

Minutes

UTAH LAND USE & EMINENT DOMAIN ADVISORY BOARD

**Office of the Property Rights Ombudsman
160 East 300 South, 4th Floor, Department of Commerce
Conference Room 475 & via Zoom**

(An audio recording of the minutes is available on the public meetings website.)

November 6, 2024, 10:00 a.m.

ADVISORY BOARD:

Ari Bruening, Chair	Mike Kendall
Brent Bateman, Vice Chair	Cate Klundt
Wade Budge	I

Absent and Excused:	Nathan Bracken Clint Drake
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Office of the Property Rights Ombudsman:

Jordan Cullimore, Director & Lead Attorney
Marcie Jones, Attorney
Richard Plehn, Attorney
Rob Terry, Statewide Land Use Training Director
Cyndy Nelson, Board Secretary

VISITORS:

Hansen Planning Group
• Mike Hansen
Jones & DeMille Engineering
• Josh Anderson
• Kendall Welch

APPROVAL OF MINUTES:

MOTION: Wade Budge made a motion to approve the minutes of the Board meeting held September 25, 2024. Mike Kendall seconded the motion. None opposed. Motion carries unanimously.

OMBUDSMAN COORDINATION WITH TRAINING PARTNERS

Mr. Terry explained the Office is looking to be more proactive in response to agency requests for training. The purpose would be to provide the training and to have the flexibility to bring in an industry expert presenters to be part of that training. The Office is seeking the Board's approval to grant the Office a budget of \$10,000.00, all inclusive, to allow the Office to provide no more than three OPRO coordinated training sessions per quarter. The expenses would be part of the reimbursement expenses submitted each quarter for the Office along with standard reimbursement expenses for presenter(s), travel, venue and other expenses including the cost of video recordings. The recordings and any materials would be included on the Land Use Academy of Utah ("LUAU") website.

Mr. Terry stated, upon request for training, the Office contacts the agency to discuss what type of training they are looking for. If the agency would like more in-depth training than the Office normally provides, it would be advantageous for the Office to partner with an expert in the field to assist in the training.

If the Office receives multiple requests for training on a specific topic, from several agencies in the same area, at the same time, the Office could contact the regional agency to work together to offer training to their entire region to address those topics and provide the opportunity for agencies to receive more in-depth training. There are 4 items that the Office is hoping to achieve.

1. First and foremost, we would like to improve our responsiveness in identifying the training activities and topics that are needed and how quickly we can fulfill the agency's request.
2. We would like to be able to work closer with industry experts and officials to ensure that we're getting the best information to those agencies requesting training.
3. We would like to further focus on delivering the content of those activities in a coordinated and holistic manner that will allow the information provided by the Office, and associated partners, if utilized, to be available on the LUUA website along with any recordings of those presentations. It is a good visual measure to show the involvement of, and availability of the Office, to provide training in an efficient and informative matter.
4. We would like to, over the long term, ensure that there is an opportunity for good cross training between various disciplines to include content from various agencies such as the Home Builder's Association, Real Estate and other partners that play a part in land use.

Mr. Cullimore inquired if the Board is comfortable with the concept of the Office involving industry experts/partners when an agency requests training and that agency needs more in-depth information about a training topic

Mr. Bateman inquired if the Office would be initiating the training and mentioned that the Utah Land Use Institute started in the same manner.

Mr. Cullimore clarified that the Office would not be initiating the training, but only if approached by a local agency whether that be a City, County, AOG, etc. The Office would like to have the support of the Board to organize and arrange for the training requested. This would include reaching out to industry experts from various entities.

Mr. Bruening inquired if the Office is asking for preauthorization should the Office reimbursement request be more than what has been traditionally submitted at the Board meetings and whether or not the Office feels there needs to be a formal action or more of an informal approval.

Mr. Terry indicated that the Office wanted to be transparent and not surprise the Board with a reimbursement request that included expenses for outside presenters in addition to staff time and related travel expenses. He stated the intent is to continually work with current land use training stakeholders who provide excellent items to and through the program stating it would enhance the level of training, the amount of training and the collaboration of that training. He believes an informal approval of support would be sufficient.

The Board felt this concept was within the Ombudsman's realm and would help get the word out about the Office. In addition, the Board would prefer that the Ombudsman Office be the one convening these types of training in response to agency requests for training.

LAND USE TRAINING FUNDS APPLICATIONS:

Office of the Property Rights Ombudsman

The Office is requesting reimbursement in the amount of \$3,780.67 for costs associated with providing six presentations in various areas throughout the state. Presentations were given at the ULCT annual convention, State Planners Network, the cities of Grantsville, Bluffdale and Mendon and the Town of Loa on a wide range of topics specific to the training request. This will be for presentations given during July, August and September of 2024.

MOTION: Ari Bruening made a motion to approve the Office of the Property Rights Ombudsman's request for \$3,780.67, Brent Bateman seconded the motion. None opposed. Motion carries unanimously.

Hansen Planning Group

Mr. Terry stated that the Hansen Planning Group "HPG" has submitted a request for training funds in the amount of \$15,000 to create a "proof of concept" which takes existing content, created over the last years by HPG, Jones and DeMille Engineer ("JDE"), and other partners they have worked with, to further enhance that content by taking it and putting it into different and more enhanced formats and to add new or more relevant content in addition to those items. HPG would first look at creating a digital journal to consolidate and highlight all of the existing written training materials that are geared towards local government structures and land use planning in general, adding companion videos/podcasts to help enhance the training. The videos/podcasts are expected to be 20-30 minutes long and will include interviews with industry experts, enhanced graphics and additional illustrations.

The information would be included on the LUAU website and across our social media platforms as well. HPG would be working with the Office to develop and continually implement a long-term strategic marketing approach for the LUAU and enhance that cohesive effort that's going on to provide training and understanding of certain ways of delivery. and increasing uniformity of its use. The anticipated timeline for this project is about 12 weeks and is anticipated to be completed during the first quarter of 2025. The application package includes details regarding scope of work, estimated budget etc. Mike Hansen is available online for any questions.

Mr. Bateman asked for a summary of what the expected deliverables would be.

Mr. Terry stated HPG is looking at taking the existing items and turning them into a more updated, more graphic and video enhanced deliverable. It is also a great outreach program to connect with industry experts and provide meaningful content.

Mr. Hansen concurred stating that the concept is to take written format, add links to various training concepts that elected and appointed officials and others can access that will also add a visual aspect to the information provided. The use of social media platforms and others such as You-Tube will be a great marketing tool to bring together various levels of training – simple, complicated and technical. The application would be a digital version of a journal and linked back to an enhanced module that includes video, graphics, etc. The digital version of

the journal would be created first and sent to the Board, as well as other entities HPG has worked with over the years, for feedback to see if they would ever use the application.

The Board inquired as to how HPG will know that this concept worked. Would the metrics be created via opens and clicks to the various topics,

Mr. Hansen confirmed and stated the “opens and clicks” would help them see how this application would be received and to establish some additional metrics to see if this concept makes a difference. Most people reviewing the training content, see the training provided as tedious and generally don’t get as far as providing feedback. HPG would like to make the training more interactive by letting people ask questions within the platform and provide some kind of response mechanism. The idea is to see if this application will do what they hope and if so, to expand upon it.

Ms. Klundt expressed her concerns about what information HPG plans to track. She inquired if there will be any form of real-time adjustment available. For instance, if only a few people are watching the video, the length of, or the content, may need to be changed if something isn’t working. Social media can be nebulous making it hard to track.

Mr. Hansen agreed and indicated that is exactly what he wants to be able to do. There are videos and presentations that many people still remember and use. He wants to be able to provide training that will be remembered and accessed on a frequent basis. There is a need to create the content, but there also needs to be some way of taking care of that investment and let people know it’s out there and available. They would like to know if the information is being used and how. This is a project that HPG would like to try and see whether or not it will make a difference.

MOTION: Wade Budge made a motion to approve Hansen Planning Group’s proposal, as outlined, in the amount of \$15,000. Brent Bateman seconded the motion. None opposed. Motion carries unanimously.

Note: Mr. Bruening had to leave the Board Meeting (10:45 a.m.) to change locations and advised he would rejoin the meeting. He requested Vice Chair, Brent Bateman, conduct the Board meeting from this point forward

Jones & DeMille Engineering

Mr. Terry indicated that Jones and DeMille Engineering (“JDE”) has presented two different proposals for training funds. Proposal “A” is their preferred option in the amount of \$149,566.00. If Proposal “B” is selected, funds requests would be \$172,100.00. He advised that the entire application package was included for the Board’s review and reference. Representatives from Jones and DeMille are available online for questions.

Proposal “A”

Mr. Terry stated JDE has been utilizing the Land Use Training Fund from the time the Fund was introduced to the present and have delivered a lot of great items. One major deliverable is the creation of at least 57 active training modules housed on the CiviclinQ platform owned by JDE. As the Board recalls, JDE and the Office have been in communication regarding moving content from the CiviclinQ platform to the Saba Cornerstone Platform currently being used for the LUAU website. LUAU now has a learning management system currently being created under contract with the State. In this process, there will always be changes,

adjustments and other challenges whenever content from one platform is migrated to another platform. In addition, updates will need to be made as a result, but not limited to, changes in legislation. JDE is looking at migrating the 57 modules and plans to add six new technical modules designed to allow advanced users the opportunity to access more in-depth technical items which will target a municipal staff audience or those who have a background in understanding the basics but would like more in-depth information.

It is estimated that each module will take approximately 11 hours of staff time for a full updated migration to the new platform, which is approximately \$1,630.00 per module including the six new technical modules. As stated previously, there will be some unexpected items and hurdles that will need to be overcome, however JDE has been responsible and realistic anticipating those challenges.

Proposal "B"

Mr. Terry stated this proposal is more of a continuation of activity that has taken place in past fund requests for continued update and maintenance of the current 57 training modules on the CiviclinQ platform estimated at a total cost of \$112,100.00 which is just under \$2,000 per module and the creation of twelve new standard training modules at approximately \$5,000.00 per module.

Mr. Kendall inquired what the six anticipated technical new course modules with Proposal "A" would address and if JDE has determined an ideal target audience for the more complex matters. In addition, when the technical modules are available, does JDE have a way to determine whether those accessing the modules are spreading the word and bringing people back to the CiviclinQ site who have not been utilizing the site for a while?

Ms. Welch stated one of the modules would address recent updates regarding the statute for general plan requirements, specifically regarding the water element. It is a topic that can very easily cross over into the engineering realm. JDE would use their technical expertise along with water experts and water resource representatives to create a type of toolkit to assist agencies to build that element into their general plan. JDE plans to utilize feedback received, obtain guidance and recommendations from the Ombudsman's Office along with many other municipalities and/or counties to create a more advanced technical module.

Ms. Welch indicated that the target audience may vary a little depending on the topic. The training module may need to focus at a staff level or those that already have a basic understanding of the topic. The intent is to gear the modules to where they have the most impact and not so technical in nature that they won't be utilized.

Ms. Welch also indicated that at this point in time, JDE does not have any concrete data that suggests that the training modules on CiviclinQ is being passed via word of mouth, but it is very real possibility. The hope is to migrate the modules to the State's learning management system ("LMS") which we could actually start collaborating across the very aspects of training and ultimately come up with possibly a better product that everybody around the State is looking for. JDE believes this migration will benefit everybody in the long run including metrics to support and determine whether or not a different product would be more beneficial.

Mr. Terry added JDE, HPG and the Office have had several conversations and there has been a lot of consideration given into making sure that these are all items that support each other and may address multiple audiences rather than just one target audience with one overall

topic area, all under one umbrella, where you could have those multiple target audiences, brought together within a cohesive structure.

Mr. Bateman expressed his concerns regarding the cost of 11 hours of staff time to move each module to the new platform and believes that the cost is high.

Mr. Terry advised that the cost was to ensure there would be enough realistic hours to account for any unanticipated issues that may occur during the migration. There were several problems that occurred during the migration of the LUAU website to the State's. Some resulted in a total rebuild and reformat rather than a form of copy and paste or drag items from one site to another. The 11 hours of staff time per module is a worst-case scenario, but we would rather have the flexibility to account for any unanticipated problems. The goal is always going to be to complete the task as efficiently and as cost effective as possible. JDE has been very mindful and upfront when requesting reimbursement. They understand that we have a fiduciary responsibility when it comes to the fund and have only requested reimbursement for actual time spent and have not requested reimbursement for any costs that they have been able to directly address. If the grant was for say \$30,000 and only \$5,000 were utilized that is all they have asked for. So, it was us trying to strike that balance between being realistic with the understanding that there may be unanticipated issues during that migration. Mr. Terry advised that he has never used the State's LMS before so there will be a learning curve for him as well.

Ms. Welch added that additional thought went into the determination of that the expense to account for the timeline that is expected in migrating all the modules to the State's platform. It is expected they can complete the migration during the first half of the year of 2025 which will also be happening about the same time as the legislative session. This may involve updating an existing module, so the requested 11 hours includes reserving a couple of hours for updating the modules if needed.

Ms. Klundt inquired about what differences there may be between the CiviclinQ and the State's LMS platforms and how that may affect user-interface.

Mr. Terry advised that the hope is that it's going to be as seamless as possible, and the user will literally not notice a difference other than the information has enhanced or expanded content. We do know that there are some areas where Saba Cornerstone and CiviclinQ operate a little bit differently. CiviclinQ may have more capacity in a certain area, while the State's LMS may have more capacity in a different area. It is an unknown factor, which is why the cost of 11 hours per module was thought to cover any unanticipated complications.

Mr. Bateman advised he is still of the opinion that the 11 hours per module is excessive as far as proposal "A" is concerned but agrees that migrating the content over is the best idea.

Ms. Klundt is also in favor of proposal "A". She inquired if there was any information about what metrics can be collected via the State's LMS, such as how videos, content and/or engagement will be measured.

Mr. Terry advised he can put that information together and report at the next Board meeting. The LMS contract is firmly in place and the State is currently working on building the framework for inclusion into the LUAU website. It is the perfect time to ensure the type of metrics the Board is looking for before its full launch.

Mr. Kendall and Mr. Bruening also advised they were in favor of proposal “A” – having everything accessible in one spot.

Mr. Kendall inquired if there was any benefit in moving forward on a certain number of modules being migrated over to determine whether the 11 hours of staff time per module is feasible. Although, migrating half and not the other may cause more harm than good. Can the Board approve the funds but indicate that JDE report back to Board, after about 10-20 modules whether the determination of 11 hours of staff time per module is reasonable and if not, the Board may elect to change that amount if it is determined to be less?

Mr. Bateman suggested a motion to approve with the condition that JDE carefully tracks and report the number of staff hours through the process so the Board can see if the 11 hours is a reasonable number.

Mr. Terry advised he has a notation to begin delivering the historical data on previously approved applications and the associated deliverables. For this particular request, The Board probably won’t see anything until the second meeting in 2025 as there may not be enough time for JDE to meaningfully get into items and have the ability to start submitting invoices and additional details.

Mr. Bateman suggested the Board make a motion to approve and that it would incorporate Mr. Kendall’s idea to have information about the deliverables once the work has started and is underway specifically with regards to staff hours and how the work is going. Upon this report, the Board may change their approval to change the number of staff hours if necessary.

Mr. Terry advised he can work that language into the grant agreement that would allow for the Board to make any necessary adjustments based upon that specific feedback of date and deliverables.

Mr. Anderson (JDE) advised he did not have any concerns with that approach. And there’s certain variables involved that are difficult to foresee and JDE will do their best and operate under whatever situations that are reasonable to do that.

Mr. Terry inquired of Mr. Bateman if that addresses the Board’s feedback and the desire to ensure that appropriate level of accountability and oversight as we move into this new realm.

Mr. Bateman agrees as long as the Board has the ability to change their approval down the road if they feel the deliverables are not acceptable.

Mr. Terry advised he would work on some language to make sure that the team has an opportunity to see if before anything moves forward for any signatures and that everyone feels it addresses the intent there.

Ms. Klundt advised that we need to make sure that all the modules get migrated and that there is not a situation in which half are migrated and then due to a disagreement about staff hours, or similar, with the understanding that everything will eventually be migrated. Progress reports would be great to make sure we are tracking information in real time.

MOTION: Brent Bateman made a motion to approve Jones & DeMille Engineering’s request for Proposal “A” in the amount of \$149,566.00 with the following conditions. 1) JDE is as transparent and open as possible regarding their work hours including setbacks and costs; 2)

the Board has the ability to relook at the request and make adjustments to JDE's funding if necessary. Cate Klundt seconded the motion. None opposed. Motion carries unanimously.

Mr. Bruening left the meeting. There were no other action items where a quorum was needed

DISCUSSION AND FEEDBACK REGARDING RIGHTS AND RESPONSIBILITIES RESOURCE

Mr. Cullimore advised that the Land Use Task Force approached the Office to draft a document, similar to what is given to a patient at a medical facility, regarding rights and responsibilities for land use applications and the powers, duties, and obligations of the local government when considering the approval of a land use application. This could help newer applicants that have not gone through the process of submitting a land use application. It was an item discussed at the Land Use Task Force who felt that would be a good idea and the Ombudsman's Office should be the entity to produce that document. Staff discussed and felt a document similar to the Just Compensation Booklet would be appropriate. Staff created a draft and sent it out to a few stakeholders and received a fairly broad spectrum of feedback. Mr. Terry shared a copy of the mock up for the document on screen for review.

The Office would like the Board's initial feedback, whether the Office should proceed with this document, and initial thoughts about what this resource should look like because we want to be something we can take to the Land Use Task Force and indicate that the Board is comfortable with and thinks it will be useful to property owners. The Office does not have any concerns with producing the resource, however, wants to be thorough in its approach.

Mr. Cullimore indicated that was the reason why they brought this before the Board, to narrow the scope, to determine the time taken to create the document. Staff are making sure to use their time efficiently to move forward with something that isn't going to go back to the drawing board before taking it to the Land Use Task Force. It has currently been on the back burner for a couple of months, but the Office feels it can produce something soon.

Mr. Bateman reminded the Office that there is legislation being put together to address the issue regarding the timeliness of issuing advisory opinions and is concerned that this task of putting together this resource may take time away from working on the advisory opinions. Mr. Bateman stated the end goal is good but does not necessarily consider the task as a downtime project and that it is not something that needs to be done today. Focus should be placed on advisory opinions and associated legislation. It is a good resource to create but the Office needs to keep in mind where it ranks on the list of things that need to be done.

Mr. Plehn agreed and advised the Office considered the task as such. One of the reasons this topic was brought to the Board is that the idea was brought up in the ULUI Conference and so the fact that people are still thinking and talking about it helps determine that this resource document needs to be prioritized a little bit more but keeping in mind that advisory opinions are the most critical thing for the Office to work on.

Ms. Klundt stated she would like to take a look at the draft with more time to read and discuss. However, although it is a great resource, ultimately it is not the Ombudsman's Office's responsibility to hold a property owner's or developer's hand through the process but rather to provide them with the information they need. This resource is going above and beyond the scope of the Office. It's a good resource but can be narrowed down because the Office just provides the information and understands that ultimately, it is the developer's, city or county's responsibility, not necessarily that of the Office. What you have completed looks great though.

Mr. Kendall advised that he would like to discuss this more in-depth and to circulate the document and whatever additional feedback the Board has can be discussed at the next meeting. He concurs with Mr. Bateman and Ms. Klundt statements that the Office needs to keep priority on advisory opinions.

ADDITIONAL MATTERS:

Deliverables:

Mr. Terry advised that he would discuss the matter of presenting a report on the progress of each application at future Board meetings with Mr. Cullimore. He anticipates the report will show that the agency is progressing as indicated in their applications, understanding what those deliverables are and how they are being utilized. Major points will really be the foundational items of building the new LUAU webpage and ensuring that we have it functioning as expected including the addition of enhanced content and the implementation of the State's LMS, including associated data and metrics and why type of data will be available. Mr. Terry wants to assure the Board that this information is being considered 100% all the time.

Mr. Bateman stated that the Board should be made aware of the progress made for repeat funding with regard to what was completed with the last grant awarded before awarding additional funds.

Legislation:

Mr. Bateman requested an update as the status of the legislation.

Mr. Cullimore advised they had a meeting on November 5, 2024 in which some of the Board members attended. The Land Use Task Force was also present and had some good feedback. There were a few suggestions to tweak some wording to avoid any confusion, but he feels that we're ready to move forward. Mr. Cullimore inquired if there is a proposal to include this in the Land Use Task Force bill or if it becomes a part of that. Or do we need to find someone else to run the language?

Mr. Budge suggested getting in touch with Mike Ostermiller to answer that question.

ADJOURN:

Cate Klundt made a motion to adjourn the meeting. Meeting adjourned at 11:37 a.m.



Date: 02/12/2025

Ari Bruening, Chair