is well defined on both sides; royalty owners and surface owners. You don't have to take the first or second offer, negotiate. The benefits are for all of us. Adding more restriction to a production company would push them to move where the restrictions are less.

Commissioner Wood asked how a threshold idea rather than a solid setback work would for us.

Joe Fieldsted stated that he is a director for Moon Lake Electric. He would like the commission to take more time considering this. We haven't been approached and he would like to discuss this with their board. This has far reaching ramifications for power bills not just for the oil companies, but also for the members of Moon Lake Electric.

Commissioner Peatross stated that he apologizes for those who haven't been contacted. This issue has been in discussion since last fall. We held our first discussion with industry last November and is concerned about the other entities that haven't been able to weigh in on it, but is has sat on the table for a while.

Lee Peacock stated that regarding threshold distances, we are going to be here for a long time as an industry and it's in our best interest to make this work as seamlessly as possible. Instead of focusing on the distance, focus on the impacts. Our concepts would be that the company would be held to a higher standard and to negotiate with any surrounding dwelling owners and negotiate the mitigation measures of the impacts of drilling to make the impacts as minimal as possible. Our commitment through UPA's proposal is to commit to mitigate impacts within that threshold and to sit down with good faith negotiations with surface owners on lease and off to eliminate concerns they may have.

Commissioner Peatross stated through this process, we discovered a real lack of cooperation and communication between the industry and the public. He is not sure how we can bridge the gap; it's been a poor job thus far.

Mr. Peacock stated that the county surface owners and parties can come together into negotiations in good faith and come to an agreeable set of circumstances. We need to do a better job from all perspectives along the line. We all have got to get along out here; the more we communicate the better. Our commitment from our industry is to continue to improve the way we do business here.

Jim Felton, with Bill Barrett Corporation, stated that the opportunity in the basin is geology. This is a special place. The best days of this basin lie ahead. Look at the technology, we are finding the more we drill, the more we find. The Uintah Basin is

going to be a case study on what technology can do. When you talk about opportunity, you have to look at economics as well and that's the real driver here. When you look at facts and figures of the oil and gas, its five million dollars every month to the State of Utah and Duchesne County has a major role in that half of the oil production comes from Duchesne County, so any cutback in Duchesne County affects the entire state. Bill Barrett will spend 235 million dollars this year which is lower than years past. We will have three rigs in Duchesne County this year. Studies show that a single rig accounts for 130 jobs. Ninety percent of the economic activity comes from the drill bit turning to the right. A direct oil and gas job contributes three other indirect, induced jobs. When you look at an ordinance like this, what you run into is not only the legal ramifications for stranding minerals, but he thinks that you would want to maximize your economy. It benefits everyone. What you are proposing today is precedence. We urge you to be very careful so that the precedence doesn't become policy. We hope we can get to the bottom of this once and for all very soon. Too often the argument about oil and gas is the environment and what it does for the economy. These jobs provide benefits and gives young people the ability to grow up as adults and it's important in rural America. No access to rural land means no rural lifestyle and you must have access to the land to keep a rural economy viable.

Linda Blue stated that she lives in Fruitland in Red Creek Ranches. She is all for oil exploration, but not in her back yard. They can go away from homes, the basin is large enough to do so. Her property value has gone down because of an oil well and there is lots of dust and the roads are bad.

Ryan Chapman, President of RN Chapman, stated that we employ about 120 employees and is concerned if the money goes elsewhere. It's a huge thing to have the quality of people doing things here. If the jobs are gone, our workforce leaves.

Susan Rydman stated that she is a surface owner who is not a radical or an extremist. You can call her an environmentalist if you want too. She is a contributing member of the county, pays taxes, and supports local businesses. Surface owners contribute a lot to the county and feels that you should support Alternative #1 as recommended by the Planning Commission. If you pass this, she is sure that the oil industry will not leave.

Tim Trujillo stated that Duchesne County is the #1 fastest growing county in Utah. People want to come here because of the economic development in flux of dollars that the industry puts into this county. Seventy percent of the county coffers come from oil. If someone said that you are going to lose seventy percent of your income, how would you feel about that? You wouldn't stay you would go somewhere else. This is something to think about. There are so many well sites around but you can't even see them because of the way they are required to keep them. To move them further out, your transportation costs will increase and there will be more impacts involved. He loves it here, but you go where the jobs are.

Commissioner Wood stated that first of all, he is right where he was when he came in this morning. Are we going beyond our jurisdictional authority? We rely on Attorney Doherty and her counter parts to give that go ahead. He is intrigued with the threshold idea and would like to see how that could be implemented where it guarantees both sides the opportunity to accomplish their tasks. Are we in violation of existing statutes? There were comments saying that our ordinance would be redundant and unnecessary. Some people say S.O.P.A. would protect neighboring landowners, some say so, but he doesn't think it does and he doesn't understand it well enough. Mineral owners, lease owners do have property rights and those need to be protected. How to mitigate a neighbor saying "no thank you", this needs to be worked out. In alternative 3, someone said it's confusing and he agrees. My recommendation is to do some adjusting and tweaking and come back with one proposal rather than three options and send that out and get feedback. He is most comfortable with alternative 3, but wants to rework this more.

Commissioner Peatross stated that in his ten years as commissioner, he has never seen an issue that has come before the commission that has been as far reaching as this is. In his mind there isn't anyone out of the 18,000 citizens in Duchesne County who won't be either directly or indirectly affected by what they do with this ordinance. He personally

sits on both sides of the fence. He has family that works in the industry and two families wouldn't even be living here if it wasn't for their industry jobs so he is quite sympathetic and concerned. We didn't hear any comments from anyone wanting to shut the industry down. On the other side of the fence, he doesn't want it in his back yard either. He recognizes the fact that it has to happen and doesn't feel it's as intrusive or disturbing as the general population thinks. The question that he had could apply to him personally. If someone came to him to put a well on his property, he would suggest that it go clear over in the north 40, but he doesn't think his neighbor would want it there. If it has to have a 660 foot setback, he would have to break his wheel lines down to get passed it and that's not enticing. He came into the room today expecting a decision be made at the end of the hearing, but he would like to recess to investigate further. The proposal of some kind of a variable system, it concerns him, but at some point you have to draw a line in the sand. He feels he can support Commissioner Wood in giving this a postponement for a month. This is important enough and agrees with Commissioner Wood on the sanitary issues and doesn't believe he can walk away from the dust control issues. He would like to see what the industry is doing to mitigate that.

Chairman Winterton stated that we thought the entire county was already protected. In the past week he has spent 25 hours listening to people and appreciates the input. He has been schooled a lot and coming into this, he thought he had his decision made also. He is somewhat disappointed and feels we haven't rushed into this. We have been working hard and is aware of the impacts both personally and professionally. He feels they have heard from all sides affected by this issue and appreciates Irene Hansen; we try hard to get people to come here and wants to do it in an organized fashion to be able to handle it. We have water issues in our county and if we don't have water we aren't going to have the industry. We have school problems, and we have growth issues. We aren't taking this lightly; we have worked very hard at this. In the industry, we have great operators; we can't say enough about the industry and what they do for our communities and the number of times they have stepped up to assist. He appreciates them, them doing their job makes ours easier, so don't go away feeling that you are being picked on. He is a landowner and knew when he bought the land that someday he may have a well there. He likes the threshold concept; we need to look at it. The communication that we need is not there, it comes down to education. There is new technology out there and he feels very comfortable with the way the industry is proceeding. We want them here and he wants to find a better way to communicate and get this out to people. One thing he has learned from this is that we aren't doing enough whether it's in the water, the schooling, or here in county government; we have to do a better job. He appreciates everyone coming and their comments.

*Entered back in Combined Commission Meeting at 3:32 P.M...*

*Commissioner Peatross motioned to postpone the hearing to May 13, 2013 at 1:30 p.m. and proposed that they visit with industry, surface owners, royalty owners, and so forth to come up with a process to address the issues we talked about. They will send a revised ordinance next week and would like to get feedback. He is concerned that one hat does not fit all. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.*

*Entered recess at 3:35 P.M...*

*Entered back in Combined Commission Meeting at 4:22 P.M...*

### ***Commission Calendaring***

#### ***Adjourn***

*Chairman Winterton adjourned the meeting at 4:36 P.M.*

*Read and approved this 29<sup>th</sup> day of April 2013.*

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*Ronald Winterton*

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*Diane Freston*

*Commission Chairman*

*Clerk/Auditor*

*Minutes of meeting prepared by BobbiJo Casper* \_\_\_\_\_