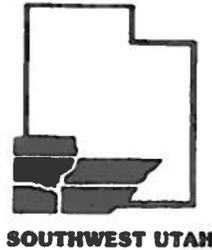


# Five County Association of Governments

1070 West 1600 South, Building B  
St. George, Utah 84770

Fax (435) 673-3540



Post Office Box 1550  
St. George, Utah 84771

Office (435) 673-3548

## **\*\* M E M O R A N D U M \*\***

**TO: FINANCE COMMITTEE MEMBERS**

**FROM: COMMISSIONER JAMES EARDLEY, CHAIR**

**DATE: AUGUST 6, 2014**

**SUBJECT: FINANCE COMMITTEE MEETING**

An additional meeting of the Finance Committee is scheduled for Wednesday, August 13, 2014 at the Garfield County Courthouse, Upstairs Conference Room, located at 55 South Main Street, Panguitch, Utah.

The attached materials are provided to assist you in preparing for our meeting. Please review the materials and address any questions or concerns to Bryan D. Thiriot. This will allow time to research your questions or concerns prior to the Finance Committee meeting.

I look forward to meeting with you at 3:00 p.m. (or at the conclusion of the Steering Committee meeting) for the Finance Committee meeting in Panguitch on Wednesday, August 13, 2014.

BDT:dl  
Enclosures

# Five County Association of Governments

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**SOUTHWEST UTAH**

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## **\*\* AGENDA \*\***

**FINANCE COMMITTEE MEETING  
AUGUST 13, 2014  
GARFIELD COUNTY COURTHOUSE  
UPSTAIRS CONFERENCE ROOM  
55 SOUTH MAIN STREET  
PANGUITCH, UT - 3:00 P.M.**

**(Or at the Conclusion of the Steering Committee Meeting)**

### **PLEDGE OF ALLEGIANCE**

- I. MINUTES JUNE 6, 2014 - REVIEW & APPROVE**
- II. ECONOMIC DEVELOPMENT - PAIUTE TRIBE TRUST LANDS**
- III. FINANCE COMMITTEE AND STAFF BUSINESS**
  - A. REPORT ON SAVINGS ACCOUNT**
  - B. INDEPENDENT CONTRACTOR OMBUDSMAN**
  - C. PERSONNEL - MERIT RECOMMENDATIONS**
  - D. NON-PROFIT ORGANIZATION STATUS UPDATE**
- IV. DIXIE NATIONAL FOREST, SECTION 216 NEPA PROCESS - Joe Harris**

*Equal Opportunity Employer/Program*

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**Notice of Electronic or Telephone Participation:** While board members are encouraged to attend in person, any Board member that is unable to attend in person may participate via a telephone conference call. To participate via telephone, Board members may dial in toll free: 1.800.444.2801. When prompted please enter session ID code: 3858200.

**BEAVER**

**GARFIELD**

**IRON**

**KANE**

**WASHINGTON**

# MINUTES

## FINANCE COMMITTEE MEETING

June 6, 2014

Cedar City, Utah

### MEMBERS IN ATTENDANCE

Commissioner Jim Eardley, Chair  
Commissioner Mike Dalton  
Commissioner Clare Ramsay  
Commissioner Jim Matson  
Commissioner Dale Brinkerhoff

### REPRESENTING

Washington Co. Commissioner Representative  
Beaver County Commissioner Representative  
Garfield County Commissioner Representative  
Kane County Commissioner Representative  
Iron County Commissioner Representative

### OTHERS IN ATTENDANCE

Bryan Thiriot  
Allison McCoy  
Diane Lamoreaux

Five County Association of Governments  
Five County Association of Governments  
Five County Association of Government

Those in attendance recited the Pledge of Allegiance.

Commissioner Jim Eardley, Chair, called the meeting to order and welcomed those in attendance. It was noted that a quorum of members was present for conduct of business.

#### I. MINUTES MAY 23, 2014 - REVIEW AND APPROVAL

Chairman Eardley presented minutes of the May 23, 2014 Finance Committee meeting for Board discussion and approval.

**MOTION WAS MADE BY COMMISSIONER DALE BRINKERHOFF, SECONDED BY COMMISSIONER CLARE RAMSAY, TO APPROVE MINUTES OF THE MAY 23, 2014 MEETING AS PRESENTED. MOTION CARRIED BY UNANIMOUS VOTE.**

#### II. COLOR COUNTRY RESOURCE, CONSERVATION AND DEVELOPMENT RC&D NON-PROFIT ORGANIZATION DISCUSSION

Commissioner Doug Heaton, as a founding member of the American Lands Council, approached the Finance Committee with a request that the Five County Association of Governments assume operation of the 501c3 status that was formerly used by the Color Country RC&D council. He explained that HB 148 would transfer federal lands to state ownership. There are currently five states with legislation dealing with public lands transfer. The response provided to the American Lands Council has been remarkable because of the tremendous economic opportunity that would be available to states. The American Lands Council has been able to make a compelling case for this action, and groups in opposition of the lands transfer are having a hard time refuting claims of the lands council. Because of this, an attack has been launched on members of the American Lands Council to discredit individuals that are involved. The request to this Committee is to assume the 501c3 non-profit status to receive and dispense funds for research and educational purposes.

Commissioner Heaton provided an example of a research project which would involve the jurisdictional analysis that was undertaken during the Eisenhower administration. He explained the classifications included in the jurisdictional analysis as follows: **1) Exclusive--** Ten miles square of the seat of government; **2) Concurrent--** Where states concede concurrent jurisdiction to the federal government for a purpose such as a military base to allow for limited rule making authority and police powers; and **3) Proprietary interest--** This term is applied to those instances wherein the Federal Government has acquired some right or title to an area in a State but has not obtained any measure of the State's authority over the area. The Bureau of Land Management, U.S. Forest Service and National Parks fall under proprietary with limited rule making authority. The intent of the American Lands Council is to have an analysis with white papers completed by universities and law firms to bring things back to the surface and to provide credibility.

Commissioner Jim Matson indicated that the Color Country RC&D non-profit organization has operated for many years, but is now in a dormant status. All filings for the non-profit are current and there is a small amount of funding that remains on the table. It is the desire of the American Lands Council to distance themselves from the 501c3 and that would be possible through the AOG assuming a role. He indicated that this option was discussed previously by the Board last year. A 501c3 could also provide a means to obtain grants related to Human Service activities and economic development. The board for the non-profit could be comprised of the five county commissioners or others to provide operational oversight and guidance. Commissioner Mike Dalton asked what the current bylaws for the organization outline as a board of directors. It was noted that the Color Country RC&D board was comprised of members from communities and counties. It was a somewhat cumbersome group and because of the number of jurisdictions involved, it was hard to keep on track. It would actually be better to have a much smaller group serve as the board. Members were concerned regarding the legality of assuming the 501c3 status that was held by the Color Country RC&D and asked that bylaws for both the RC&D and Five County would need to be examined to determine if this type of arrangement would be possible. Commissioner Eardley suggested that the Washington County Attorney's office examine the bylaws to determine if Five County would have the authority to administer this non-profit organization. It was also suggested that this agenda item be added to the June 11, 2014 Steering Committee meeting agenda for discussion.

**MOTION WAS MADE BY COMMISSIONER MIKE DALTON, SECONDED BY COMMISSIONER DALE BRINKERHOFF, TO ADD THIS ITEM TO THE JUNE STEERING COMMITTEE MEETING AGENDA FOR DISCUSSION TO CONSIDER ASSUMING OPERATION OF THE 501C3 ORGANIZATION TO ASSIST THE AMERICAN LANDS COUNCIL AS WELL AS FOR HUMAN SERVICE RELATED GRANT OPPORTUNITIES. MOTION CARRIED.**

Commissioner Jim Matson informed commissioners that Kane County has been notified that they will be able to enter into coordination status with the Bureau of Land Management in regards to grazing on the Grand Staircase Escalante National Monument. An open meeting is scheduled for July 28<sup>th</sup>.

**III. FINANCIAL**

**A. FY 2015 BUDGET - REVIEW AND APPROVAL**

Ms. Allison McCoy indicated that there are not a lot of changes to programs included the FY 2015 budget. There are some funding decreases in some of the Senior Corps programs and there could be further funding cuts in these programs in October. It is anticipated that the Retired Senior Volunteer Program (RSVP) could be reduced by 65%. Other programs are slated for a 6% decrease. Congress is still working through appropriations and final amounts will not be available until closer to the end of the federal fiscal year. There is a 9% reduction in health insurance costs. The cost of insurance decreased when the Five County AOG became a small employer group. Shifting of staff time allocations in programs also increased salaries and fringe in various cost centers. Carol Hollowell has resigned to pursue employment with St. George City to operate the city's resource center. The director's salary will be eliminated and current staff will assume additional responsibilities. This will help to mitigate anticipated funding decreases in the Senior Corps programs. The budget has a net increase from FY 2014. The contract for critical needs housing will be administered by the Resource Center. Commissioner Jim Matson indicated that as staff changes occur it is good to see more work production with fewer people. It is always good to promote within whenever possible. Ms. McCoy indicated that Lis Barker has announced her retirement effective June 30, 2014. The job announcement will be advertised in-house as well as in the local newspaper.

**MOTION WAS MADE BY COMMISSIONER CLARE RAMSEY, SECONDED BY COMMISSIONER DALE BRINKERHOFF, TO APPROVE THE FY 2015 BUDGET FOR RECOMMENDATION TO THE STEERING COMMITTEE. MOTION CARRIED.**

**B. FY 2014 BUDGET REVISIONS - REVIEW AND APPROVAL**

Ms. Allison McCoy provided copies of the FY 2014 budget revisions for discussion. The majority of revisions are included in the administration cost center. Mr. Bryan Thriot indicated that more of his time was spent in administration to become familiar with the organization's operations. Ms. McCoy reported that some revisions were also required in aging programs. The HOME rehabilitation program funding has been revised downward. Insurance for retirees cost was \$10,000 more than what was budgeted because the premium for those individuals is higher than regular employees. These costs will decrease during this fiscal year because all retirees will be on COBRA and the premium will only increase 2%. The premium in previous years was 178% over the cost of the regular employee premium. Employees who are retired will be covered for 18 months on COBRA and will then have to procure their own insurance on the open market if they have not reached age 65.

Ms. McCoy pointed out two programs that require discussion as follows: 1) Foster Grandparent Program and 2) Senior Companion Program. The budget for both of these programs has come up short. There is a deficit of \$14,747 in the Foster Grandparent Program and a deficit of \$16,660 in the Senior Companion program. Ms. Carol Hollowell will stay through June to write grants and solicit donations for these programs. She explained that the majority of carryover funding in Aging

programs will be spent during the first quarter of FY 2015. The Metropolitan Planning Organization also has some carryover funds. Committee members expressed concern with the accounts that are in the red. They also asked Ms. McCoy to examine the savings account and report back on the status of funds. It was noted that it is important that an amount of funding is left on-hand to close out operations in the event of closure of the Association of Governments.

**MOTION WAS MADE BY COMMISSIONER CLARE RAMSAY, SECONDED BY COMMISSIONER DALE BRINKERHOFF, TO APPROVE FY 2014 BUDGET REVISIONS AS PRESENTED. MOTION CARRIED.**

#### **IV. MUTUAL SELF-HELP PROGRAM DISCUSSION**

Ms. Allison McCoy reported that since the last meeting staff has examined the contract between the AOG and USDA Rural Development to determine if the program can be terminated. The current contract calls for construction of 13 homes to complete the Color Country Community Housing, Inc. contract. A handout was provided outlining the reasons that Five County should reconsider completion of the contract. Questions remain on property availability, but the cost of lots in LaVerkin would be lowered in order to accommodate mitigation of soil conditions. There is also a possibility of obtaining some lots in the Dixie Springs subdivision in Hurricane. A sufficient number of applications have been submitted and people are waiting to move forward with constructing their homes. The contract runs through December 30, 2015. If the program were to terminate, it would result in the loss of one full-time employee and the contract for the construction site manager. It would also become necessary to reallocate other funding to supplement other employee salaries. USDA Rural Development and the Rural Community Assistance Corporation would like Five County to complete this contract because the program has already been setup and is working to this point. Tools have been obtained that were previously held by Color Country Community Housing, and the program is currently on budget. There is sufficient grant monies available to complete the contract and the AOG will not be required to land bank properties. Property will be procured through the loans at the time of closing. Should the AOG decide to terminate the contract, funds would be transferred out of the area to other programs. Commissioner Mike Dalton indicated that the AOG could in no way get into the property business, and this was discussed previously when the program was originally presented. Rural Development and RCAC have agreed to help facilitate in locating property for clients because the property needs to be in the same general location. Ms. McCoy indicated that five homes are currently under construction in Ivins that will be completed in September. Eight additional homes will need to be constructed prior to December 30, 2015. Funds are in place to pay salaries and benefits to employees under the technical assistance grant that is adequate to pay for program expenses. Commissioner Mike Dalton mentioned that this is a good program that provides opportunity for income qualified clients to get into a home. These individuals would not otherwise be able to purchase a home. Ms. McCoy reported that clients have to pay back the subsidy if they sell the home.

**MOTION WAS MADE BY COMMISSIONER JIM MATSON, SECONDED BY COMMISSIONER MIKE DALTON, TO PROCEED WITH THE MUTUAL SELF-HELP PROGRAM WITH A SCHEDULED REVIEW EVERY SIX MONTHS, STIPULATING THAT**

**FIVE COUNTY WILL NOT PURCHASE PROPERTY TO LAND BANK AND THAT THE \$25,000 IS SUFFICIENT TO COVER OPERATIONAL COSTS. MOTION CARRIED.**

Commissioner Dale Brinkerhoff indicated that this in no way provides authorization to submit an application for a second round of funding at this point. This option would be available to revisit as a new application is required. He noted that the program appears to be viable, especially in Washington County where housing prices are high.

**V. SUNRISE ENGINEERING GIS PROPOSAL - FOLLOW-UP DISCUSSION**

Mr. Bryan Thiriot indicated that Beaver County asked that this agenda item be included for discussion. Commissioner Mike Dalton asked if any jurisdictions in other counties had expressed interest in participating in the GIS proposal that was presented at a previous meeting by Sunrise Engineering. Beaver City has expressed interest in pursuing this option. Each of the other county commissioners indicated that no contact had been made by communities that were interested in pursuing the GIS proposal.

**VI. FINANCE COMMITTEE AND STAFF BUSINESS**

Mr. Bryan Thiriot reported that Lis Barker, Director of Care About Child Care, has announced her retirement after 20 years of employment at Five County. The salary for this position will adjust downward by approximately \$20,000 to \$30,000. Staff is proposing to advertise internally, through DWS and in the local newspaper. He also announced that Carol Hollowell will be leaving to operate the St. George City Resource Center. As mentioned previously, duties will be adjusted for other staff and this position will not be advertised. Commissioners asked that the budget for Care About Child Care be adjusted to a lower amount in the FY 2015 budget. Another staff person, Amy Brinkerhoff, will go from full-time to part-time in order for her to spend time at home with her newborn child. A promotion that was approved earlier had the wrong title for Tracy HeavyRunner. The new title will be Home and Community Based Program Director. Mr. Thiriot also announced that Jana Roberts, who has been a contract employee, will be moved to employee part-time status in the Rural Foster Grandparent Program. This program has sufficient funding available to support this change. Commissioners were in consensus regarding the staffing changes and advertisement of the Care About Child Care director position.

**MOTION WAS MADE BY COMMISSIONER MIKE DALTON, SECONDED BY COMMISSIONER CLARE RAMSAY, TO ADJOURN. MOTION CARRIED.**

The meeting adjourned at 11:30 a.m.



**Paiute Indian Tribe of Utah  
Springdale Fee to Trust Land Acquisition Project**



**NEPA PROCESS**

**What is NEPA?**

The National Environmental Policy Act (NEPA) is an environmental law passed by Congress that established a national policy promoting the enhancement of the environment. The law set up procedural requirements for federal agencies to prepare environmental documents that examine the environmental effects of their proposed federal actions.

The NEPA process consists of an evaluation of relevant environmental effects of a proposed federal action and includes a series of pertinent alternatives. The NEPA process starts when a federal agency develops a proposal to address a need to take an action. Once the determination has been made that the proposed action is covered under NEPA, there are three levels of analysis that the federal agency may undertake to comply with the law. These levels include:

- The preparation of a **Categorical Exclusion (CE)**, which is a category of actions that the Agency has determined do not individually or cumulatively have a significant effect on the quality of the human environment;
- The preparation of an **Environmental Assessment (EA)** to determine the significance of the environmental effects and to look at alternative means to achieve the Agency's objectives. The EA is intended to be concise. It should briefly provide sufficient information and analysis for determining whether to prepare an EIS. It should aid an Agency's compliance with NEPA when no environmental impact statement is required. If, after the drafting of the EA, no significant effects on the environment are found the Agency will draft a Finding of No Significant Impact (FONSI);
- The preparation of an **Environmental Impact Statement (EIS)** is prepared when preliminary investigation has determined that there are significant effects to the human environment. The EIS is a more detailed evaluation of the potential environmental impacts when compared to the contents of the EA.

Public involvement activities for an EA range from notifying those directly affected by the proposed action to providing review drafts for public comment and conducting workshops and meetings.

**NEPA Process Steps for the PITU Fee to Trust Land Acquisition Project**

- PITU submitted an application for Fee to Trust Land Acquisition to the BIA Southern Paiute Agency in spring 2014 at which time the project commenced.
- The Bureau determined that an EA level analysis of the fee to trust application would be necessary.
- Scoping letters were sent out on July 8, 2014 to adjacent landowners, local and state agencies, and other interested parties.
- A public scoping meeting will occur on July 22, 2014 at the Hampton Inn & Suites in Springdale, Utah to present the public with project information and solicit comments and concerns. The 30-day public scoping period will end on August 22, 2014.

## **AGENDA ITEM # II. (Continued)**

- Issues identified in the scoping process will be used in developing a range of alternatives to be analyzed in the Draft EA.
- The Draft EA will identify potential impacts of the Proposed Action and alternatives on environmental, cultural, and social resources. The cumulative effects of the Project, when combined with past, present, and reasonably foreseeable actions, will also be evaluated.
- The Draft EA will be made available for public review through direct mailings and via posting on the Internet. A 30-day public availability period will follow.
- The BIA will review public comments received on the Draft EA and prepare the Final EA, incorporating substantive comments, changes, corrections, and revisions. The Final EA is scheduled to be completed by winter 2014.
- Concurrently, the BIA will prepare a FONSI or, if significant impacts are anticipated, determine that an Environmental Impact Statement is required. The Final EA and FONSI will be made available through direct mailings and via posting on the Internet. A 30-day appeal period will follow.

## **AGENDA ITEM # II. (Continued)**



### **Paiute Indian Tribe of Utah Springdale Fee to Trust Land Acquisition Project**



The Paiute Indian Tribe of Utah (PITU) has submitted a Fee to Trust Land Acquisition Application to the Bureau of Indian Affairs (BIA) for transfer of private lands (i.e., fee lands) into federal trust. The land transfer would be in accordance with procedures set forth in 25 Code of Federal Regulations (CFR) Part 151 (Land Acquisitions). This trust action would shift civil regulatory jurisdiction over the parcels from the State of Utah (State), Washington County (County), and the town of Springdale, to the Tribe and the federal government. The State and County would continue to exercise criminal jurisdiction under 18 U.S.C. §1162 (Public Law 280) and other federal laws pertaining to jurisdiction in Indian country.

#### BIA Fee to Trust Process

The Indian Reorganization Act (IRA) [48 Stat. 984, 25 U.S.C. § 461 *et seq.* (June 18, 1934)] provides the Secretary of the Interior (Secretary) with the discretion to acquire trust title to land or interests in land. Once an application is received by the BIA, a Notice of Application is prepared to inform state and local governments, including tribal governments, having regulatory jurisdiction over the proposed acquisition property and/or any person or entity submitting a written request for notice, that they have 30 days to submit comments. Among other documentation, an Environmental Compliance Review is conducted that includes NEPA compliance, a pre-acquisition Environmental Site Assessment (602 DM 2), and National Historic Preservation Act Section 106 compliance. An analysis and Notice of Decision must be prepared that present statutory authority for the acquisition and any limitations contained in such authority, the need of the tribe for additional land, the purposes for which the land will be used, the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls, jurisdictional problems and potential conflicts of land use which may arise, NEPA compliance, 602 DM 2 (Land Acquisitions: Hazardous Substances Determinations) compliance, and analysis of comments and concerns by state and local governments and other interested parties. The process concludes with the acceptance of conveyance, the final title opinion and recordation, and recording at the Land Titles and Records office.

#### NEPA Process

The National Environmental Policy Act (NEPA) was passed by Congress in 1969 and signed into law on January 1, 1970. This legislation encourages environmental protection and informed decision-making by Federal Agencies. An Environmental Assessment (EA) will be prepared to analyze the effects of the Fee to Trust Land Acquisition and to determine if an Environmental Impact Statement is required. The applicant has arranged with a third party for the preparation of the technical documents, resources inventories, assessments, and the EA preparation for the review and consideration of the BIA as part of its decision-making process.

## ***AGENDA ITEM # II. (Continued)***

### Purpose and Need for the Project

According to the implementing regulations of the IRA, the Secretary is required to review all requests to take land into trust (25 CFR 151.12). The Secretary is also required to consider several criteria in evaluating requests for the acquisition of land in trust status, including the need of the tribe for additional land, the purposes for which the land would be used, jurisdictional problems and potential conflicts of land use which may arise, whether the BIA is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status, and whether the departmental policy to minimize the potential liability of the Department by acquiring real property that is not contaminated is met (25 CFR 151.10).

The fee land is located near Zion National Park in Springdale in Township 42 South, Range 10 West, Section 31 in Washington County, Utah. The site is currently accessed via dirt road off of State Route 9. The PITU proposes to take the 174 acres of private land into trust (Proposed Action) to ensure the continued social and economic independence and well-being of its members. The proposed trust acquisition would allow the Tribe to meet the following goals:

- Allow the Tribal Government to exercise its sovereign authority over its trust lands, and protect and enhance the wellbeing of Tribal members.
- Provide additional infrastructure for Tribal members.
- Expand and diversify economic development activities compatible with the existing setting and land uses along SR-9 in Washington County, Utah.
- Increase the acreage of land within the PITU reservation as provided for in 25 U.S.C. 766(c).

Acquisition of the parcel by the United States would help the Tribe meet its long-term goals of preservation of the history and culture of the Paiute People through development of a cultural center and museum. These facilities would provide a place for the PITU to display their history and culture for future generations. It would also provide increased tribal revenues, employment and managerial experience for Tribal members, diversify tribal economic development, and continued/enhanced economic self-sufficiency. In addition to the cultural center and museum, development of the parcel would include small retail shops and gradually add new facilities and services. The development may eventually include such things as craft shops, food service facilities, lodging facilities, primitive cultural sites, hiking trails, tribal housing, and educational facilities. The trust acquisition of the land would allow Tribal governance over the property, thereby enhancing the Tribes' ability to continue to build economic self-sufficiency through diversified tribally-governed commercial enterprises. The Tribal government would be able to fully exercise its sovereignty over the future growth of this property.



**AGENDA ITEM # III-B.**

# Memorandum

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**To:** <sup>BT</sup> Bryan Thriot, Executive Director  
**From:** Carrie Schonlaw, SSW Director Aging & Human Services  
**Date:** 7/7/2014  
**Re:** Independent Subcontracts

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Per our previous discussion, I am outlining the issues related to the independent contracts through the Aging Department for the 2 Ombudsman: Allyson Holt & Susan Swapp, and 2 Nurse Case managers: Lena Oswald & Rene Mardis.

As we discussed, changes in requirements related to liability insurance and workman compensation for independent contractors may result in some difficulties with our independent contractors. As a result, we would like to obtain approval to offer these individuals the options of either being hired as a part-time employee (up to 19 hours per week) with no benefits or to remain as a subcontracted employee but be required to meet the workman compensation and liability insurance requirements. The hourly wage would be at or below the current subcontractor rate so there would additional costs to the AOG or program budget.

We are requesting this option in order to provide an alternative should the costs associated with liability and workman compensation become to cost prohibitive and we are unable to retain qualified independent contractors at reasonable rates.

Thank you for your consideration in this matter!

met with Commissioner Fordley 15 July 2014  
Bryan - He is ok and would like finance committee approval.