

**MINUTES OF THE SAN JUAN COUNTY COMMISSION**

**AUGUST 19, 1985**

The San Juan County Commission met in regular session on August 19, 1985 at the hour of 10 a.m. in the San Juan County Courthouse at Monticello, Utah.

The following members were present:      Commissioner Calvin Black, Chairman  
                                                                  Commissioner Kenneth R. Bailey  
                                                                  Commission Jerry Holliday

Minutes of the August 12, 1985 meeting were approved on the motion of Commissioner Holliday. The motion was seconded by Commissioner Bailey. UNANIMOUS.

**County Fairgrounds Rental - Troy Rose**

Mr. Troy Rose of Slick Rock, Colorado met with the Commission requesting the use of the fairgrounds arena and stock pens on September 20, 1985. The Commission felt the request was in order and instructed Mr. Rose to make arrangements and determine the fee with Mr. Rick Bailey, Administrative Assistant to the Commission. The County Attorney will draw up an agreement for Mr. Rose to sign stating he will be responsible for any damages that are incurred.

**Old Blanding Clinic Building Lease - UDIA**

Mr. Cleal Bradford met with the Commission to present a revised lease agreement of the old Blanding Clinic building and the UDIA. After reviewing the agreement, motion was made by Commissioner Bailey to accept the revised agreement. The motion was seconded by Commissioner Holliday. UNANIMOUS. The Commission instructed the county attorney to prepare a revised letter to the UDIA calling for insurance coverage to cover the value of the building.

**JP Court**

Judge Harold Muhlestein and his wife, Faye, met with the Commission requesting a salary increase. The Muhlesteins stated they have been averaging over 83 hours a week for the last three months. This increased work load is due to the addition of one new highway patrolman and two new deputies along with the addition of DUI's. The Judge also requested they hire his wife as a full-time clerk. The Commission informed him that this is not legal; that the hiring of a clerk would have to be done through the clerk's office, the position would have to be advertised and applications taken. Mrs. Muhlestein suggested that the county either increase the Judge's salary to compensate for the work she is doing or hire someone to do the work. The Commission said they would take the matter under advisement.

**Elected Officials' Monthly Meeting**

The following elected officials met with the Commission for their regular monthly meeting.

Rigby Wright ..... County Sheriff  
 Barbara Montella ..... County Assessor  
 Mary Lou Mosher ..... County Recorder  
 Gail Johnson ..... County Clerk/Auditor  
 Marian Bayles ..... County Treasurer

County Sheriff's Report: Sheriff Wright presented the deputy scheduling to the Commission. Commissioner Black expressed his concern for the increased crime rate in the Blanding area and suggested the Sheriff's office and the Blanding City Police Department coordinate their efforts on policing the Blanding area. The Sheriff's hiring procedure was discussed with the Commission with regard to deputization of deputies outside of the Sheriff's department and not certified in the State of Utah, such as the tribal police. Sheriff Wright said he would check with the County Attorney on the procedure and the possibility of waiving the certification of these deputies. Jurisdiction of areas surrounded by Indian lands was discussed. Sheriff Wright did not feel he has jurisdiction within these areas and felt the County Attorney needed to make that determination. Commissioner Black said he was sure the Sheriff does have the jurisdiction, but would double check this.

County Assessor's Report: The Commission discussed the possibility of having a state representative from the Tax Commission come down during equalization. After some discussion, it was decided there would be no particular advantage in inviting someone from the Tax Commission to attend the County's equalization meeting. The Commissioners feel the public needs to be aware that the State Tax Commission is responsible for assessed amounts and not the local assessor. The Assessor will send a letter with the tax notices stating this information and setting forth instructions on the steps necessary for appealing appraisals.

Treasurer's Report: Marian Bayles, County Treasurer, reported tax notices will go out this week. Equalization dates will be set for September 3, and September 9, 1985 from 1 to 5 p.m. Should more time be needed, they will meet on September 10.

County Clerk/Auditor's Report: Gail Johnson, County Clerk/Auditor, requested clarification on personnel policy on long-term sick leave with regard to employees hired before the new policy became effective. The Commission said they would have to go by the old policy as it pertains to the employees.

Mrs. Johnson also reported to the Commission that she has implemented the recommendations of the independent auditors.

Mrs. Johnson reported that the procedure for elected officials' bonding is as follows:

1. The District Judge sets the bond amount for commissioners.
2. The commissioners are to set bond amount for elected officials.
3. Pass a county ordinance.
4. Record the bonds in the Recorder's Office every year.

Bruce Halliday, County Attorney, will contact Judge Bunnell and then draft an ordinance.

County Recorder's Report: Mary Lou Mosher, County Recorder, reported on a records management workshop in Moab she attended recently. She said the State Archives has requested the actual territorial records. The Commission suggested she discuss this with the County Attorney before sending the records.

**Montezuma Creek Swimming Pool - Admission Monies**

Marian Bayles, County Treasurer, reported that the monies turned in to her from the Montezuma Creek Swimming Pool totaled \$470. Commissioner Holliday said there is a possibility of a bank account that he

needs to find. Mrs. Bayles told him that this was against the law. The Commission expressed concern about the amount of money being turned in and Commissioner Holliday is looking into the matter.

#### **Old Blanding Clinic - Lease Agreement with UDIA**

Bruce Shumway, Director of Social Services, and Lyle Anderson, legal counsel for the San Juan School District, met with the Commission requesting clarification of the sub-lease portion of the lease agreement with UDIA. The written agreement should conform to the verbal agreement stating the UDIA will install or have installed a separate meter. Also it should clarify the UDIA will pay the costs of remodeling. The Commission suggested Mr. Anderson contact Cleal Bradford of the Blue Mountain Dineh regarding the terms of the sub-lease agreement.

#### **District Fire Warden Meets**

John Baker, District Fire Warden, met with the Commission and reported one fire located three miles south of LaSal Junction. A driver ran off the road, rupturing a diesel tank. He was carrying 40 thousand pounds of frozen goods. Mr. Baker reported the fire caused road damage and total loss to truck.

#### **Utah State Land Board Meeting**

Commissioner Black reported on a Utah State Land Board Meeting he attended in Cedar City last week. He said Mark Walsh of UAC asked the board to endorse support of Federal payment in lieu of taxes as part of Project Bold.

Chandler St. John - Chairman  
 Max Williams - Former County Commissioner from Juab County  
 Don Chase - County Commissioner from Box Elder County  
 Lee Bracken - County Commissioner from Toole County  
 Lorin Ross - Former Commissioner from Duchesne County  
 Calvin Black - Commissioner from San Juan County  
 Roger Pert - Rancher from Rich County  
 Jack Sawyers - Former Mayor of Cedar City  
 Doug Bates - Representative from State School Board

The above made up the members of the board voting. The board went on record as opposing Federal payments in lieu of taxes on a five to four vote.

Commissioner Black also reported the Board discussed the School Trust Enabling Act. He stated that a law was passed by State Legislature, effective 1983, stating the Division of State Lands can sell to local units of government at less than fair market value if it is for public purposes.

#### **Emergency Medical Training Board**

The Commission appointed Rick Bailey to the Emergency Medical Training Board.

#### **Commission Responsibilities - Appointment of Deputies**

Bruce Halliday, County Attorney, presented an addition to last week's legal opinion as to the Commissioners' responsibility with regard to the appointment of deputies. A foot note in the UCA requires consent by Commissioners on all appointments of deputies. There was some discussion on the definition of "consent" as it applies to this particular matter. The UCA defines consent as follows: "This section requires consent of the commissioners be given to the number of deputies hired, and not to each individual so hired. Smith v. Hill (1981) 510FSupp 767," UAC 17-16-7. Bruce will look into this and report back next week.

Bruce Halliday has sent a copy of his opinion letter to all department heads within the county.

#### **Bonding of Elected Officials**

Commissioner Bailey inquired of the County Attorney if more bonding would be necessary for those elected officials carrying more responsibility. The County Attorney said he would look into the matter and report back next week.

#### **County Jail - Property Acquisition**

Commissioner Bailey received a letter from the Historical Society requesting final reimbursement request by September 16, 1985. Commissioner Bailey has talked to LaVerne Tate and she told him that Olene Hatch will need to sent in the reimbursement request and also that Commissioner Bailey will need to make sure the reimbursement is as high as the \$4,519; if not he will need to give Mr. Hatch more information.

#### **Road Department - Computerized Maintenance**

Commissioner Bailey explained the proposed computerized maintenance program presented by Wheeler Machinery Company. Before implementing such a program, he said he would get more information.

#### **Old Theatre Building - Blanding**

Commissioner Bailey reported that during a meeting of the Blanding City Council, Clea Johnson asked if the Commission would get the Health Department to enforce the cleanup of the old Blanding Theatre. Commissioner Black said he would contact Bob Furlow of the Southeastern Utah District Health Department regarding this matter.

#### **County Roads within City Limits**

Commissioner Bailey reported that he has discussed with the County Attorney if the city can legally enforce the county's encroachment regulations on county roads within the city limits. Commissioner Bailey said both the Monticello and Blanding City Councils consider will adopting a city ordinance giving the cities the responsibility of enforcing encroachment regulations of the county roads within the cities. Commissioner Bailey has requested the DOT's laws, et. al. on the cutting of State highways in this district.

#### **Fair Labor Standards Act**

Rick Bailey, Administrative Assistant, reported the implications of the Fair Labor Standards Act, as related at a recent seminar he attended in Salt Lake City. They are as follows:

##### IMPLICATIONS OF THE FAIR LABOR STANDARDS ACT

The Fair Labor Standards Act (FLSA) requires an employer to distinguish employees into two basic groups - exempt and nonexempt.

**Exempt** employees are those who can pass certain restrictions set up by the Department of Labor. These persons are either executive, administrative or professional as defined in Federal regulations. There are a couple of other categories such as noncovered, agricultural, recreational and others with limited applicability to local government.

Exempt employees are not eligible for paid overtime regardless of the hours required to get the

job done. Exempt employees are generally on their own, require minimal supervision and use creativity and advanced education or practical experience to solve problems or confront situations on the job. Their compensation must be at least \$250 per week.

**Nonexempt** employees are all other employees who cannot be declared exempt under Department Of Labor regulations. They are paid time-and-one-half for all hours worked over forty (40) in a 7-day week (with certain exceptions for Police and Fire employees.) They are to be paid a minimum of \$3.35 per hour for all time worked.

Under the FLSA a governmental unit may have to change its policies and procedures under several areas. Following are some of the areas where you will have to reassess your practices:

1. Comp Time - Generally comp time is not allowed under FLSA. All overtime worked must be paid overtime. There is a provision where one can earn comp time if it is used within the same pay period. This makes it so restrictive as to make comp time practically useless.
2. Overtime - All overtime must be paid. It is calculated on a 7-day workweek and is to be paid at time-and-one-half.
3. Standby - Under FLSA if you restrict an employee's free use of his/her off time, it must be paid time. Therefore, if you restrict an employee to his/her phone or restrict his/her movements quite a bit because of standby, then you must pay him/her for each hour he/she is on standby. If this is in addition to a 40-hour workweek, it must be paid at the overtime rate.
4. Meal Periods - If you restrict an employee during meal periods, he/she must be paid. Restrict means require employees to remain at their desks or duty posts.
5. Base Pay - In calculating overtime, the employee's base pay, plus all non-discretionary incentive pay must be included. This would include: longevity, uniform allowance, certification pay, car allowance, callback pay, etc. Only fringe benefits and discretionary gifts and bonuses are excluded.
6. Start and Ending Time - Supervisors must be very careful to see that nonexempt employees start and end work on time or be prepared to pay overtime.
7. Irregular Shifts - Employees who work 12-hour shifts and have been averaging time for 48-and 36-hour weeks will not be allowed to do so under this law. Overtime must be calculated on a week-by-week basis.
8. Paid Time vs. Time Worked - Under FLSA an employer is required to pay overtime after 40 hours worked, not necessarily 40 hours paid. Thus, if an employee has a sick day or vacation day or holiday during the week, the first equal number of overtime hours would be paid at the straight-time rate.

Special Groups of Employees - You may treat certain types of employees differently based on their occupations.

1. Recreational - Employees of the golf courses may be exempted from the FLSA under the recreational exemption if you can meet one of two tests:
  - a. Does the establishment take in at least 66-2/3% of its cash receipts in six months or less?
  - b. Is the establishment open seven months or less during the year?
2. Noncovered - Persons who are elected to office or are appointed department heads or on the personal staffs of elected officials, bona fide volunteers or prisoners are not covered by the act.
3. Police officers and Fire Fighters - Are covered by special provisions which may extend a work period from between 7 and 28 days. Fire Fighters who work more than 212 hours and Police Officers who work more than 171 hours will qualify for overtime pay in a 28-day period.

The Fair Labor Standards Act was made law April 15, 1985 and all entities must be in compliance by October 15, 1985. Complaints will not be taken until after October 15, 1985, but can be retroactive to April 15, 1985. If a law suit against the county is won, the plaintiff will be get double wages lost, attorney fees, court costs plus damages.

#### County Road Signing Program

Commissioner Bailey reported that Doug Pehrson, County Surveyor/Engineer, has accepted the responsibility of the county road signing program. Mr. Pehrson will make the decision as to when and where signs will be placed.

#### Blanding City Library

Commissioner Bailey reported that he has received eleven applications for the position of librarian at the Blanding City Library. He will interview this week and made a decision.

#### Monticello City Library

Commissioner Bailey reported that he has received ten applications for the position of custodian for the Monticello City Library. A decision will be made this week following interviews.

#### Jack Rentz - Retirement

John Fellmeth, County Deputy Auditor, met with the Commission regarding Jack Rentz's retirement. Mr. Rentz has worked the required amount of time, however, contributions were not made. It is Mr. Fellmeth's recommendation that Mr. Rentz be allowed to make up the contribution amount of approximately \$200 for a period of about five months. The Commission concurred with Mr. Fellmeth's recommendation.

#### Utah Local Governments Insurance Trust

Mr. Rick Bailey, Administrative Assistant, reported on a risk management seminar he attended last week. The county's insurance terminated in April of 1986. Commissioner Black suggested the county ask for bids from different brokers as well as the Utah Local Governments Insurance Trust. We should receive bids sometime in January of 1986.

**Halls Crossing Garbage Disposal Site**

Mr. Rick Bailey, Administrative Assistant, reported that he had met with Annette Jameson of the BLM, Bill Duckett, Bob Turry, and the Park Service at Halls Crossing. The BLM will do the archeological study. National Park Service and Del Webb Corporation will do a site selection preliminary study. Bill Duckett will use his backhoe to dig some samples. The problem is finding suitable soil for the site.

**San Juan County Nursing Home - Landscaping Discussed**

Kathleen Lyman, Director of the San Juan County Nursing Home, met with the Commission regarding the bids for the concrete work to be done at the nursing home. Commissioners Bailey and Holliday are meeting with Jay Nelson in the morning. The Commission authorized Commissioners Bailey and Holliday to make a decision on the bid at that time.

**Unauthorized Use of County Vehicles**

Commissioner Holliday reported unauthorized use of county vehicles, i.e., one of the hospital cars. The incident took place August 15, 1985. Kathleen Lyman, Director of the Nursing Home, said she would bring this to the attention of the hospital administrator.

**Clem Washburn - County Property Acquisition**

Mr. Clem Washburn met with the Commission requesting reconveyance of a road right-of-way owned by the county located at the west end of Oakcrest Drive in Monticello. The property is approximately 16 x 25 and surrounded by Washburn's private property. The County Attorney said he would research this matter and get back with the commission next week.

**BLM Advisory Board**

The Commission authorized a letter recommending Ralph Coates on behalf of the County be reappointed to the BLM Advisory Board.

**San Juan County Nursing Home - Possible Sale**

Commissioner Black presented a newspaper article stating Box Elder County is having problems with their nursing home. The Box Elder Commission is studying the possibility of contracting a professional management organization. The San Juan Commission authorized Mr. Rick Bailey, Administrative Assistant, to solicit proposals from private health care agencies for the purchase of the county nursing home and possibly the county hospital.

**Don Palmer Letter - Re: Use of County Hospital Facilities**

Commissioner Black made note of the recent letter to the editor of the "San Juan Record", wherein Mr. Palmer makes the same observations as outlined in his letter to the Commission dated July 16, 1985 and recorded in the July 29, 1985 Commissioners Minutes. Because of the interest generated in the public by this article, it was Commissioner Bailey's suggestion to the County Attorney that he have his response to Mr. Palmer's letter published in the "San Juan Record."

**Project Bold**

Commissioner Black reported on some documents he received regarding Project Bold written by Richard Dewsnip and Ralph Becker. This information has not been made to the public. The original concept of Project Bold was not to promote better management, but to eliminate litigation between Federal and State governments and to receive at least twice the value of its lands and resources for the State.

**San Juan Recreation Organization**

The Commission received a letter from the City of Monticello agreeing to support the San Juan Recreation Organization in the amount of \$3,000, with the stipulation the other agencies and cities participate as agreed.

**Bills Approved for Payment**

Abajo Petroleum, Inc.	Tire repairs Golf Course (M)	5.25
All Star Pro Golf Co., Inc.	Supplies Golf Course (M)	51.95
Aquatech Pool & Patio Shoppe	Supplies Monticello Pool	7.17
Richard M. Bailey	Travel expenses	159.07
The Bakery	Baked goods/mtg. Travel Council	18.15
Wayne Ball	1/2 Month salary library (M)	115.50
Ballard Supply Corp.	Supplies Sheriff Dpt.	136.06
Blanding Mercantile	Supplies Blanding Pool	8.12
Blue Cross-Blue Shield	County Insurance	1556.99
Blue Mountain Music	Phone jack Rec. Monticello	5.69
Blue Mountain Petroleum, Inc.	Fuel for Road Dpt.	991.24
Blue Ribbon Awards	Awards for County Fair	132.05
Lewis Calvert	Herbicide purchase	150.00
Camera Den	Supplies Sheriff Dpt.	41.90
Cedar Point Fire Department	Gasoline purchase	31.18
City of Monticello	Utilities Golf Course (M)	31.50
Colonial Life & Accident Ins.	Liability from payroll run	15.00
Rudolph Cook	Travel expenses to Denver	62.02
Crowley Construction	Fire fighting line	560.00
L.N. Curtis and Sons	Supplies Sheriff Dpt.	75.27
Carl Eisemann	Travel expenses	79.05
First Security Bank of Utah	Liability from payroll run	609.08
General Electric Company	Supplies Sheriff Dpt.	783.00
Husky Oil Company	Gas purchased Sheriff Dpt.	20.42
International Business Machine	Maintenance Agreement	325.10
Intermountain Battery	Supplies Road Dpt.	280.00
Ned Jensen	Herbicide purchase	150.00
Gail D. Johnson	Travel from Logan Mtg.	75.44
Jim Johnson	Herbicide purchase	150.00
Johnson's Spraying Service	Herbicide purchase	125.58
Kahuna Bike & Trophy	Trophies for County Fair	319.00
Kar Products Incorporated	Supplies Road Dpt.	404.59
Paul Keith	Security Guard/County Fair	228.00
Kents Foods	Supplies Golf Course (M)	22.50
Kenz & Leslie Distributing Co.	Supplies Road Dpt.	82.20
Bob Kyle	Firefighter	14.00
Merline Kyle	Firefighter	
Grant Leavitt	Travel to Farmington	44.10
Elmer Louderback	Firefighter	14.00
B.J. Martineau	Supplies library (B)	8.25
Kenneth Miller	Hauling for Road Dpt.	1655.50
Joy Moleck	Firefighter	14.00

Mary Lou Mosher	Travel expenses Moab Mtg.	25.04
Motor Parts Pro Mart Home Center	Supplies Golf Course (M)	77.11
Newspaper Agency Corporation	Subscription Travel Council	102.00
Office Outpost	Supplies Extension Office	33.93
Ellis Palmer	Herbicide purchase	146.00
William H. Pierce	Reim.transmission fluid	2.09
Plywood Wholesalers Inc.	Supplies Road Dpt.	62.91
Professional Armaments	Supplies Sheriff Dpt.	150.00
Qubie	20 mb hard disk drive	611.00
Parley Reedd's Food Town	Supplies Blanding Rec.	270.29

There being no further business for this day, the meeting adjourned at approximately 4:45 p.m.

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Calvin Black, Chairman

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M. Jane Musselman, Deputy Clerk