

MINUTES

UTAH LAND USE & EMINENT DOMAIN ADVISORY
BOARD

Heber M. Wells Building
Conference Room 2B

January 13, 2015

ADVISORY BOARD:

Fred Finlinson, Chairman
Mike Ostermiller, Vice Chairman
Gary Crane, via landline
John Fee

William Perry, via landline
Chris Preston
Donald Wallace

STAFF:

Brent Bateman, Lead Attorney, Office of the Property Rights Ombudsman
Elliot Lawrence, Attorney, Office of the Property Rights Ombudsman
Jim Wright, Attorney, Office of the Property Rights Ombudsman
Cyndy Nelson, Board Secretary, Office of the Property Rights Ombudsman

VISITORS:

Francine Giani, Executive Director, Department of Commerce

The meeting was called to order at 10:10 a.m. by Chairman, Fred Finlinson

Please note: A recording of this meeting is not available due to unforeseen circumstances.

ADMINISTRATIVE
MATTERS

INTRODUCTIONS

All members of the Board, in attendance, were introduced.

APPROVAL OF
MINUTES

MOTION: Mr. Ostermiller made a Motion to approve the minutes of the Board meeting held May 6, 2014. Mr. Don Wallace seconded the Motion with one change – correct his last name in the minutes from Sorenson to Wallace. The Motion passed unanimously.

Appointed Board
Members

The Board welcomed its newest member – Chris Preston, nominated by the Utah Association of counties. Mr. Preston currently serves with the Salt Lake County District Attorney's Office. He has an extensive background in land use, real estate and water law matters.

Congratulations to those board members reappointed: Fred Finlinson, Bill Perry & Don Wallace.

Ms. Francine Giani thanked everyone for their service to the Board. This Board is the only Board that has ever appointed individuals to serve a third term. However, Ms. Giani encouraged those coming up for reappointment to seek additional individuals to serve on the Board. She complimented the Board on their achievements and expressed her appreciation for the work they have done and for people that the Office has helped. At this point, Ms. Giani excused herself from the meeting.

Mr. Bateman advised the Board that Ms. Giani has been very supportive of the Office and has been a great to work with. Mr. Bateman thanked Mr. Chris Preston for joining the Board.

STAFF REPORTS

• STAFF ACTIVITIES

For the past two years, the Office, has handled more matters and presented more presentations than previous years. Mr. Bateman advised that eminent domain matters are steady; however

AND REPORTS

land use issues have increased. Mr. Bateman advised the Office is running smoothly.

• STAFF RECOGNITIONS

Mr. Bateman recognized each staff member for their accomplishments this year: Mr. Bateman was recently appointed to the Judicial Council's ADR committee Ms. Nelson chaired the Charitable Fund Committee for the Department of Commerce. Mr. Wright was appointed to Davis Arts Council Board. Mr. Lawrence authored an article *Boundary by Acquiescence*" which was published in the November/December issue of the Utah Bar Journal. The article is available on the website. In addition, Mr. Lawrence is very close to authoring his 100th advisory opinion.

• LAND USE ACADEMY

Money has been allotted for the creation and ongoing development of the Land Use Academy. Mr. Bateman serves on the Land Use Academy Board and stated the Board is trying to complete production on some modules by the end of the State's Fiscal Year (June 30, 2015).

LEGISLATIVE MATTERS:

• OPRO STATUTE – LIABILITY

In the May 2014 Board Meeting, the Board discussed strengthening the liability protection for the Office. The change to the statute is intended to emphasize that the Office does not establish an attorney/client relationship. Mr. Ostermiller suggested Rep. Timothy Hawkes sponsor the bill.

MOTION: Mr. Fee made a Motion that the Board approve and provide support to the Office regarding the change in language to UTAH CODE §13-43-203 *Office of the Property Rights Ombudsman – Duties* to strengthen liability protection for the Office, its attorneys, and appointees. Mr. Don Wallace seconded and the Motion passed unanimously.

• ROAD BY USE STATUTE

Mr. Craig Call believes the language in the Road by Use Statute cites unsatisfactory law and is looking to have the language overturned. Mr. Bateman has been asked to provide support. Mr. Bateman agrees with the principal, and is willing to participate to a limited extent. Mr. Crane was concerned that the League and the Land Use Task Force were not involved. Mr. Crane stated the Board should not make any decisions until the Board can actually review the language and ascertain what part(s) of the bill Mr. Bateman should support.

MOTION: Mr. Gary Crane made a Motion table this discussion – section 4.2 of the agenda until the Board hears back from Mr. Bateman. Mr. Don Wallace seconded and the Motion passed unanimously.

• WATER / MOBILE HOME BILLS

Mr. Bateman advised that last year, Rep. Kay L. McIff filed H.B. 43. That same exact bill has been filed, and once again includes the Office. In addition, there is the possibility of a bill being introduced that will allow Mobile Home Park Residents to involve the Office. Also, Ms. Giani has advised Mr. Bateman to attach a fiscal note to any bill that increases the involvement of the Office.

• OTHER GENERAL LAND USE LEGISLATION

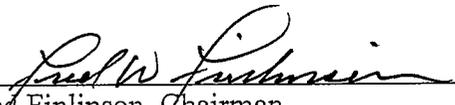
Mr. Ostermiller advised the Office to keep an eye on a possible bill by Senator Jerry Stevenson regarding Land Use Revisions. Also, last year the Office worked with Rep. Lee Perry regarding changes on Eminent Domain. The language passed during last legislative session. The proposal is to add the same exact notice language to the RDA Statute. Mr. Preston advised there is a Community Preservation Committee that is discussing the prospect of giving Townships and Counties of the First Class legislative authority over zoning ordinances.

FUTURE MEETING

The Board will meet on Wednesday, February 11th at 12:00.

ADJOURN

The meeting adjourned at 11:20 a.m.


Fred Finlinson, Chairman

9/8/15
Date