

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 402 & via Zoom

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

March 10, 2025, 2:00 p.m.

ADVISORY BOARD:

Ari Bruening, Chair

Brent Bateman, Vice Chair

Nathan Bracken

Wade Budge

Clint Drake

Mike Kendall

Cate Klundt

Absent and

Excused:

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:

Vistera Planning

- Tim Watkins
- Ben Swanson
- Christie Oostema

Land Use Training Funds Application – Vistera Planning:

Mr. Terry briefly described Vistera Planning's Request for Training Funds previously heard and discussed at the Board meeting on February 5, 2025, which was rescheduled to be heard at the next Board meeting. Based on discussions and questions pertaining to their application, Vistera amended their original application to include additional activities and items in response to that discussion. The Vistera is asking for \$49,900.00 for reimbursement costs associated with this amended application. As a review, Vistera is requesting training funds to complete a growth impact analysis model and looks at various metrics as previously discussed. Questions presented 1) How does this model compare to other models; 2) Will training be provided in order to use the model; 3) Who is the intended target audience; and, 4) What metrics can be provided to show the model is being utilized. Mr. Tim Watkins is available for questions.

Mr. Watkins provided a presentation outlining the features available with their Growth Impact Analysis ("GIA") model. This tool can be used for other similar purposes. Mr. Watkins advised that Vistera has added a new team member, Christie Oostema with People + Place.

Ms. Oostema is a planning consultant with experience in providing an education-based approach and can take the complexities and the technical aspects of planning and put that into images, presentations and narratives that relate to the citizens, elected and appointed officials, city and county councils and more.

As part of Vistera's amended proposal, they intend to work with a committee of regional planners, AOG planners and county-wide planning planners including representatives from the water conservancy districts. Individuals that support and train local governments would be invited to participate in reviewing earlier versions of the model. The beta version will be developed into a Utah specific GIA model with the intent to track registration and use of the GIA model including requests for feedback and recommendations for improving this resource tool. An instructional manual and approx.. 6 videos will be available to train users to focus on calibrating the general settings, configuring the model, adjusting detailed land use settings to a specific community, engaging in developing scenarios, integrated land use and water use, and a video on how to narrate, present and incorporate outputs from the model into reports and presentations

Mr. Wakin's goal is to have this tool, resources and necessary training in place to be useful for communities as they prepare integrated land use and water use elements of their general plan by mid-June. The GIA model would be released through a registration website via Cognito forms. Depending on how the registration form is created, the form can provide links to download files, upload files, workflows and other information with the purpose of tracking and identifying who is using the model, where their interest is and a means of providing additional feedback forms for users. This information is stored in a database and reports can be made available to the Ombudsman's Office. With the release, Vistera would offer a statewide webinar training for any and all interested parties. Vistera intends to approach APA to include the training on their website and/or at their 2025 Fall Conference. He anticipates that Vistera could present, and also inquire, as to who is using the GIA model, what successes or issues they are having and whether or not the information provided from the GIA model is bringing more information, insights, and understanding of the beneficial impacts of growth.

Mr. Watkins stated the next phase would build upon the first and would happen between June and October to be used to solicit feedback, provide individual support and/or follow-up support, the creation of a FAQ list and include the opportunity to schedule time for targeted web meetings. The necessary time to provide support and training has been built into the amended proposal.

Mr. Bruening inquired if this GIA model will have a different reception than the Envision Utah Tomorrow growth analysis model.

Mr. Watkins advised that Envision Utah Tomorrow used a GIS-based tool and it does require a commitment of someone with a GIS license, sufficient training and effort to learn the methodology between the mapping interface and then the spreadsheet tools, which has been successful for some planners. Vistera Planning's GIA model is built upon an easily accessible google sheet platform that all users can have access to and is essentially free as a Google account is free and the spreadsheet can be used via a personal account or a business account. The google sheet platform can be downloaded and users can start plugging in numbers and customizing the tool in terms of zoning, creating street sections that match a city

street section, land use types present in their code or as a tool to visualize results when adopting changes or creating code.

Mr. Terry advised that Vistera added a brief comparison and analysis of the three models that had been specifically discussed at the last meeting

Mr. Watkins advised that the first thing a user would need to do is determine what information they would like to find, for example, how to measure water efficiency for a landscape design. The user would then download the model and input a gross acreage. The model will provide several scenarios for the user to compare that includes the amount of infrastructure related to block size and lot sizes, property tax generated per acre, and a variety of other perspectives.

Mr. Budge inquired if the intent of the model is to input your land area and then toggle through various development scenarios to figure out what you would yield from that land area, terms of both cost and density and any additional infrastructure requirements.

Mr. Watkins confirmed and added that the proposed model for this training request has also evolved into providing a more versatile resource tool and very scalable.

Mr. Bracken inquired about support from some of the water districts, specifically, Weber Basin, Jordan Valley and Cache County Water Conservancy Districts to help with the water estimate. He asked if Vistera planned to contact Central and Washington County Water Conservancy Districts. In addition, will the water information be region specific as water districts in different regions' water use and consumption vary.

Mr. Watkins advised he has not yet contacted those districts. For now, until he is able to get in touch with each district, the model will rely on consensus. They would like to obtain feedback from both of these water districts on how to modify this methodology to apply to their regions

Mr. Bateman inquired if the data would be updated dynamically or will it be out of date in five years.

Mr. Watkins, with the assistance of Mr. Ben Swanson, would anticipate bringing a proposal before the Board to provided updated data and in a manner that could link between a master sheet and copies of the sheet that would all link to the same primary source.

Mr. Bateman encouraged Mr. Watkins to follow through since data has a short shelf life and should be updated on a regular basis as it is ever-changing.

Mr. Watkins committed to creating a central source for that purpose.

MOTION: Nathan Bracken made a motion to approve Vistera Planning's amended request for \$49,900.00. Cate Klundt seconded the motion. Mr. Bateman included an amendment to have Vistera focus on the update of this model to provided current information. None opposed. Motion carries unanimously.

Grant Agreement Language Review & Quarterly Reports

Mr. Terry gave a brief history of the Land Use Training Funds program that came online in 2018, which was originally overseen by Brent Bateman, who, at the time, was the director of the Office of the Property Rights Ombudsman. Since that time, there have been significant changes within the program. A lot of partners who utilized the Fund in its initial stages are still active within the fund.

The Department of Commerce administration, the Ombudsman's Office and the Board members, during that time frame, expressed their desire for the Fund to be utilized for larger projects and award more funding, to be more proactive in a way that it was being advertised and the desire to see additional deliverables outside the more traditional land use training seminars

In January of 2023, Mr. Terry's position was created and one of the directives of his position was to expand the Land Use Training Fund to include expanded deliverables, accountability and reporting requirements that are now default within the program. To include tools and resources like templates, guidebooks and similar resources for planners and other officials especially within the rural parts of Utah where resources are very limited.

The initial stage included the implementation of a template grant agreement that was more in line with what the State of Utah used. Mr. Terry worked with the Governor's Office of Planning and Budget to create a template grant agreement for the Land Use Training Fund.

Mr. Bateman inquired who drafted and reviewed the template grant agreement.

Mr. Terry advised about 75% of the template came for the Governor's Office of Planning and Budget based on template grant agreements used by their office and other state departments. Mr. Terry then added language from other grant programs that he had worked on over the years to tailor the template to address the land use training fund program requirements. The template was then reviewed by the Ombudsman's Office, the Department of Commerce Administration, the Governor's Office of Planning and Budget, Department of Workforce Services and the Attorney General's Office.

Mr. Bracken inquired about how much discretion the Ombudsman's Office has to modify the agreement.

Mr. Terry advised that as long as we are in line with the state required minimums that we have to have, we have the discretion to propose changes for consideration. He advised he would send the template to the Board to review.

The Grant Agreement language helps applicants be completely aware of what their responsibilities are, what the deliverables need to be, the timelines associated with their request and reporting requirements.

One of the major changes was the Funds requests were no longer tied to fiscal year restrictions. The grant agreements allow an applicant to have a specific timeline to complete their proposed project without having to reapply for funds at the beginning of each fiscal year. This removed the stipulation that requires an applicant to submit a request for reimbursement quarterly. An applicant can still submit a request for reimbursement at any time during

creation of their proposed project. The timelines listed on the grant agreement are in line with the request for reimbursement(s) submitted by the applicant.

These changes in the Land Use Training Fund allowed two things. It made it a lot more efficient for applicants to come in with proposed projects that may take a little longer and some of the applications that are coming in have a higher dollar amount because the project was intended to be much more significant and more of a longer term with additional deliverables than what the program provided initially.

Mr. Terry provided a copy of a Template Grant Agreement online for the Board to review. The template is reviewed every year to ensure that we're in line with State requirements and if there are any additional items that the Board may want included/changed.

The Grant Agreement consists of the following.

1. Parties involved.
2. Method of distribution
3. Description of the process and agreement period.
 - a. Effective date: the date Commerce officially approves the grant.
 - b. Termination date: the last day that the parties are eligible to submit a request for reimbursement.
 - c. Period of Performance: begins with the effective date and ends 60 days prior to the termination date. This is in line with the rules for submitting a request for reimbursement within 60 days of a training seminar or completion of a project. The period of performance mirrors the timeline that the applicant is requesting to complete the project.
4. Attachments
 - a. Scope of work which includes a copy of the applicants approved request for training funds which includes the estimated timeline, and budget, to complete the project.
 - b. Any additional attachments to support their request.
 - c. Commitment to provide quarterly reports regarding the progress of their request (very simple, three main questions).
 - 1) Are you on schedule?
 - 2) Are you on budget or do you need to make any adjustments?
 - 3) Are there any deliverables that you are having challenges meeting?
 - d. Attachment D – Terms and Conditions, specifically allows for clawback provisions, deliverables, and State access to items funded by the Fund. (Entity still retains ownership of the project)
5. Reporting requirements: each applicant is required to submit a quarterly report regarding the progress of their project as long as the applicant is within an active grant period. Quarterly reports are due at the end of the month following the Quarter. Q1 (January/February/March) is due by the end of April. These reports will be included in future Board meeting packets.
6. Definitions: Item K allows for upfront funding up to 50% of the grant request, not to exceed \$50,000.00, to assist entities with initial monies to begin their projects. Upfront funding is usually requested within the request for training funds and heard by the Board. Once approved by Commerce, the funds are paid to the applicant.

7. Permissible use of funding: if there is ever any failure to deliver an item, the State can recoup the funds.
8. Applicants are allowed up to a 12 months of agreement extension should they run into any type of unforeseen challenges. The Ombudsman's Office can grant the extension.
9. Both Commerce and the applicant can terminate the agreement as appropriate.
10. Ownership of Intellectual property (Items 25 and 26): the applicant maintains ownership of the item(s) creating, but the State has open complete and total use of the times. Acknowledgement is given to the applicant, the funding used to create the resource, and the State has the right to market, publish, unpublish, disclose, distribute or use.
11. Individual items in the agreement can be changed, provided both parties agree, without invalidating the entire agreement.

Mr. Bateman advised there were some concerns that the process of obtaining funds was daunting. He advised there is a balance between a lot of red tape and being careful to cover everything. Mr. Bateman advised the information given sounds great and it is important to strike that balance. The Board can look at the template grant agreement.

Mr. Terry advised the reimbursement process is even more cumbersome than the agreement process as it goes through various reviews and steps before a check is issued. A new system in place now allows applications to receive reimbursements via an EFT. The Ombudsman's Office is working on providing a program to submit reimbursements online that would allow applicants to upload supporting documentation. We are doing our best to make sure we have a good balance there and eliminate as much of the bureaucracy as possible, while ensuring that the appropriate accountability is in place.

Mr. Cullimore advised we are always trying to be responsive to concerns regarding the process of receiving training funds and adjust as best we can.

Mr. Bruening advised he is hearing positive feedback in terms of the direction the training fund program is headed which you can see in the number, quality and size of the applications the Board has been receiving over time.

ADDITIONAL MATTERS:

H.B. 58 Building Inspector Amendments (reduction of available land use training funds)

Mr. Plehn advised that H.B. 58 reduced the amount of land use training funds received from 60% to 50%.

Mr. Cullimore stated the 10% will be used to improve building inspection and will be managed by the Office of Professional Licensing. The Ombudsman's Office has worked very closely with stakeholders and determined the loss of 10% will not impose a hardship on the funds.

Legislation Affecting Ombudsman's Office

Mr. Bateman stated the actions taken by the Board and the Ombudsman's Office were not implemented during the Legislative session. He inquired if any other responsibilities have been added to the Office.

Mr. Cullimore advised that the Office did draft the proposed language and included a lot of discussions and there was a bill file. Ultimately, it was determined that an expedited opinion would not include the same penalties or the same consequences that an advisory opinion coming from our Office would entail and through various conversations with parties, it was becoming clear that we were not certain we would be able to find attorneys who would want to do many of these expedited opinions. After speaking with different stakeholders as the legislative session proceeded, it was agreed that this would be taken off the table for now, but to keep the conversations going with the Board and others on how we can improve the efficiency and timeliness of the advisory opinions.

Mr. Cullimore advised he would like to start having open conversations with the Board at our quarterly meetings regarding pending and issued advisory opinions.

H.B. 217 Homeowners Association Ombudsman

Mr. Bracken stated the HOA Ombudsman Office within the Department of Commerce seems to be modeled after this Office which is an endorsement of the Office's work and process. He inquired if the HOA Ombudsman's Office would be separate and apart or would that office be taking resources, staff or attorneys away from the Ombudsman's Office.

Mr. Cullimore advised that at this point, HOA Ombudsman's Office will be a separate division within the Department of Commerce and will be staffed by two attorneys and an assistant. At this point, the HOA Ombudsman does not have a mediation function, just advisory.

ADJOURN:

Brent Bateman made a motion to adjourn the meeting. Nathan Bracken seconded the motion. Meeting adjourned at 3:06 p.m.


Ari Bruening (WV01, 2025-12-14 02:05:17)

Ari Bruening, Chair