

MINUTES OF THE SPECIAL PUBLIC MEETING OF THE UTAH COUNTY COMMISSION MARCH 3, 2015 IN THE COMMISSION CONFERENCE ROOM OF THE COUNTY BUILDING AT 152 EAST 100 NORTH, VERNAL, UTAH. MEETING COMMENCED AT 9:40 AM.

PARTICIPANTS: COMMISSIONERS BILL STRINGER, MICHAEL MCKEE, AND MARK RAYMOND.

ATTENDANCE: SONJA JAHRSDOERFER, US FISH AND WILDLIFE SERVICE; CHERYL MEIER, UTAH COUNTY PUBLIC LANDS; JON STEARMER, UTAH COUNTY CIVIL ATTORNEY; MIKE COOK, UTAH COUNTY GIS; AND STEVE HOFFMAN, ROCKY MOUNTAIN SOLICITOR'S OFFICE.

WELCOME

DISCUSSING TRAVEL MANAGEMENT AND POTENTIAL ROAD VACATIONS WITHIN THE OURAY BIRD REFUGE

COMMISSIONER MCKEE LED THE DISCUSSION AND PROVIDED SOME BACKGROUND INFORMATION. PREVIOUS DISCUSSIONS LED TO DETERMINING WHICH ROADS WERE ON THE COUNTY MAP WHEN THE REFUGE WAS ESTABLISHED. THE DOCUMENTATION ESTABLISHING THE REFUGE INDICATES ALL COUNTY AND STATE ROADS WOULD BE RECOGNIZED. THE REFUGE WOULD LIKE THE COUNTY CONSIDER AT LEAST PARTIAL VACATION OF ROADS. SOME TIME AGO, OIL AND GAS COMPANIES COMPLAINED ABOUT A LOCKED GATE ACROSS THE ROAD INTO THE REFUGE. THE RIGHT TO HAVE THE GATE WAS QUESTIONED AND WHILE IT WAS BEING RESEARCHED, THE REFUGE AGREED TO UNLOCK THE GATE. THEY HAVE WORKED OUT A SCHEDULE WITH THE EXTRACTION USERS SO THE GATE CAN BE CLOSED AT NIGHT WITH COMMISSION APPROVAL. LEGAL COUNSEL HAS INDICATED AN ENTITY CANNOT LOCK A GATE ACROSS A PUBLIC ROAD. THE PUBLIC PROCESS MUST BE FOLLOWED IN ORDER TO VACATE ANY PORTION OF ANY ROAD. IT WAS ALSO SUGGESTED TO DETERMINE WHAT WILL BE DONE TO HAVE IT ALL TAKEN CARE OF AT ONE TIME. THIS IS A PUBLIC MEETING AS THE THREE COMMISSIONERS ARE PRESENT. THE PUBLIC LANDS COMMITTEE WILL HAVE TO ADVERTISE ANY PROPOSED CHANGES FOR FOUR WEEKS AND THEN HOLD A PUBLIC MEETING. THEY WOULD THEN MAKE A RECOMMENDATION TO THE COMMISSIONERS FOR A DECISION.

JON STEARMER ALSO NOTED THE ROAD VACATION PROCESS. ANY LANDOWNER WITHIN 1000 FEET OF THE PROPOSED VACATION MUST RECEIVE NOTICE. UDOT MUST ALSO RECEIVE NOTIFICATION. COMMISSIONER MCKEE ANTICIPATES MOVING FORWARD WITH THE PROCESS TO ALLOW FOUR WEEKS OF ADVERTISING BEFORE THE PUBLIC LANDS COMMITTEE MEETS ON THE SECOND MONDAY IN APRIL. HE ALSO APOLOGIZED FOR THE LENGTHY PUBLIC PROCESS. STEVE HOFFMAN DOES NOT HAVE A COPY OF THE MAP THAT WILL BE USED IN TODAY'S DISCUSSION. MIKE COOK HAS COPIES AND THE ORIGINALS WERE GIVEN BACK.

SONJA JAHRSDOERFER TOOK A MOMENT TO CLARIFY A FEW THINGS WITH JON STEARMER. THERE IS NOT ONE SPECIFIC STATUTE TO POINT TO. SEVERAL STATUTES AND CASE LAW BROUGHT JON TO THE CONCLUSION A PUBLIC ROAD MUST REMAIN OPEN FOR PUBLIC ACCESS. THE PUBLIC DOES HAVE TO STAY WITHIN THE RIGHT OF WAY. PUBLIC ACCESS CAN BE RESTRICTED FOR PUBLIC SAFETY CONCERNS. COMMISSIONER STRINGER ADDED THAT UDOT IS ALWAYS CONSULTED AS THE STATE IS HALF OWNER. THEY PROVIDE THE COUNTY WITH THEIR RECOMMENDATIONS AND THE COUNTY MAKES THE FINAL DECISION. UDOT CANNOT VACATE. SONJA ALSO ASKED IF THERE IS ANY FLEXIBILITY IN THE INTERPRETATION OF THE LAW. JON INDICATED THERE REALLY ISN'T, IT APPLIES TO ALL ROADS. HE ALSO NOTED THERE IS A VAST NUMBER OF ROADS IN THE COUNTY THAT DEAD END. A DEAD END DOES NOT MEAN IT SHOULD BE VACATED. A PORTION OF IT MAY BE VACATED BUT TYPICALLY, THEY PROVIDE ACCESS FOR SOME USE. THESE HAVE TO BE HANDLED CASE BY CASE. A GATE IS USUALLY OKAY BUT IT CANNOT BE LOCKED. THE ACTUAL USE OF THE ROAD WILL DETERMINE WHETHER IT IS VACATED OR IF PUBLIC ACCESS CAN BE RESTRICTED.

SONJA JAHRSDOERFER SHOWED THE MAP OF ROADS THEY DETERMINED WERE BUILT AFTER 1960 TO REQUEST THEY BE VACATED. THEY COMPARED THIS TO A MAP MIKE COOK SUPERIMPOSED WITH AERIAL PICTURES FROM 1961. AFTER SOME DISCUSSION, IT WAS AGREED THAT THIS WOULD REQUIRE

ADDITIONAL RESEARCH. SOME OF THE ROADS PRESENTED AS BUILT AFTER 1960, COMMISSIONER MCKEE WAS SURE WERE ALREADY THERE ACCORDING TO OUR RECORDS. SONJA ALSO COMMENTED SOME OF THE ROADS BETWEEN THE TWO MAPS COULD HAVE BEEN BUILT BETWEEN 1960 AND 1961. MIKE COOK AGREED AND ALSO NOTED THAT A NEWLY BUILT ROAD WOULD BE EASY TO SEE IN THE AERIAL PHOTOS AND BE OF A LIGHTER COLOR THAN AN EXISTING ROAD. SONJA WILL HAVE AN INDIVIDUAL IN HER OFFICE THAT IS GOOD WITH SATELLITE IMAGERY REVIEW THE MAPS AS WELL.

COMMISSIONER RAYMOND SUGGESTED WE START AT ONE END AND GO ROAD BY ROAD, PERHAPS STARTING AT THE ENTRANCE AND SEE IF THERE ARE ANY WE CAN AGREE UPON. COMMISSIONER MCKEE FEELS THIS WOULD BE TOO DIFFICULT WHERE WE DON'T AGREE WITH WHICH ROADS WERE THERE TO BEGIN WITH. HE SUGGESTED THEY REVIEW THE PRIORITY OF THE ROADS, WHICH IS MOST IMPORTANT TO REMAIN OPEN. SONJA JAHRSDOERFER INDICATED SHE WOULD LIKE MORE INFORMATION BEFORE ANY DECISIONS ARE MADE.

COMMISSIONER RAYMOND ALSO NOTED ROADS ON SITLA PROPERTY MUST REMAIN OPEN AS THE COUNTY PURCHASED THEM. THERE ARE MANY EXISTING LEASES ON THESE PROPERTIES THAT REQUIRE ACCESS. JON STEARMER NOTED SITLA HAS TWO CATEGORIES FOR ROADS. IF A ROAD WAS IN EXISTENCE BEFORE A SURVEY DATE, THEY FILED A DISCLAIMER OF INTEREST IN THE ROAD AND IT BECAME A COUNTY ROAD. IF IT WAS IN EXISTENCE AFTER THE SURVEY DATE, THE STATE OF UTAH AND COUNTIES USED OHV FUNDS TO OBTAIN THESE ROADS. THE TRANSPORTATION SPECIAL SERVICE DISTRICT, SITLA, THE STATE, AND THE COUNTIES USE MINERAL LEASE FUNDS TO PERFECT THESE RIGHTS OF WAY AND TRANSFER OWNERSHIP TO THE COUNTY. ANY ROAD ON THE BLUE COLORED SITLA PROPERTIES IS A COUNTY ROAD WITH A DEEDED PROPERTY RIGHT OF WAY. SONJA ASKED FOR A COPY OF THESE DEEDS. THE ENTIRE DOCUMENT IS ABOUT 900 PAGES AS EACH ROAD HAS A LEGAL DESCRIPTION INCLUDED. HOWEVER, THE DEED ITSELF IS ABOUT 10 PAGES AND SHE IS WELCOME TO A COPY. SONJA ALSO NOTED THEY HAVE A LEASE ON SOME OF THE STATE LANDS.

COMMISSIONER MCKEE ADDED SOME OF THE ROADS IN RS2477 ALSO EXTEND INTO OTHER PROPERTIES. MIKE COOK NOTED THE ROAD GOING NORTH AND SOUTH CAN BE FOUND ON MAPS WELL OVER A HUNDRED YEARS AGO. THERE ARE AERIAL PHOTOS THROUGHOUT THE YEARS THAT MAY HELP TO DETERMINE WHICH ROADS WERE THERE BEFORE THE REFUGE. SONJA WOULD LIKE TO DO MORE DIGGING.

COMMISSIONER RAYMOND INDICATED HE DID NOT HAVE ANY CONCERNS WITH VACATING ROADS THAT DID NOT ACCESS PUBLIC LANDS AND WERE NOT REGULARLY USED REGARDLESS AS TO WHETHER THEY WERE THERE FROM THE BEGINNING OR NOT. COMMISSIONER MCKEE DISAGREED. THIS COULD BE NEGOTIATED. THE COMMISSIONERS MUST ENSURE THERE ISN'T A NEED FOR THE ROAD. COMMISSIONER RAYMOND DID INDICATE IT APPEARED SOME OF THE ROADS MAY NOT HAVE BEEN USED FOR MANY YEARS. WHEN HE WAS OUT THERE, HE LOST ONE COMPLETELY. HE COULD NOT FOLLOW IT. THERE IS NO POINT IN MAINTAINING A ROAD THAT IS NOT BEING USED. THEY DID AGREE THERE ARE SOME ROADS WITH A GREAT IMPORTANCE TO THE COUNTY. SOME OIL AND GAS COMPANIES HAVE BUILT ROADS THROUGH THIS AREA TO GAIN ACCESS TO THEIR PERMITS. MIKE COOK ALSO NOTED THE COUNTY ROADS ARE ON THE MAPS BUT NOT PRIVATE ROADS. COMMISSIONER MCKEE HAS A MAP FROM 1976 WHEN THE ROADS WERE PHYSICALLY REVIEWED.

SONJA JAHRSDOERFER ASKED HOW IT WOULD AFFECT THE COUNTY IF THE ROAD DID NOT ACTUALLY EXIST ANY LONGER. THERE ARE SOME THAT YOU CAN'T SEE ANYMORE BECAUSE IT IS NO LONGER USED. SOME ARE SIMPLY NOT RECOGNIZABLE AS A ROAD. COMMISSIONER MCKEE RESPONDED WHETHER IT IS USED OR NOT, THE COUNTY STILL HAS THE RIGHT OF WAY. JON STEARMER ADDED ONCE THE ROAD IS ESTABLISHED WITH A USE OR A RIGHT OF WAY, THE PUBLIC HAS OWNERSHIP. THIS OWNERSHIP IS NOT LOST DUE TO LACK OF USE. A FORMAL VACATION PROCESS MUST BE USED TO VACATE A ROAD, WHETHER IT IS USED OR NOT. AN UNUSED ROAD DOES NOT NECESSITATE A VACATION. THE COUNTY CLAIMS THE RIGHT OF WAY OF ROADS ON ALL PARCELS. COMMISSIONER RAYMOND ALSO NOTED A RIGHT OF WAY IS SLIGHTLY DIFFERENT FROM A ROAD.

COMMISSIONER MCKEE EXPRESSED HIS CONCERN THAT THIS HAS BEEN ONGOING FOR FOUR YEARS OR MORE. HE DOES NOT WANT THIS TO CONTINUE TO DRAG ON. SONJA JAHRSDOERFER AGREED. SHE IS NEW TO THIS ISSUE BUT WILL GET THE INFORMATION SHE NEEDS AND CONTINUE MOVING FORWARD. THE MAIN GAIN WILL REMAIN OPEN AND UNLOCKED.

JON STEARMER NOTED THE PUBLIC, REPRESENTED BY THE COMMISSION, HAS OPTED NOT TO REFER GATES AND LOCKS ON COUNTY ROADS TO LAW ENFORCEMENT FOR PROSECUTION. UNDER STATE CODE, GATING AND LOCKING COUNTY ROADS WOULD BE A CLASS B MISDEMEANOR. THE CIVIL ATTORNEY OFFICE SENT A LETTER TO THE REFUGE IN APRIL 2013 IN REGARDS TO THE VIOLATION. THERE ARE OTHER GATES TO BE ADDRESSED AS WELL. THERE ARE ALSO FENCES CROSSING COUNTY ROADS THAT ARE OF CONCERN. STEVE HOFFMAN WAS NOT AWARE OF OTHER ROADS THAT NEEDED ATTENTION. HE WAS LIMITED TO THE DISCUSSION OF THE GATE ON THE MAIN ROAD.

JON STEARMER PROVIDED A MAP SHOWING FENCES AND GATES ACROSS PUBLIC ROADS THAT ARE AN ISSUE. A COPY WILL BE SENT TO SONJA JAHRSDOERFER TO ADDRESS. NORMALLY, THE ROAD DEPARTMENT IS INSTRUCTED TO REMOVE FENCES ACROSS PUBLIC ROADS IF A RESOLUTION CANNOT BE REACHED IN A TIMELY MANNER. THIS HAS NOT TAKEN PLACE YET BUT IS AN OPTION IF WE CANNOT GET THIS COMPLETED. JON STEARMER INDICATED IT IS OUR DUTY TO PROTECT THE INTEGRITY OF ENFORCING STATE LAW. SONJA RECOGNIZES THE RIGHTS OF OTHERS TO ACCESS LAND THEY HAVE PERMITS ON. THAT PART HAS BEEN RESOLVED. SHE WAS UNAWARE OF ANY OTHER ISSUES.

COMMISSIONER RAYMOND INDICATED THERE ARE SOME ROADS THAT SIMPLY CANNOT BE SEEN ANY LONGER. IT WOULD BE WISE TO FIND A COMMON GROUND. THERE ARE SOME SIGNS ALONG ROADS THAT SAY "NO PUBLIC ACCESS"; EVEN ON WELL MAINTAINED ROADS. SOME OF THESE MAY HAVE BEEN PUT IN BY EXTRACTION COMPANIES. THESE COMPANIES HAVE ALSO BUILT A LOT OF ROADS, MOST LIKELY WITH AUTHORIZATION FROM SITLA.

SONJA JAHRSDOERFER INDICATED THERE IS A BIT OF AN INFORMATION GAP AND SHE WILL DO ALL SHE CAN TO FILL IT AND GET BACK IN TOUCH. COMMISSIONER RAYMOND NOTED THE COMMISSIONERS WOULD BE HAPPY TO MEET WITH HER ONE ON ONE ANYTIME THEY ARE AVAILABLE. ANY DECISIONS, HOWEVER, WOULD HAVE TO BE DONE IN A PUBLIC MEETING. CHERY MEIER WILL ALSO BE AVAILABLE.

COMMISSIONER MCKEE ALSO NOTED THE COURTS HAVE RESERVED THE RIGHT TO ADJUDICATE ANY RS2477 CLAIMS. THESE CLAIMS ARE NOT SUSCEPTIBLE TO ADMINISTRATIVE REMEDY. COMMISSIONER STRINGER AGREED. HE IS CURIOUS AS TO HOW THEY DECIDE THE STATUS OF AN EXISTING OR NEW ROAD. WHEN THE LAND WAS ACCEPTED BY THE STATE, IT WAS ACCEPTED WITH THE CONDITIONS THE ROADS AND MINERALS WOULD BE MAINTAINED BY THE STATE. THE STATE THEN TRANSFERRED OWNERSHIP TO A PRIVATE INDIVIDUAL AND THEN TO THE REFUGE. THE HISTORY OF THE OWNERSHIP OF THESE ROADS COULD GET COMPLICATED. COMMISSIONER STRINGER NOTED THEY ARE NOT TRYING TO MAKE A CASE AGAINST MAKING ANY CHANGES, WE SIMPLY NEED TO FIGURE OUT WHAT CAN BE DONE AND HOW. PERHAPS AN INVENTORY OF THE ROADS FOLLOWING THE TITLES IS NECESSARY. IT WAS LESS OF A CONCERN IN THE 60'S THAN IT IS NOW.

COMMISSIONER STRINGER NOTED ANY DESIGNATION OF A PROPERTY IS USUALLY BROAD AND DOESN'T MENTION SPECIFICS. THESE ARE LEFT TO THE AGENCY OR ORIGINAL TITLE HOLDER. THE AGENCY MUST DO THE IMPLEMENTATION PLAN WHICH IS USUALLY A POLICY. HE SUGGESTED SONJA REVIEW THE IMPLEMENTATION PLAN FOR THE DISPOSITION OF PROPERTIES, ITEMS, ETC.

ADJOURN: MEETING ADJOURNED AT 10:58 A.M.


MICHAEL MCKEE, CHAIR

March 3, 2015 Special Commission Mtg




MICHAEL W. WILKINS, CLERK-AUDITOR