

Draft Minutes
Land Trusts Protection & Advocacy Committee
Tuesday, April 9, 2024 | 10 a.m.–12 p.m.

Anchor Location: 310 S Main St., Ste. 1275, Salt Lake City, UT 84101

In-Person Participants:

Richard Ellis, Advocacy Committee Chair
Paula Plant, Advocacy Committee Vice Chair
Louie Cononelos, Advocacy Committee
Roger Barrus, Advocacy Committee
Kim Christy, Advocacy Office Director
Jessie Stuart, Advocacy Office Assistant
Director
Deena Loyola-Merrill, Advocacy Office
Communications Specialist
Chris Pieper, Assistant Attorney General
Marla Kennedy, TLA Director of
Communications & Legislative Affairs

Zoom Participants:

Brad Benz, Advocacy Committee
Peter Madsen, SITFO Director
Cindy Lowe, JJYS
Nancy Kennedy, TLAC Chair

1. Call meeting to order

Meeting called to order by Chair Ellis at approximately 10 a.m.

2. Chairman's report

Chairman Ellis thanked leadership within the Trust System for the work they did during the legislative session. Mr. Christy gave a brief update on the status of HB 262 School and Institutional Trust Lands Amendments. The bill passed successfully, but not without some opposition, including from Mel Brown and Margaret Bird and the PTA.

The governance concerns presented by Margaret Bird in 2023 regarding the Protection & Advocacy Committee were presented to President Adams early prior to the session and delegated to Scott Sandall. With the Trust System audit pending, any changes to governance suggested by Ms. Bird will be placed on hold and potentially considered again in the 2025 session.

3. Approval of minutes

Mr. Cononelos motioned to approve the January 9, 2024, meeting minutes. Ms. Plant seconded. The vote was unanimous in the affirmative.

4. Calendar and confirmation of meeting dates

Upcoming meeting dates for Trust System entities were provided in the packet. TLAC moved the June 17th meeting to June 10th. There were no additional comments or edits to the meeting dates listed.

5. Stakeholder and public input

No public input was provided.

6. Trust System reports

Trust Lands Advisory Committee (TLAC) Report:

Ms. Plant gave an update on two bills that both passed the session: HB 339 School Community

Council Amendments and HB 82 Sub 1 Public Education Program Modifications. HB 339 grants the State Board of Education rulemaking authority to address situations where school community councils do not have sufficient members to fill certain positions. HB 82 Sub 1 moves the approval process from a charter school administrator to the charter school budget officer.

The School Children's Trust noticed 1/3 of schools were not receiving LAND Trust Funds in a timely manner due to program requirements not being met. TLAC will be meeting to discuss solutions to streamline deadlines and processes more effectively, as well as improve communication flow, training, and reminders. A charter school working group has also been formulated to dive into these issues.

School districts have a point of contact that helps streamline communications flow regarding LAND Trust Fund program requirements. Charter schools do not have a point of contact like school districts do, which presents a challenge with 144 charter schools where SCT acts as the point of contact person regarding LAND Trust distribution requirements and training. Ms. Plant discussed the phenomenon of an increase in the number of charter schools and briefly reviewed the history of charter schools receiving LAND Trust funding and how that process has evolved.

Ms. Plant informed the Advocacy Committee that the Utah State Board of Education (USBE) Finance Committee supports the constitutional amendment to raise the cap. This matter will be going to USBE next to be voted on in May. If it passes, we will be able to add USBE to a list of entities that support the amendment to raise the distribution on November's ballot.

SITFO Report:

Mr. Madsen provided an update on staff changes, including an announcement that Scott Day, the current Deputy CIO at SITFO, will be leaving for another opportunity. With this change, SITFO will be repositioning their team to have a greater focus on manager research. A finance and operations analyst, as well as four investment analysts, have recently been added to the SITFO team.

Mr. Madsen gave an overview of the SITFO budget. The overall forecast is well below the budget appropriation. The FY 25 budget will be established and approved in the SITFO May Board meeting.

The Advocacy Committee was informed that the SITFO Board of Trustees is responsible for overseeing the hiring and paying of consultants. Two investment consulting contracts have been renewed. SITFO staff has reviewed contract terms and recommended utilizing the second of two previously negotiated 1-year extensions on current contracts for both RVK and Albourne, extending contracts to spring 2025.

Mr. Madsen provided a performance on the trust funds announcing that the market value of the trust is now above \$3.5 billion. A breakdown of market value was provided, with the majority (94%) being in the school fund. SITFO has seen some under performance in terms of investment objective historically, but in the long term anticipates regaining ground. Within the last couple of months the funds have had good performance.

SITFO is focused on its investment objective of CPI + 5% return while also minimizing risk of draw down. The SITFO Board reviews annually the asset allocation which was recently reviewed by the SITFO Board. Mr. Madsen provided an overview of that review and portfolio strategy.

Mr. Christy asked how benchmark aligns with URS. Mr. Madsen pointed out SITFO and URS have different risk profiles and their risk posture is slightly different. Mr. Ellis also commented that the URS fund is quite mature compared to SITFO.

Trust Lands Administration (TLA) Report:

Ms. Marla Kennedy presented the TLA report providing updates on development, oil and gas and surface groups.

The development group recently closed on a sale in Cross Hollow near Cedar City, for \$21 million in cash. The property is located on the top of a mountain with limited access to water. The development group also closed a sale in the Fort Peirce industrial area for \$4.8 million and will be making a joint venture agreement to build an Amazon fulfillment center. The joint venture is a 75/25 split, and TLA will receive 75% of the sale from the land. The opportunity also provides great economic opportunity for the community.

The oil & gas group has seen lots of interest in carbon sequestration and has done extensive research in this area. They have decided to enter into negotiations with Urban Oil and Gas for carbon sequestration on Drunkard's Wash. Urban Oil and Gas has the necessary knowledge of the area and is the best company to enter into negotiations with for this kind of opportunity.

Additionally, Urban Oil and Gas also has a partnership with Energy and Geoscience, a University of Utah research institute. They are hoping to combine efforts and apply for a grant with the Department of Energy. This opportunity presents potential revenue gain for the trust as well as economic development in the Carben, Emery and Price areas.

Mr. Cononelos commented that TLA ought to be patient with carbon sequestration, and it is a long-term decision. He requested to be able to discuss and share studies done on the topic with Dr. Nelson on the TLA Board or with Ms. Barber-Renteria. Mr. Christy asked if there was a revenue forecast of what this might bring to the trust. Ms. Kennedy stated that they do not have projections yet.

The surface group has one parcel placed for auction in April and two parcels placed for auction in June. Information for both auctions can be found on the TLA website.

Ms. Kennedy also shared with the Advocacy Committee that there is a clean-up opportunity in Moab City near the end of May and will be working with a permittee to clean up a shooting-range field.

Protection & Advocacy Office (Advocacy Office) Report:

Website update:

Ms. Stuart informed the Advocacy Committee that the Land Trusts Protection and Advocacy Office website has gone live. The website is anticipated to also be a good resource to help share information regarding the constitutional amendment. Mr. Christy commented that \$20,000 was budgeted for the website and the total cost was approximately \$22,000.

Constitutional amendment campaign overview:

Ms. Loyola-Merrill provided an overview regarding campaign strategy to encourage a yes vote on the distribution cap constitutional amendment. The largest hurdle is to create a distinction between this amendment and another amendment on the ballot dealing with earmark on income tax and education funding. A second hurdle is that the amendments won't be lettered until July, creating some challenges with marketing.

Campaign outreach will take on a multi-faceted approach, including but not limited to social media, outreach to educational groups, videos from the Treasurer's office, email lists with SCC's, conference and convention participation, and outreach to editorial boards in the fall. Ms. Loyola-Merrill shared the

landing page, raisethecap@utah.gov, that will be connected to the office's website. Designed handouts that focus on the message to "Raise the Cap" were also presented. The Protection & Advocacy office will proactively advocate for a "yes vote" for the amendment, while providing more neutral, objective handouts for other Trust System entities to share at their discretion.

Mr. Christy noted that the Protection & Advocacy Office has also set a goal to effectively engage 30% of legislators to positively advocate for this amendment.

Mr. Ellis asked if the Protection & Advocacy Office's efforts to engage in actively advocating for a "yes vote" create any political concerns. Mr. Christy explained that we have analyzed this question over the past several months, coupled with council from Chris Peiper with the AG's office. The Protection & Advocacy Office has concluded that, due to our statutory mandate to advocate for legislative change that best serves the interests of trust beneficiaries, we are in an acceptable position to proactively engage in encouraging a "yes vote" for this amendment.

Mr. Peiper commented that it may be helpful to have additional discussions with Committee members in sub-committees. Mr. Christy strongly encourages the establishment of rules and procedures for these types of matters in the future.

Conversations acknowledged the challenge before us to create understanding and distinction between the two education amendments and to generate a yes vote on the amendment.

Mr. Benz inquired about the analysis done by SITFO regarding increasing the distribution cap. Mr. Christy explained that the current formula favors future generations, and the analysis supported the objective of creating better intergenerational equity. The Protection & Advocacy Office will set up a meeting between Mr. Benz and Mr. Madsen for additional clarification.

It was noted that the passing of this amendment will also impact the distribution cap of the other beneficiaries, but the campaign will focus on public education for clear messaging.

Protection & Advocacy Committee terms and upcoming vacancies:

Mr. Christy reminded the Committee that the terms of Mr. Ellis and Mr. Cononelos end August 30th. The TLA Board of Trustees will appoint the individual to fill the vacancy of Mr. Cononelos, and the treasurer will appoint the individual to fill the vacancy of Mr. Ellis. Committee members do have the opportunity to serve consecutive terms.

Legislative update and interim focus:

Mr. Christy informed the Committee that a thank you letter went out to all 104 legislators, signed by the directors of the Protection & Advocacy Office, TLA, SITFO, School Children's Trust and the State Treasurer. He also noted that all appropriation requests were granted (TLA, SITFO and the Protection & Advocacy Office).

Mr. Christy provided a summary of the following legislative bills and actions:

- HB 262 Sub 1–School and Institutional Trust Lands Amendments passed. Mr. Christy

expressed appreciation for the collaborative work with TLA, beneficiaries and the Protection & Advocacy Office.

- HB 339– School Community Council Amendments passed (summary provided in TLAC report earlier in the meeting)
- HJR 26 Joint Resolution Rejecting Exchange of School and Institutional Trust Lands: Due to anticipated significant management restrictions being formalized in the forthcoming federal management plan for the Bears Ears National Monument, HJR 26 was introduced and passed, which memorializes the withdrawal of legislative support for the associated land exchange. The unraveling of this exchange, which had had great momentum until recently, demonstrates how truly fragile an exchange can be.
- Half of the original \$161 million general fund appropriation from the last session to the Permanent School Fund was rescinded and directed to other education funding priorities. ~\$80.5 million was contributed to the Permanent School Fund in the first two quarters of this fiscal year, but the final two quarter installments will not materialize. While receiving only half of the original commitment is disappointing, the \$80.5 mm contribution to the Fund was still very significant.
- HB 264 Sub 1–Inland Port Authority Amendments was passed. Among other things, this bill creates some statutory changes that have nexus to the 770 acres managed by TLA that lie in the heart of the Northwest Quadrant. Two primary substantive changes are relevant, but still subject to clarification on their impact: 1) removes TLA's ability to engage in a governance agreement with the Inland Port Board Authority relating to remediation of the landfill; and 2) codifies that the remediation area (the landfill) may not be used as a distribution center.
- SB 161 Sub 6–Energy Security Amendments passed. This legislation aims to keep coal operating facilities open, which creates challenges for the IPP project and could limit revenue generating opportunities for the trust beneficiaries.
- HB 320–School and Institutional Trust Lands Administration amendments did not pass. This bill would have substantially modified the land exchange process and drastically limit TLA's independence that has been so effective over the last 30 years.

Mr. Christy noted that with the pending audit, we were able postpone potential action on any governance changes to the Trust System. One-on-one meetings with legislators over the course of the interim, will be a focus of the Protection & Advocacy Office to continue to emphasize that the current structure of the Trust System serves beneficiaries well.

**It was acknowledged that it has been 30 years since the creation of TLA and with very few individuals still on the hill that understand the history of trust lands and the work of the task force to create the School and Institutional Trust Lands Administration (TLA) in the early 90's, there is a constant need to provide education and information on the Trust System and why this structure works.

Ms. Plant noted that a significant amount of her time has been spent on providing information for the audit including, seeking and obtaining records that document the need for and creation of TLA. She feels strongly that these records should be part of the basis for the decisions that the auditors make.

Mr. Ellis requested an update regarding the legislative audit. Mr. Christy reported that since information was provided to the auditors, including closed meeting recordings, we have not had any

additional questions or requests for information. We will continue to provide information as requested.

Mr. Christy noted that the customized LAND Trust Fund distribution statistics per legislative district were recently sent out to all legislators.

TLA and SITFO Board Nominating Committee updates

The TLA Board Nominating Committee has submitted two nominees to Governor Cox for review. Ms. Stuart informed the Committee that the governor would be reviewing those names soon, putting us on a timeline for senate confirmation in May or June.

The SITFO Board Nominating Committee will be conducting interviews on April 11th. Two or more nominees will go to the treasurer for final selection and appointment.

7. Adjourn

Mr. Barrus moved to adjourn. Mr. Connelos seconded. The vote was unanimous in the affirmative.