



Utah Land Trusts Protection & Advocacy Office

Protection and Advocacy Committee Packet

Tuesday, January 10, 2023; 10:00 – 12:00 p.m.

Location: 310 S Main St., Suite 1275, Salt Lake City, Utah, 84101

Optional Zoom access:

<https://us02web.zoom.us/j/5893447457?pwd=QTRWN3VLUloxaXNpTjNnWGV0ZXNtdz09>

The agenda will be as follows:

- 1) Welcome and call meeting to order
- 2) Chairman's report
- 3) Approval of minutes
 - a) November 15, 2022
attached, exhibit (A) pages 3-9
- 4) Calendar and confirmation of meeting dates
attached, exhibit (B) page 10
- 5) Stakeholder and public input
The committee will set aside 15 minutes at the committee meeting to hear from anyone wishing to speak. Each presenter is allowed one opportunity and has up to three (3) minutes for remarks. If joining by Zoom please use the "raise hand" feature at the bottom of the screen, in order to be called upon to provide comment.
- 6) Trust Lands System reports
 - a) TLAC report, Paula Plant
 - b) SITLA report, Michelle McConkie
 - c) SITFO report, Peter Madsen
 - d) Protection & Advocacy Office report, Kim Christy
- 7) Beneficiary outreach & advocacy report
 - a) Assisting SITFO with outreach to VC and PE firms
 - b) Regular beneficiary notifications: "Trust Land Updates"
- 8) Legislative updates and outreach materials
 - a) Legislative strategy meetings
 - b) Sharing the trust mandate:
 - i) Campaign and outreach to legislators
 - ii) Utah School and Institutional Trust Lands System brochure
 - iii) Individualized School LAND Trust distributions updates



Utah Land Trusts Protection & Advocacy Office

- c) Legislative discussion items:
 - i) SITFO, Peter Madsen
 - ii) SITLA, Michelle McConkie
 - iii) School Land Trust Office, Paula Plant
 - iv) Margaret Bird & Mel Brown proposed legislative changes
 - v) Protection & Advocacy Office, Kim Christy
 - a) *attached, exhibit (C) pages 12-14*
- 9) Committee action related to pending legislation (as necessary)
- 10) SITFO and SITLA Nominating Committee update
- 11) Closed Meeting:
 - a) The Committee may enter into a closed session pursuant to Utah Code §52-4-205(c) to discuss matters related to potential litigation
- 12) Committee action related to potential litigation (as necessary)
- 13) Adjourn

This meeting can be accessed via Zoom. Interested parties, including members of the public may attend, at the anchor location 310 S Main St., STE 1275, Salt Lake City, UT, 84101 or virtually through the following link:

<https://us02web.zoom.us/j/5893447457?pwd=QTRWN3VLUloxaXNpTjNnWGVoZXNtdz09>

In compliance with the Americans with Disabilities Act, individuals requiring special accommodations during the meeting may notify the Protection & Advocacy Office at (385) 315-1892 or Jpstuart@utah.gov

November 15, 2022 – Draft Minutes

EXHIBIT A



Draft Minutes
Land Trusts Protection & Advocacy Committee
Tuesday, November 15, 2022 | 10 a.m. - 12 p.m.

Electronic Meeting with Anchor Location
310 S Main St., Ste. 1275, Salt Lake City, UT 84101

In Person Participants:

Steven Ostler, Advocacy Committee Chair
Paula Plant, Advocacy Committee Vice Chair
Richard Ellis, Advocacy Committee
Louie Cononelos, Advocacy Committee
Kim Christy, Advocacy Office Director
Jessie Stuart, Advocacy Office Specialist
Christopher Pieper, Attorney General's Office
Michelle McConkie, SITLA Director
Ryan Kulig, SITFO
Kirt Slaugh, Office of State Treasurer

Zoom Participants:

Brigham Tomco, Advocacy Committee
Annia McGrath, Office of State Treasurer
Carolyn White, TLAC
Nancy Kennedy, TLAC
Lark Reynolds, TLAC
Tyler Slack, TLAC
Suzie Williams, TLAC
Steve Davis, TLAC
Greg Connell, TLAC
Susan Edwards, TLAC
Scott Ruppe, SITLA

Meeting called to order by Chair Ostler at approximately 12 p.m.

1. Chairman's Report

Chairman Ostler introduced and welcomed Kim Christy as the new Director of the Land Trust and Protection Office. Chairman Ostler gave Kim Christy time to introduce himself. Mr. Christy expressed his gratitude to serve as the Director and gave insight to his professional background. Mr. Christy worked at SITLA for 18 years, and is taking this position after 3 years of retirement. Mr. Christy has been engaged and involved in this professional atmosphere through his work with SITLA and has seen this system evolve from the beginning. Mr. Christy expects to lead in multiple ways, including by providing more formal vision for the office and cultivating a strong climate of trust and collaboration within the system. Chairman Ostler reiterated that the board shares Mr. Christy's vision and statements.

2. Action Item: Elect Advocacy Committee Chair and Vice Chair

The Committee is to nominate a chair annually per statute and nominates a vice chair by practice. Mr. Cononelos nominated Mr. Ostler, Ms. Plant seconded. The vote was unanimous in the affirmative.

Record of vote:

Steve Ostler
Paula Plant
Brigham Tomco
Louie Cononelos
Richard Ellis

Mr Ostler nominated Ms. Plant to serve as vice chair, Mr. Cononelos seconded. The vote was unanimous in the affirmative.

Record of vote:
Steve Ostler
Paula Plant
Brigham Tomco
Louie Cononelos
Richard Ellis

3. Approval of Minutes

Ms. Plant requested a correction be made to the August 31st meeting minutes. She clarified that distributions were made to all schools except a few charter schools and new schools. With the clarified change to the August 31st meeting minutes, Mr. Ellis motioned to approve all minutes (August, 31, 2022; September 6, 2022; October 3, 2022; October 10, 2022). Mr. Cononelos seconded. The vote was unanimous in the affirmative.

Record of vote:
Steve Ostler
Paula Plant
Brigham Tomco
Louie Cononelos
Richard Ellis

Mr. Christy commended Carissa Larsen for her help with the minutes. Ania McGrath will be leading the effort on writing meeting minutes with oversight and direction from Jessie Stuart.

4. Stakeholder and Public Input

Mr. Tyler Slack, commented that he feels Mr. Christy is a great candidate for the Advocacy Director Position. He expressed that he hopes that his efforts to protect the trust will be supported by the Committee.

5. Trust Lands Advisory Committee (TLAC) Report

Ms. Plant welcomed all new attendees to the meeting, especially the representatives from TLAC. Ms. Plant provided an update on online trainings to School Community Councils (SCC's). There have been four virtual trainings for councils over the last week. Attendees to these meetings have ranged from 70-200 participants. The virtual trainings are a request of parents, allowing them more flexibility to attend. A recording of the training will be made available on the School LAND Trust website for those who were unable to attend the scheduled sessions.

Elisse Newey has a Calendly schedule available for schools, and LEAs to sign up for training. They may request in-person or online for the timeframe that works for them. Ms. Newey has conducted 2-4 trainings a week for the past several weeks.

The School Children's Trust Office has purchased an app that supports creating videos that has helped create training materials to share. Historically the office was limited by access to experts and equipment.

Ms. Plant reported that Kira Bennet is completing the compliance review for the 2021-2022 School Year. She has reviewed prior processes and has refined a new process with the help of Internal Audit and Finance Audit at USBE. All funds have been dispersed to schools for the 2022-2023 School Year – with the exception of six schools, including one that is new this year. The final distribution is expected to occur in December.

Ms. Plant informed the Committee of a Town Hall Meeting with Governor Cox and Chair Huntsman. The School Children's Trust sent an invitation to all SCC's and Charter Trust Land Council members. Chair Huntsman welcomed the group and spoke to them about the importance of their service. A short trust lands 101 video prepared by Marla Kennedy followed. Governor Cox answered as many questions as time allowed. There were 280 participants in the virtual meeting.

Ms. Plant updated the Committee that TLAC discussed their priorities for the new Advocacy Director to consider. Mr. Christy and Ms. Stuart will meet with the TLAC chair and vice-chair to discuss the priorities. TLAC will meet the new director in the November TLAC Meeting on November 21.

6. SITLA Report

Michelle McConkie provided a Total Revenue report comparative to last year. SITLA had a record-breaking year in terms of revenue in 2021. At this time last year SITLA had \$46.6 million; the current year is at \$44.4 million in revenue.

Last fiscal year was an unusual year in land sales. SITLA generally conducts bi-annual land sales. One of the land sales in 2021 was held in September. This year, the land sale ends mid-November with a projected income of more than 1 million dollars for 13 parcels. The diverse land portfolio contributes to the success of total revenue.

Oil and gas also play a factor in the difference of revenue. SITLA anticipates that oil and gas revenues will continue to be strong this year.

The team at SITLA is rewriting the business system due to an out-of-date system. SITLA has utilized a consultant to assist in the business mapping project. The consultant's role is to help determine the most efficient and collaborative course of action for a new software system. In the past, SITLA has used in-house I.T. groups, and is taking a consultative approach to determine the best option based on recommendations and complexity of their needs.

SITLA is remodeling a new office space, this new space will allow for the entire SITLA team to work in-office together, promoting more collaboration within the team. They are moving into a building, owned by the University of Utah, that will be ready for move-in in early March.

Ms. McConkie addressed a stewardship project SITLA recently administered with the University of Utah at Range Creek. This is one of the premier archaeological sites in Utah and well esteemed throughout the United States. The project consists of a field study area and needs structural improvements including the need to meet safety requirements and recommendations to roads. SITLA was reimbursed from the University of Utah for their time. It was a great opportunity to help one of the Trust's beneficiaries and achieve a new sublease.

Ms. McConkie extended an invite to the board to attend any of SITLA's internal 'Lunch and Learn' sessions. These are held once a month. Lastly, Ms. McConkie extended a welcoming to Mr. Kim Christy and his new role as director.

6. SITFO Report

Mr. Kulig discussed the two-day SITFO summit that was held in Park City in the beginning of October, gathering stakeholders and beneficiary representatives to discuss strategic thinking in the long-term. The SITFO summit held an awards dinner highlighting all the hard work accomplished throughout the department and team-building activities.

One of the main takeaways from the Summit, presented in collaboration with investment consultants, focused on intergenerational equity and the distribution policy of the trust. SITFO may be under-distributing trust funds and favoring future beneficiaries over current beneficiaries. Mr. Kulig provided graphs with a visual representation of this analysis. Currently, the SITFO board has taken no action and SITFO will continue to have conversations on how to best distribute funds, including proposed legislation to change the Utah Constitution and amend it to increase the distribution from a cap of 4% to a cap of 5%.

Mr. Kulig also informed the Advocacy Committee that the annual financial statement audit, performed by Eide Bailly for fiscal year 2022, will be presented to the SITFO Board of Trustees at the December board meeting. Ryan updated the Advocacy Committee, that SITFO is exploring statute modifications to resemble Utah Retirement System (URS) by allowing staff and trustees to fulfill fiduciary duties more efficiently and using a structure that is similar to peers with similar duties and mission, as modeled by the URS.

7. Legislative Session Discussion

School Children's Trust Office: Ms. Plant explained proposed legislation that would allow an exemption to the makeup of a SCC through Board Rule for rural schools and alternative schools. A few rural schools have difficulty seating council members according to the current law due to not having enough parents who are not also employees at the school to serve in a parent position. Alternative schools also have trouble seating parents because the student population tends to change rapidly.

Ms. Plant informed the Advocacy Committee that Steve Davis, who serves on TLAC representing Charter Schools, also serves on a committee about school accountability that made a report to the State Board of Education. Some of the recommendations from the report dealt with school community councils, no recommendations have been adopted but it is an item to be aware of and monitor carefully.

SITLA: Ms. McConkie reported that SITLA has two changes to the statute they would like to make. One is to codify rules pertaining to prohibitive and restrictive use of the land. There is one enforcement officer for the entire state and SITLA has been partnering with other land management agencies for law enforcement. The law enforcement officers feel more comfortable issuing citations based on law rather than rules alone. The second item is to amend the oil and gas leasing process that requires reporting results from auctions. The timeframe to report this information is extremely short and SITLA needs a few additional days to complete the reporting requirement.

SITFO: Mr. Kulig reiterated the proposed legislation to structuring SITFO akin to URS, and that there would be more to come regarding the distribution policy.

Advocacy Office: Mr. Christy had invited Mrs. Margaret Bird and Mr. Mel Brown to discuss their potential pending legislation but they were unable to attend. It has not been clear as to what yet is

coming and he echoed communications he recently had with them that they are still in the formative stages of drafting changes as well as identifying a sponsor. Mr. Christy explained that there were two primary concerns expressed by Ms. Bird. The first being the composition of the Advocacy Committee and how members are currently appointed. She would like to put more focus on beneficiary input and representation. The Advocacy Committee discussed various concerns of this approach. It was clarified by Chairman Ostler that the approach of Ms. Bird and Mel Brown as it is currently understood is that education groups and other beneficiaries would select who sits on the Advocacy Committee, and consequently SITLA, SITFO and the Treasurer's Office would not have the opportunity to recommend who serves on the Advocacy Committee. The Committee expressed that there is a deep level of expertise that makes up the Advocacy Committee as currently composed. It would be difficult to find such expertise among education groups and other beneficiaries with that level of understanding and experience with the trust. Chairman Ostler, emphasized the intent of those around the table is to do the best thing for the beneficiaries. At the same time, if there is reason to entertain having the education community or other beneficiaries having more of a role in the Committee's makeup, then it is open to those conversations.

The second proposed change deals with the School Children's Trust office, where Ms. Bird and Mr. Brown may be advocating moving that entity from the administrative oversight of the State Office of Education over to the Advocacy Office. This item would cause a significant shift and there are several complexities to the issue. Ms. Plant expressed several concerns. She explained that the only mechanism to get money from the state to the schools is through USBE Finance. Additionally, the website where all the data for past years of the Program is stored and is the mechanism for councils to request and report on the plans and expenditures belongs to USBE. The programming is three fourths complete and has come at a significant cost. Without this database/website, it is unknown how School Community Councils would submit plans and reports.

Ms. Plant also pointed out that it would be unrealistic for a couple people at the Advocacy Office to have the wealth of knowledge and level of expertise that is currently available at the State Board of Education to help the School Children's Trust Office in fulfilling its responsibilities. Ms. Plant provided several examples where this has proved particularly valuable (e.g. assessment experts, support and training for staff to train SCC's, emerging education issues, etc.). This network of support is particularly valuable for mid to small sized districts.

7. Beneficiary Outreach & Advocacy Report

Ms. Stuart reviewed the Legislative interim breakfast and lunches overall success, co-hosted by the Advocacy Office and SITLA. The events were attended by legislators and other interested individuals. Emphasis was on widespread advocacy and understanding of each entity in the Trust System. Representatives from SITLA, SITFO, School Children's Trust, and Office of the State Treasurer also attended, and demonstrated a collaborative effort for Trust advocacy and outreach.

Ms. Stuart informed the Advocacy Committee that the distribution numbers from SITFO for fiscal year 2023 became available in October. Distributions to beneficiaries are sent quarterly. Ms. Stuart and SITLA members visited beneficiary institutions to strengthen the reach of the Trust system and complement the distributions.

Ms. Stuart provided a spotlight on the Utah Schools for the Deaf and Blind Trust. The Utah Schools for the Deaf and Blind is the #1 in the United States for High school completion. The enrichment and extracurricular activities funded by trust land funds are a large contributor to their overall success. One example was the Seventy48 Boat Race, an activity for the students to build boats and row 70 miles over 48 hours, a tremendous accomplishment.

Mr. Christy discussed the Office's annual report for Fiscal Year 2022, pursuant to the requirements presented in Utah Law 53D-2-203. The Office is required to report on the Trust's compliance with the law and Trust's performance as a whole, as well as provide a financial report regarding the relevance the Trust has to each beneficiary. The annual report will be available in the early part of 2023, due to the report relying heavily on SITFO's audit, which generally comes available in November.

8. Closed Sessions

Chair Ostler recommended combining the two closed meetings on the agenda to discuss specific names for the nominating committees and discuss potential litigation. Mr. Cononelos moved that the Committee enter into a closed session; Ms. Plant seconded the motion. The vote was unanimous in the affirmative.

Record of vote:
Steve Ostler
Paula Plant
Brigham Tomco
Louie Cononelos
Richard Ellis

The Committee entered into a closed session pursuant to Utah Code §52-4-205.1(a), and §52-4-205.1(c),

9. Approve names for recommendation to serve on nominating committee(s)

Once in open session, Chairman Ostler entertained a motion to submit to the governor's office three names to serve on the SITLA Nominating Committee as candidates with Real Estate expertise. Ms. Plant moved that three names presented by priority of consideration be submitted to the governor's office. Mr. Cononelos seconded.

Record of vote:
Steve Ostler
Paula Plant
Brigham Tomco
Louie Cononelos

Chairman Oster made the recommendation that Mr. Christy work with Committee members Richard Ellis and Brigham Tomco to help make recommendations of names for the SITFO Nominating Committee to be submitted to the Treasurer's Office.

10. Meeting adjourned

Mr. Ellis moved to adjourn. Mr. Cononelos seconded. The vote was unanimous in the affirmative.

Record of vote:
Steve Ostler
Paula Plant
Brigham Tomco
Louie Cononelos

Calendar and Confirmation of Meeting Dates
EXHIBIT B



Trust System Calendar Dates

This information is provided for the convenience to track key dates and meetings related to the School and Institutional Trust Lands System during 2023 .

Dates are subject to change depending on the agencies' board's, or committee's needs.

Land Trusts Protection and Advocacy Committee

Committee Meetings are typically held the second Tuesday of January, April, July and October at 10am

January 10th	10am - 12pm
April 11th	10am - 12pm
July 18th	10am - 12pm
October 10th	10am - 12pm

School and Institutional Trust Lands Administration (SITLA)

Board of Trustee Meetings typically held the third Thursday of every month at 9am

January 19th	9am - 12pm
February 16th	9am - 12pm
March 16th	9am - 12pm
April 20th	9am - 12pm
May 18th	9am - 12pm
June 15th	

School and Institutional Trust Funds Office (SITFO)

Board of Trustee meetings are typically held the ninth Tuesday after quarter-end, 9am -4pm. Dates subject to change.

January 20th	9am - 4pm
March 7th	9am - 4pm
April 4th	9am - 4pm
June 6th	9am - 4pm

Trust Lands Advisory Committee (TLAC - Advisory to USBE)

Committee Meetings typically held the third Monday of every month at 12pm

January 9th	12pm - 2pm
March 20th	12pm - 2pm
April 17th	12mn - 2pm
May 15th	12pm - 2pm
June 19th	12pm - 2pm

Other Significant Dates

Legislative session begins	January 17th
Legislative session ends	March 3rd

Pursuit of SITFO Restructuring - Concerns/Questions
EXHIBIT C



Pursuit of SITFO Restructuring – Concerns/Questions

Unlike URS, which manages assets that belong to its individual members, SITFO manages investment portfolios that belong to the state, which acts as trustee for the support of specific "public" institutions, i.e. the beneficiaries. The state has delegated investment oversight of these assets to SITFO. In that they are state assets, there is an element of public accountability that should be recognized with SITFO's performance of its responsibilities that goes beyond URS'. With more independence lending itself to less oversight and accountability of these state assets, is SITFO prepared to address this point?

A fully independent structure for SITFO requires an administrative infrastructure (e.g. human resources, procurement, legal, accounting systems, etc). Has SITFO fully examined, and is it certain that it has the internal capacity to cover "front to back" office responsibilities that could or may need to be expanded in these areas, including robust financial oversight of its operations and expenditures? What additional staffing is necessary to make this happen, and what would the added costs be?

Other than Rep. Moss and Sen. Milner, is Legislative Leadership fully dialed-in on this proposal? Dee Larsen, URS' general counsel and former attorney for the Legislature's Retirement and Independent Entities Committee warns such changes usually require months of full committee review and vetting throughout the legislative interim period before introducing legislation.

The overarching argument from SITFO to make this change is that it will maximize returns for its beneficiaries and enhance productivity and improve operational efficiency. Does this argument sufficiently articulate the justification for this action? How exactly will that be measured? Is there a quantifiable benefit predicted? At what point do increased expenses reduce distributions at the expense of trying to justify returns?

Could SITFO's restructuring objectives be sufficiently met by targeting specific exemptions rather than full independence akin to URS?

Dee Larsen pointed out that being accountable to URS clients actually demands more time and resources than non-independent entities face in many instances. This is particularly true with regard to financial reporting. He warns that the demands of transparency and accountability to their clients can actually be higher because of their independence. Has SITFO considered that this may be a possible consequence of this action by placing even more demands on their time and resources?

The distinctions between the Trust System's programs are not clearly understood by most legislators. Some system stakeholders have expressed concerns that until those distinctions are better understood, this action should be delayed. If introducing this action prematurely

creates undesired tension with legislators, it could further complicate efforts being pursued by other parts of the Trust System.

The State policies and procedures SITFO is currently required to follow may seem onerous and inefficient on their face, but it could be argued that they actually provide a stronger safety net for accountability to the beneficiaries. In government, one works in a “glass house” where full transparency is expected. If it is ever perceived that an independent entity is being relaxed in its accountability, such instances, even when not meritorious, have been known to find themselves on the front pages of major media. How does SITFO guard against this reputational risk? Are the expected operational efficiencies worth this added risk?