

PERMANENT COMMUNITY IMPACT FUND BOARD MEETING

Department of Workforce Services
Housing and Community Development Division
Salt Lake City, Utah

MINUTES

Thursday, February 7, 2019

Members Present

Jonathan Hardy	Chairman
David Damschen	State Treasurer
Bruce Adams	Southeastern Utah Association of Local Governments
Garth (Tooter) Ogden	Six County Association of Governments
Kyle Stephens	State Board of Water Resources
Naghi Zeenati	State Transportation Commission
Ron Winterton	Duchesne County
Jack Lytle	Uintah Basin Association of Governments
Dean Baker	Uintah County
Michael Dalton	Five County Association of Governments

Excused Members

Gregg Galecki	Division of Water Quality
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Staff and Visitors

Candace Powers	Housing and Community Development
Keith Heaton	Housing and Community Development
Gayle Gardner	Housing and Community Development
Brenda Brown	Housing and Community Development
Cristine Rhead	Housing and Community Development
Alison Garner	Attorney General's Office
Lisa Nelson	Division of Drinking Water
Skyler Davies	Division of Water Quality
Katherine Smith	Housing and Community Development
Debi Carty	Department of Workforce Services
Christina Davis	Department of Workforce Services
Michael Hawley	Jones & DeMille Engineering
Bart Jensen	Jones & DeMille Engineering
Travis Kyhl	Six County Association of Governments
Bret Reynolds	CIVCO Engineering
Tom Kuhlman	Rockville/Springdale Fire Protection District
Darin Robinson	Jones & DeMille Engineering
Zach Leavitt	Six County Association of Governments
Jared McKee	Tridell-LaPoint Water Improvement District
Ryan Savage	Savage Albrecht Engineering
Bryan Meier	Uintah County
Cheryl Meier	Uintah County Transportation Special Service District
Michael Davis	Vernal City
Quinn Bennion	Vernal City
Doug Hammond	Vernal City
Brad Horrocks	Seven County Infrastructure Coalition / Uintah County

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John Iverson	Sunrise Engineering
Keith Jensen	Wales Town
Keith Despain	CRS Engineering
Jared Hansen	Jones & DeMille Engineering
Mike McKee	Seven County Infrastructure Coalition
Margaret Lautaimi	Department of Workforce Services
Matthew Creamer	Richfield City
Nancy Strickland	School Institutional Trust Lands Administration
Ryan Goodrich	Tridell-LaPoint Water
Aaron Averett	Sunrise Engineering
Rod Dastrup	Holden Town
Bryan Stephenson	Holden Town
Jason Broome	Forsgren Associates
Bart Haslem	Uintah County
Larry Montoya	Utah Department of Transportation
Mike McCandless	North Emery Water Users Special Service District
Bob Allen	Mountainland Association of Governments
Justin Atkinson	Sunrise Engineering
Mike Hanson	Rural Community Consultants
Debbie Winn	Tooele City
Shannon Wimmer	Tooele City
Eric Johnson	Blaisdell, Church & Johnson
Aaron Johnson	Sunrise Engineering
Brian Barton	Jones & DeMille Engineering
Jacob Sharp	Castle Valley Special Service District
Alex Buxton	Zion's Bank Public Finance
David Zook	Nibley City
Stephen Nelson	Nibley City
Justin Mahn	Nibley City
Brian Carver	Bear River Association of Governments
Matt Tippetts	Daggett County Service Area #1
Scott Bartholomew	Sanpete County
Shiloh Syrett	Bryce Canyon City
Jean Seiler	Bryce Canyon City
Jason Burningham	Lewis, Young, Robertson & Burningham, Inc.
Marcus Keller	Zion's Bank Public Finance
Rebecca Banner	Housing and Community Development
Jordan Katcher	Community Development Office
Aubrey Larsen	Community Development Office
Douglas Lee	Housing and Community Development
Kayl W. Smith	Housing and Community Development
William Prater	Bond Counsel
Brett Houser	Town of Brian Head

WELCOME

The Permanent Community Impact Board (CIB) meeting was held on Thursday, February 7, 2019 at the DWS Admin South Building, 1385 South State Street, Salt Lake city, Utah and was called to order at 8:35 a.m. by Chairman Jonathan Hardy.

I. ADMINISTRATIVE ITEMS

Briefing

February 7, 2019

Upcoming Meeting Dates and Locations

March 7, 2019 – DWS Office, 1385 South State Street, Salt Lake City

April 4, 2019 – DWS Office, 1385 South State Street, Salt Lake City

The Chairman modified the following future CIB meeting dates:

July 11, 2019 – DWS Office, 1385 South State Street, Salt Lake City

August 8, 2019 – DWS Office, 1385 South State Street, Salt Lake City

Financial Review

Candace Powers reviewed the status of the funds for today's meeting. There are six new projects, one pending project, one special consideration, fourteen priority projects and one item for discussion on today's agenda.

Centerfield City has withdrawn their application.

There are twenty eight new applications that came in by the February 1, 2019 deadline. They will be divided into three meetings for the third trimester of 2019.

II. WELCOME AND INTRODUCTIONS

Chairman Hardy welcomed everyone and asked Board members and staff to give introductions.

Chairman Hardy introduced Kyle Stephens as a new Board member representing the Board of Water Resources.

III. APPROVAL OF MINUTES

Chairman Hardy requested a motion to approve the minutes of the December 13, 2018 minutes.

Naghi Zeenati made and Jack Lytle seconded a motion to approve the minutes from the December 13, 2018 meeting. The motion carried with Dean Baker, Mike Dalton and Kyle Stephens abstaining.

IV. NEW PROJECTS

1. Tridell-Lapoint Water Improvement District (Uintah County)

Tridell-Lapoint Water Improvement District presented a request for a \$423,000 loan 30 years at 0% interest and a \$1,652,000 grant (total \$2,075,000) for 2018 Water System Improvements. This project will consist of updating the current system to meet state pressure and storage requirements and will include the addition of a 500,000 gallon concrete tank near the treatment plant, replacing approximately 5,300 feet of 3-inch and 4-inch pipe with 8-inch PVC pipe and connectors, and updating 4,000 feet of 6-inch transit (asbestos-cement) pipe with 8-inch PVC pipe and connectors. The applicant is contributing \$25,000 cash to the project.

The applicant stated they met with the Drinking Water Board which authorized a \$777,000 30 year loan at 1.75% interest and a \$260,500 grant but the terms presented by Drinking Water are unsustainable with an additional \$60,000 a year payment to the Division of Drinking Water. DDW has a limited portion of grant funding. They are requesting the total project funding from CIB.

Chairman Hardy asked if the grant portion offered by the Division of Drinking Water was contingent on the loan portion.

The applicant indicated and the Division of Drinking Water concurred that the grant and loan are a package.

The Board asked if the project could be phased and if there were fire hydrants on the line.

The applicant indicated it could, but all components are inter-related. There are no hydrants currently but the 3 inch and 4 inch lines will be replaced with 8 inch lines and that will allow fire flow.

The Board asked about the master plan in relation to this project the area served.

The applicant indicated these projects were identified as immediate needs and the 20 year projection in the master plan. The District is approximately 60 square miles.
The Board suggested a greater portion in loan.

The applicant indicated they have several loans outstanding including a treatment plant built in 2009 and a 2014 pipeline project and also a water rights purchase expense. A funding package with more loan would require a rate increase.

Dean Baker made and Ron Winterton seconded a motion to fund this project as a \$423,000 loan for 30 years at 0% interest and a \$1,652,000 grant (total \$2,075,000).

A substitute motion was made.

Tooter Ogden made and Naghi Zeenati seconded a substitute motion to fund this project as a \$423,000 loan for 30 years at 2.5% interest and a \$1,652,000 grant (total \$2,075,000).

Commissioner Winterton suggested the Board be consistent in their interest rate concerning producing and non-producing counties stating this is in Uintah County which is a highly impacted area and which should qualify for a 0% interest rate.

Chairman Hardy referred to the financials having a positive balance in the mineral lease account for the first time in many months allowing grants and 0% loans to keep the fund revolving as mandated in statute.

The Chairman called the question on the substitute motion

Tooter Ogden made and Naghi Zeenati seconded a substitute motion to fund this project as a \$423,000 loan for 30 years at 2.5% interest and a \$1,652,000 grant (total \$2,075,000). The motion failed with Tooter Ogden, Naghi Zeenati and David Damschen in favor and Ron Winterton, Jack Lytle, Michael Dalton, Dean Baker, Bruce Adams opposed. Kyle Stephens abstained.

The Chairman called the question on the original motion.

Dean Baker made and Ron Winterton seconded a motion to fund this project as a \$423,000 loan for 30 years at 0% interest and a \$1,652,000 grant (total \$2,075,000). The motion passed with Ron Winterton, Jack Lytle, Michael Dalton, Dean Baker and Bruce Adams in favor and Tooter Ogden, Naghi Zeenati and David Damschen opposed. Kyle Stephens abstained.

Due to Board member's legislative commitments, it is requested that Uintah Transportation Special Service District's project be moved up on the agenda for final review.

Uintah Transportation Special Service District (Uintah County)

Uintah Transportation Special Service District's request was advanced to the Priority List as a \$2,266,000 loan for 15 years at 2.5% interest and a \$2,265,000 grant (total \$4,531,000) to raise the entire Ouray Bottom Road corridor 3 feet between the Green River Bridge and the White River Bridge. This will be accomplished by pulverizing the existing asphalt, mixing it with the underlying base

material, importing granular fill to build the subgrade structure and widen the shoulders, 12" of granular borrow and 8" untreated base course as the base, and 6" of hot asphalt mix as well as drainage structure/culverts.

Total Funding Request: \$4,531,000 (\$2,266,000 15 year 2.5% loan and \$2,265,000 grant).

The applicant requested time on the agenda for reconsideration of funding as a \$4,531,000 grant. They had reviewed their financials and indicated hardship in accommodating an additional loan payment. They would have to delay the construction of the project. The applicant explained the issues with flooding which requires a lengthy alternate route until this road is reconstructed. This corridor is 1.75 miles on the upper end of the Seep Ridge Road. The total cost of this corridor improvement including the White River Bridge is almost \$7 million dollars. The Bridge project will be accommodated through County and Joint Highway Committee Funds for \$2.3 million.

The Board acknowledged the funding from other sources and admonished the applicant to make certain there is enough elevation to the roadway to mitigate the flooding issue.

Bruce Adams made and Tooter Ogden seconded a motion to fund this project as a \$4,531,000 grant. The motion carried with Kyle Stephens abstaining.

2. Vernal City Corporation (Uintah County)

Vernal City Corporation presented a request for a \$200,000 loan for 7 years at 2.5% interest and a \$1,200,000 grant (total \$1,400,000) for a Main Street/Highway 40 Flood Control and Storm Drainage Project. This project includes the installation of approximately 4,850 linear feet of 36 inch reinforced concrete pipe (RCP), 8,400 linear feet of 24 inch RCP, 16 catch basins or curb inlets, 5 diversion structures, backfill and asphalt on Hwy 40/Main Street to direct the flood water and storm drainage to the system, as well as costs related to the pipe installation and traffic control. The applicant has a \$1,200,000 State Grant from UDOT.

The applicant indicated that UDOT has completed a feasibility study and they are seeking to complete the drainage improvements concurrently with an overlay project on Highway 40. The challenge will be financing as the budget is down.

The Board acknowledged the UDOT funding.

Naghi Zeenati made and Jack Lytle seconded a motion to fund this project as a \$200,000 loan for 7 years at 2.5% interest and a \$1,200,000 grant (total \$1,400,000). The motion carried with Kyle Stephens abstaining.

3. North Emery Water Users Special Service District Emery County)

North Emery Water Users SSD presented a request for a \$216,000 loan for 30 years at 2.5% interest and a \$215,000 grant (total \$431,000) for the North Cleveland Loop line improvements. This project will consist of design and construction of 2 miles of 8" culinary waterline, pressure reducing valve and vault, valves, 60' of boring and casing and connection to existing water line and existing storage tank.

The applicant indicated the system was originally an agricultural line built in approximately 1971 and was not designed for fire flow and there is currently more demand. The applicant also stated there are 500 connections on 200 miles of line in unincorporated communities. This is a lateral line that will accommodate new requests for connections and fire protection.

Bruce Adams made and Naghi Zeenati seconded a motion to fund this project as a \$216,000 loan for 30 years at 2.5% interest and a \$215,000 grant (total \$431,000). The motion carried with Kyle Stephens abstaining.

4. Centerfield City (Sanpete County)

Centerfield City presented a request for a \$172,000 loan for 20 years at 0% interest and a \$172,500 grant (total \$344,500) for the Sorensen Spring pipeline replacement. This project will consist of replacing 4,300 linear feet of existing cast iron pipe with PVC pipe 800 feet east of the RO Treatment Plant to the west side of Christianburg Road.

The applicant withdrew their application.

5. Town of Brian Head (Iron County)

The Town of Brian Head presented a request for a \$734,000 loan for 15 years at 2.5% interest for the Steam Engine Meadow Phase 1-C Streets and Utilities Project. This project will consist of paving approximately .75 miles of dirt/gravel road with asphalt and to include Highland Drive, Paddington Circle, Steam Engine Drive, Peak Avenue and Autumn Drive.

The applicant indicated that this area was set up as a special assessment area. It was abandoned following the 2008 recession. The proposed improvements would complete the subdivision which is a key area of wildland urban interface and the proposed street improvements would enable access for fire equipment and the water lines would assist fire protection. There are currently no residential structures in the subdivision.

The Board asked if this was unincorporated and if the Town owns the roadway to be improved.

The applicant indicated it is incorporated and the Town does own the roadway.

Michael Dalton made and Jack Lytle seconded a motion to fund this project as a \$734,000 loan for 15 years at 2.5% interest.

Bill Prater, Bond Counsel, asked the applicant what revenue source they will be using to pay back the loan.

The applicant said they would pledge sales tax revenues.

The Board questioned what assessments would be made to fund the power and gas.

The applicant indicated that a year ago, a petition was signed by all property owners indicating support of putting in the gas and power. A meeting with all property owners was planned after review by CIB, but the review meeting was cancelled with review and funding in one meeting.

The Board indicated that the property owners would be the beneficiaries of this project and should be able to participate by way of assessment and asked if all rights of way have been acquired.

The applicant indicated that they do have the rights of way.

Mr. Dalton withdrew his motion indicating a request for further clarification of ownership of the rights of way.

The Board referred to prior funding of this type wherein the property owners were assessed and requested

Naghi Zeenati made and Jack Lytle seconded a motion to approve the project as requested with the stipulation that the Town of Brian Head verify rights of way.

After further Board discussion, Commissioner Dalton suggested that this project receive final funding in June to verify and secure rights of way for installation of gas and water lines to prevent tearing up the roadways.

Michael Dalton made and Tooter Ogden seconded a substitute motion to place this project on the Priority List for funding consideration at the June 13, 2019 funding meeting as a \$734,000 loan for 15 years at 2.5% interest. The motion carried with Kyle Stephens abstaining.

(Bruce Adams left the meeting following the vote).

6. Nibley City (Cache County)

Nibley City presented a request for a \$30,000 grant for updating the water master plan due to growth and significant capital improvements to the culinary water system since the last master plan was developed in 2012. This will include a review of current and future water usage and rates, develop a water conservation plan, identify water rights/shares held by Nibley, review existing system operations and project future needs, prepare an infrastructure replacement program and analyze secondary water usage. The applicant is contributing \$30,000 cash.

The applicant stated it has been over 7 years since the water master plan has been updated. There has been a population increase of approximately 35%. One water source has been replaced by a new water source. They have sent out a request for proposals and have received 3 bids they are reviewing. The price range is in the \$50,000-60,000 range.

Ron Winterton made and David Damschen seconded a motion to fund this project as a \$30,000 grant. The motion carried with Kyle Stephens abstaining.

V. PENDING PROJECTS

1. Town of Holden (Millard County)

On July 5, 2018, the Town of Holden presented a funding assistance request for a \$311,000 grant for road improvements. The project consists of installing approximately 87,300 square yards of chip seal on 5.75 miles of Holden town roads. Although they have completed a crack seal project to maintain the roads, the roads continue to deteriorate. They want to refurbish the roads before costs increase further.

This project was held for funding as the weather would prohibit starting until spring and the fund was limited. In agreement, the Board and the applicant agreed to place this project on the pending list. The Town of Holden requested time at the February 7, 2019 CIB meeting to discuss the project.

Naghi Zeenati made and Jack Lytle seconded a motion to fund this project as a \$311,000 grant.

Commissioner Dalton requested clarification that this would chip seal most of the roads in the Town of Holden and there would be a sinking fund to accommodate maintenance.

The applicant indicated they would chip seal the roads and would have a sinking fund for maintenance.

The Chairman called the question.

Naghi Zeenati made and Jack Lytle seconded a motion to fund this project as a \$311,000 grant. The motion carried with Kyle Stephens abstaining.

VI. SPECIAL CONSIDERATION

Chairman Hardy requested a motion to hear the Rockville/Springdale Special Consideration Request.

Naghi Zeenati made and Michael Dalton seconded a motion to hear the project for Special Consideration from the Rockville /Springdale Fire Protection District. The motion carried with Kyle Stephens abstaining.

1. Rockville/ Springdale Fire Protection District (Washington County)

On October 5, 2017 the Rockville/Springdale Fire Protection District received authorization from the CIB Board for a \$200,000 20 year loan at 2.5% interest and a \$205,000 grant (total \$405,000) for the purchase of a new Pierce Pumper fire truck with aerial device fire apparatus.

The applicant is requesting a change of funding recipient from Rockville/Springdale Fire Protection District to Washington County Municipal Building Authority for the issuance of the Bonds

Jack Lytle made and Naghi Zeenati seconded a motion to change the funded recipient to the Washington County Municipal Building Authority. The motion carried with Kyle Stephens abstaining.

VII. PRIORITY PROJECTS

All projects advanced to the Priority List were reviewed by the Board at previous meetings. The information below is a summary of the requests as advanced to the Priority List.

1. Richfield City (Sevier County)

Richfield City's request was advanced to the Priority List as a \$2,025,000 loan for 10 years at 2.5% interest and a \$2,025,000 grant (total \$4,050,000) for 2019 Street Improvements. The project consists of 18.32 miles of Micro-Seal treatment, 1.80 miles of Mastic-Seal treatment, 0.84 miles of HMA Overlay, 0.24 miles of Roto-mill placement; and 1/3 mile of full reconstruction of Flying J Drive, Terminal Way and 1000 South.

Total Funding Request: \$4,050,000 (\$2,025,000 loan for 10 years at 2.5% interest and a \$2,025,000 grant).

Naghi Zeenati made and Michael Dalton seconded a motion to fund this request as advanced to the Priority List. The motion carried with Kyle Stephens abstaining and Tooter Ogden absent for the vote.

2. East Carbon City (Carbon County)

East Carbon's request was advanced to the Priority List as an \$80,000 grant for the purchase of a 2019 Ford F-350 2-wheel drive 6.7L diesel coach ambulance with an added front grill.

Total Funding Request: \$80,000 grant.

Ron Winterton made and Jack Lytle seconded a motion to fund this request as advanced to the Priority List. The motion carried with Kyle Stephens abstaining.

3. San Juan Local Building Authority (San Juan County)

San Juan County's request was advanced to the Priority List as a \$905,000 loan for 20 years at 2.5% interest and a \$775,000 grant (total \$1,680,000) for the construction of an 80' X 180' Road Department Shop with 3 offices, a reception office, a conference room, a file room, a unisex restroom, 2 change rooms, mechanical area, warehouse, maintenance area and a wash bay.

Total Funding Request: \$1,680,000 (\$905,000 loan for 20 years at 2.5% interest and \$775,000 grant).

Jack Lytle made and David Damschen seconded a motion to fund this project as advanced to the Priority List. The motion carried with Kyle Stephens abstaining.

5. Castle Valley Special Service District (Emery County)

Castle Valley's request was advanced to the Priority List as an \$848,000 loan for 6 years at 2.5% interest and an \$850,000 grant (total \$1,698,000) for the 2019 Consolidated Capital Project. This project will consist of improvements to asphalt city streets and city surface and sub-surface storm water drainage systems in Elmo, Cleveland, Huntington, Castle Dale, Orangeville, Clawson, Ferron and Emery. In Orangeville and Huntington, culinary water lines will be installed and/or replaced. In Castle Dale and Huntington, a main sewer line will be installed.

Total Funding Request: \$1,698,000 (\$848,000 loan for 6 years at 2.5% interest and \$850,000 grant).

Naghi Zeenati made and Tooter Ogden seconded a motion to fund this project as advanced to the Priority List. The motion carried with Kyle Stephens abstaining.

6. Sanpete County (Sanpete County)

Sanpete County's request was advanced to the Priority List as a \$116,000 grant to obtain permanent easements on 46 miles of Class D roads across Utah School and Institutional Trust Lands (SITLA) property.

Total Funding Request: \$116,000 grant.

Ron Winterton made and Tooter Ogden seconded a motion to fund this project as advanced to the Priority List. The motion carried with Kyle Stephens abstaining.

7. Town of Wales (Sanpete County)

Town of Wales' request was advanced to the Priority List as a \$104,000 loan for 20 years at 2.5% interest and a \$500,000 grant (total \$604,000) for the construction of an 80' X 85' steel Public Safety Building with 3 drive-through engine bays, an office/training area and equipment storage.

Total Funding Request: \$604,000 (\$104,000 loan for 20 years at 2.5% interest and \$500,000 grant).

Ron Winterton made and Naghi Zeenati seconded a motion to fund this project as advanced to the Priority List. The motion carried with Kyle Stephens abstaining.

8. Bryce Canyon City (Garfield County)

Bryce Canyon City's request was advanced to the Priority List as a \$1,071,000 loan for 30 years at 2.5% interest and a \$459,000 grant (total \$1,530,000) for the construction of an 11,840 square foot Community Recreation Center that will provide a weight lifting room, a gymnasium, restrooms and mechanical spaces for recreation purposes and community events.

Total Funding Request: \$1,530,000 (\$1,071,000 loan for 30 years at 2.5% interest and \$459,000 grant).

The applicant indicated the project had bid and the bids came in higher than expected. They are requesting an additional \$150,000 to cover the shortfall.

The Board suggested 100% loan.

Ron Winterton made and Dean Baker seconded a motion to fund this project as a \$1,689,000 30 year loan at 2.5% interest.

The applicant stated based on the additional funding request, they would be amenable to adding the addition request to the loan portion of the original funding package. The whole loan would be difficult considering the existing debt coverage for other loans.

The Board asked about the prioritizing of needs and wants.

The applicant indicated they are currently purchasing a fire truck out of general funds and have not requested funding recently. They have self-funded most everything. This project is beyond what could be accommodated with existing funds. The land is being donated to Bryce Canyon City.

The Chairman clarified that a sewer or water system is a need. A recreation center is more of a want.

The Board acknowledged these types of items have been previously been funded and suggested that the supplemental be added to the loan portion of funding.

Tooter Ogden made and Michael Dalton seconded a substitute motion for a \$1,221,000 loan for 30 years at 2.5% interest and a \$459,000 grant (total \$1,680,000).

The Board asked if the applicant had looked into other funding sources

The applicant stated that this recreation center will mostly serve the community of Bryce Canyon City. They have investigated the Outdoor Recreation grants but those grants are for outdoor activities. This facility would definitely help the health and quality of life for the growing community, especially in the winter months.

The Chairman called the question on the substitute motion.

Tooter Ogden made and Michael Dalton seconded a substitute motion for a \$1,221,000 loan for 30 years at 2.5% interest and a \$459,000 grant (total \$1,680,000). The motion carried with Tooter Ogden, David Damschen, Naghi Zeenati and Michael Dalton in favor and Ron Winterton, Dean Baker and Jack Lytle opposed and Kyle Stephens abstaining.

9. Bryce Canyon City (Garfield County)

Bryce Canyon City's request was advanced to the Priority List as a \$20,000 grant for a general plan. This project will create a plan to review the changing population, businesses and the general development of the City with a view to encourage growth while maintaining the vision of their rural atmosphere, meeting the state legal requirements and protecting private property rights.

Total Funding Request: \$20,000 grant.

Ron Winterton made and Naghi Zeenati seconded a motion to fund this project as advanced to the Priority List. The motion carried with Kyle Stephens abstaining.

10. Town of Tropic (Garfield County)

The Town of Tropic's request was advanced to the Priority List as an \$11,000 grant for a general plan that will consist of updating the current general plan and zoning ordinances to reflect the current population and businesses and alignment with state statute for future growth and development.

Total Funding Request: \$11,000 grant.

Michael Dalton made and Jack Lytle seconded a motion to fund this project as advanced to the Priority List. The motion carried with Kyle Stephens abstaining and Bruce Adams absent for the vote.

11. Tooele City Municipal Building Authority (Tooele County)

Tooele City MBA's request was advanced to the Priority List as a \$9,000,000 loan for 30 years at 2.5% interest for a new Public Safety Building. The project consists of constructing a 22,549 square foot building that meets the current seismic standards that will include evidence storage, interview rooms, briefing rooms, training/community areas, offices, restrooms and mechanical areas, and also a 2,547 square foot ancillary building to store unassigned police vehicles which includes SWAT vehicles (bus, van, etc.), over-sized evidence storage, and police dog kennels for animals picked up when animal control is not on duty.

Total Funding Request: \$9,000,000 loan for 30 years at 2.5% interest.

Tooter Ogden made and Ron Winterton seconded a motion to fund this project as advanced to the Priority List. The motion carried with Kyle Stephens abstaining and Bruce Adams absent for the vote.

12. Daggett County Service Area No. 1 (Daggett County)

Daggett County Service Area No. 1's request was advanced to the Priority List as a \$227,000 grant for road reconstruction and improvements Phase 1. The project consists of reconstructing and widening 2.26 miles of existing dirt roadway in the unincorporated area of Daggett County near Manila (E Rainbow Way, S Trout Drive, S Gorge Drive, S Meadow View Drive, E Machinaw Street and E Brook Lane) to provide a 22' wide road including drainage culverts, driveway approaches and other improvements to accommodate a wider gravel road.

Total Funding Request: A \$227,000 grant.

Ron Winterton made and Tooter Ogden seconded a motion to fund this project as advanced to the Priority List. The motion carried with Kyle Stephens abstaining.

13. Wayne County (Wayne County)

Wayne County's request was advanced to the Priority List as a \$90,000 grant for reconstruction of the Wayne Wonderland Airport Runway. Improvements include geotechnical evaluation of existing soils on the 5700' X 75' runway to facilitate a full reconstruction to include pavement removal, excavation, 12" sub-base course, crushed aggregate base course, bituminous prime coat, 2.5" hot mix asphalt surface, paint striping and pipe culverts for drainage. The applicant has also applied for other federal and state funding.

Total Funding Request: \$90,000 grant.

Jack Lytle made and Naghi Zeenati seconded a motion to fund this project as advanced to the Priority List. The motion carried with Kyle Stephens abstaining.

14. Seven County Infrastructure Coalition (Daggett, Carbon County, San Juan County, Emery County, Sevier County, Uintah County, Duchesne County)

The Seven County Infrastructure Coalition request was advanced to the Priority List as a \$3,000,000 grant (\$750,000 annually for 4 years). This project will consist of planning, administrative and operational funding, Phase 2.

Chairman Hardy stated that at the November 8, 2018 CIB Meeting the \$3,000,000 grant request was placed on the Priority List to be allocated over four years in \$750,000 increments. The CIB staff was to work with Seven County on contract language related to ownership of the work product and attorney fees. Assistant Attorney General, Alison Garner provided the contract language to the Coalition last week.

Mr. McKee, Executive Director of the Coalition referred to the original contract and scope of work which indicates the project *is to identify, administer, and plan for, procure the funding for, permit, secure rights-of-way, own and operate revenue producing infrastructure assets environmental studies, transportation studies, petroleum and mineral extraction industry studies and the like.* He requested that Seven County be added and that nothing shall be sold. He referred to the second to the last line which says. "SCIC shall coordinate with CIB and CIB staff before any funds are expended" and suggested it read "any direct funds are expended. The third item has to do with reimbursement of legal. Mr. McKee invited Eric Johnson to comment.

Eric Johnson stated that this goes to restricting the Coalition when it comes to presenting legal analysis to the Board. He stated that the CIB is primarily a political body and every meeting they make political decisions. He referred to postponing the discussion of a project when the applicant is not available as an example of the political nature of the Board; keeping the door open to hear from everybody. He referred to the contract as closing the door to certain voices within the political arena. He referred to being asked to present a legal analysis on certain issues that come up when representing the Seven County Infrastructure Coalition. He stated he had been invited by the Attorney General's Office in writing to provide legal analysis. He stated that the law dealing with the Mineral Lease Funds has some areas of uncertainty and suggested the Board's counsel is wise to advise the Board when a matter is within those areas of uncertainty. The Board should want to get as much input and feedback in making that decision as it can. He feels this contractual provision is unwise and unconstitutional. It has been held in Federal Court that funding decisions cannot be dependent on the right of free speech.

Mr. McKee stated that they are in agreement with the contract except for any legislative matters; omit the word 'any'; reimbursement of legal and ownership.

Chairman Hardy referred to the November discussion and two issues that were of concern to the Board. The cost of attorney fees has been discussed at length. The contract was written to say that CIB will not pay for another attorney to argue with the CIB legal counsel from the Attorney General's Office. The contract language does not limit anything they wish to do with other funds but there is a proposed cap on the legal fees of \$100,000 in the SCIC general administrative contract. The right of ownership is restricted because the entity is funded 100% by CIB and normally the Board does not fund an entity. Studies funded by CIB require a 50% match from the community. On behalf of the State of Utah those are the two provisions. The legislative concerns can be considered.

Mr. Damschen stated that the Coalition is unlike any other entity that comes before this board. The salary, administrative expenses, counsel and everything is paid through this fund. Constitutionally, to

the extent that SCIC is fully funded by the CIB, the Board's legitimate counsel is the Attorney General. Of the 20 other boards and commissions he works with, it is unacceptable to hire outside counsel without the approval of the Attorney General. As SCIC is a 100% subsidiary to the CIB Board, their legal counsel should be made directly by the Office of the Attorney General of Utah per the Constitution. There are obvious differences between the SCIC and others that come before CIB.

Commissioner Lytle asked for a response from the Attorney General concerning how much control the CIB has once that political subdivision takes over the funding.

Ms. Garner indicated the Seven County Infrastructure Coalition is the only entity that receives all of their funding from the CIB. But staff reviews and approves receipts for all projects to for consistency with the scope of work and the contract. If a road project is funded and a request for reimbursement is submitted for a human resource employee, that expense would be rejected. Receipts and project work have to be consistent with what the Board has approved.

Commissioner Lytle stated that Seven County is an anomaly but it has a value. There should be choices it makes within the contract and State procurement. He acknowledged being a member of the SCIC Board and stated it's a big deal to figure out how to make this work and do it right.

Ms. Garner acknowledged that an entity has some discretion within the terms of the contract, procurement code and statute to complete the project in the ways that it chooses. She addressed the legal fees issue and read the proposed language.

'The State and the Department of Workforce Services reserve the right to refuse reimbursement of the grantee for attorney time spent for communicating with counsel for the CIB, for time spent on administrative tasks. The State and DWS shall not reimburse grantee for legal expenses in excess of \$100,000 cumulatively over the term of this contract.'

She referred to the statement that Mr. Johnson made that he believes this forecloses or limits voices but indicated it was not the intent. It clarifies that the State reserves the right to not pay for that type of legal work but the Coalition could find another method to pay for that. The opportunity is not foreclosed to the Coalition. In terms of the intellectual property issue she requested why Mr. McKee thinks this would hinder or hurt the Coalitions ability to do business.

Mr. McKee referred to the original contract scope which stated "to own and to find and to come up with revenue producing projects." He stated that natural resources are diminishing resources and the intent was to enhance CIB in a form that would be legal and appropriate. The Seven County Coalition Board reviewed the contract for the rail study and the Board was uncomfortable with the language of ownership. He stated this contract is for the SCIC operations and suggested the State of Utah and Seven County should have ownership. They intend to sign the rail contract but appealed to allow SCIC and the State both to have ownership.

Chairman Hardy stated the intent for Phase 2 was to understand what worked and didn't work in the first contract. One issue with the first contract which took inventory of the infrastructures throughout the State and where projects were moving forward; was the availability of that information in the public domain and who controlled that information. The information is housed on the Seven County site and with different levels of access. This Board serves the interest of the entire State so the Board should decide philosophically what is being produced from a public perspective. The disclosure of public information within the original project and who gets to make the decision is a frequent issue. The Board has discussed these same issues with SCIC a number of times. The purpose of this contract is to prevent these constant discussions and difficulties when deciding reimbursement and structure. A well-structured contract enables clarity for reimbursements to move pretty smoothly and avoiding the bumps in the road on a few of these points that have come up over and over again. By providing the

information last week, it was the intent to have the negotiations done on this language prior to the Board meeting.

Senator Winterton suggested implementing legislation to clean this up. The Board has never put stipulations in contracts or dictated outcome. He stated that CIB wants to take control or dictate what happens to this entity which is not different than an MBA or Special Service District. He suggested 'holding the Board's feet to the fire' to hold every applicant to the same standard; that the Board would own the product and the liability for that product. The CIB has projects in the State funded with grant money, bigger than the Coalition which the Board does not require this kind of stuff. His question was directed to Ms. Garner, 'are we going down this road?' He stated a lot of money is paid for attorney's opinions. It's got to stop. Let's get on the same page. He acknowledged the CIB has financed this unique entity from the start but further suggested that the CIB pays its bills out of mineral lease money. He suggested there will be administrative changes coming that will help define this role better. If the Board is going to pick on one entity, that's going to be the standard for the rest of the State to live by.

Ms. Garner reiterated that this entity is unique and as Senator Winterton said, this is the only entity that the CIB funds 100%. She referred to the CIB rules which state that planning grants and studies normally require a 50% cash contribution by the applicant. This is the exception which is the difference between most applicants and this one. Another difference is CIB does not pay legal fees for any applicant outside of bond counsel.

Senator Winterton indicated that special service districts have their own attorneys.

Ms. Garner stated that the CIB does not reimburse those legal expenses. Those are paid out of the entities funds and not an expense submitted to the Community Impact Board.

Senator Winterton stated that closing costs are reimbursed.

Ms. Garner indicated she said except for bond counsel. Closing costs for loans includes bond counsel, but CIB does not reimburse legal expenses for grants. Those are two key differences.

Senator Winterton referred to the match requirement and asked if there needs to be an appropriation from the Legislature to match the CIB funding.

Chairman Hardy indicated these are very large projects that to move forward probably will require some legislative involvement and appropriation. He referred to SCIC receiving some money from the Legislature last year for a specific project through UDOT.

Mr. McKee stated they did receive a \$3.2 million dollar appropriation from UDOT which staff has suggested as match for this funding.

Chairman Hardy addressed a comment from Senator Winterton concerning who is doing the work in the trenches acknowledging that it is not the State doing this work. A lot of this work is being done by Jones & DeMille, and HDR and they don't own that product either. They can't use that information however they want. It is a matter of who is paying the bills and what are the acceptable terms and conditions. Who gets to make that decision if the State is paying all the bills? He feels there is a good relationship with the Coalition as far as moving projects forward. The SCIC fully anticipates submitting and getting funding to do the rail outside of this Board and they would want to own it which is fine. That's the structure CIB wants in this administrative contract to identify what needs to get advanced to the project phase. He suggested there isn't anything that has been proposed that would prevent project funding. There's tension but staff and Board are trying to get this solved now rather

than having continued tension for 4 years under this administrative contract. There is disagreement with the terms and a proposal for joint ownership which has been ongoing and it is the intent to avoid that.

Mr. McKee suggested the Board consider changing 'any funds' to 'direct funds' and requested a vote by the Board to approve the request separately so it doesn't all get tied to one yes or one no.

Commissioner Dalton indicated the contract has not been seen by the Board and he is not ready to vote.

Chairman Hardy stated the Board does not negotiate the contracts. They decide the terms and conditions and vote on approval. The staff finishes the contract with standard terms and conditions. This is being discussed because in the November Board meeting, there were two issues to solve on the Phase 2 contract with the Coalition. He referred to the provision read by Ms. Garner previously. The second issue was the ownership issue which has been dealt with on the rail contract and the same provision is in the administrative contract. The Board approved twenty projects today and never talked about a single term or condition on those contracts. The Board is considering this because of the two follow-up issues from the November Board meeting.

Commissioner Dalton reiterated this is being discussed but the Board has not seen the contract to know what is being discussed.

Senator Winterton stated if it's going to be final it's a Board decision not a staff position and the Board hasn't seen what has been 'negotiated'.

Chairman Hardy clarified the action item was to work *with the Coalition* to come up with the language which was provided last week. Staff had not received feedback. It was not the assignment of this Board to say staff, bring us the copy of the contract, but to work on language provisions on these two particular issues with the Coalition. There wasn't feedback on what the staff had proposed before coming to the Board meeting which is what staff was asked to do.

Commissioner Dalton stated this discussion with the Coalition should be a staff meeting and then brought back to the Board for approval ...if we're going to approve it. The motion that was made to place this on the Priority List was for \$750,000 annually for four years contingent on a list of deliverables but contract deliverables have not been discussed. The Board is wasting time not having seen the contract. This discussion should be tabled for staff and the Attorney General to work out.

Commissioner Lytle stated that the Board as a rule does not do contracts. Thanks to the uniqueness of Seven County maybe this is one opportunity that the Board does get deeper into the contract when we approve the contract with staff's input.

Ms. Garner indicated the Utah Code provides some statutory sections that offer procedures in case of an inability to formulate contracts. There's a long list of things that an applicant has to do if the parties are unable to come to terms. The Coalition has not done that yet at this point; perhaps we're not at that point yet where those procedures need to be invoked. But if the Board is to go over individual contract terms, there's a specific procedure for doing so and she strongly recommended following that procedure which doesn't begin here, it begins with a written application from the applicant and there's a number of procedures after that. It is uncertain if this process is to that point.

Chairman Hardy, per the Board's request of clarification, indicated that he manages the staff and is the Board Chair. The contract is typically a staff function.

Mr. Damschen referred to the comment that this is a political Board and these are political processes. The Board should appreciate the importance of de-politicizing decisions as much as possible and strive to be as un-political as possible; to be data driven, based on facts and to be consistent. Politics may enter in but shouldn't indicate the Board is political.

Mr. McKee indicated he didn't think it would be this difficult today, but with the ongoing operations contract, SCIC's name should be included as well.

Mr. Johnson stated that last week he was given a portion of the contract, but didn't understand what was provided because it was not in the context of the rest of the contract. Additional information was provided this week. SCIC has been in meetings with the Surface Transportation Board and others and have not had an opportunity to get back with staff on that. He stated the timing isn't quite what is perceived.

Commissioner Ogden suggested putting this on the Pending List for more time to work with staff. A decision cannot be made without understanding what is involved. The Seven County Coalition is very unique, and it's very difficult from the perspective of using public funds and suggested a continuing negotiation.

Tooter Ogden made and Ron Winterton seconded a motion to put this project on the Pending List for possible consideration at the March 7, 2019 Board meeting.

Chairman Hardy indicated it would be on the Pending List and brought back to the next Board meeting. The Chairman called the question.

Tooter Ogden made and Ron Winterton seconded a motion to put this project on the Pending List for possible consideration at the March 7, 2019 Board meeting. The motion carried with Kyle Stephens abstaining.

VIII. BOARD MEMBER DISCUSSION

The Board discussed the location of the June 13, 2019 Policy Retreat.

After soliciting options from the Board for a retreat location, it came down to two final choices - Kanab, Utah and Vernal, Utah.

Chairman Hardy deferred to the Board for this decision but he noted that the Board has not been to Kanab and was in Duchesne two years ago. The Board indicated a preference for Vernal City.

Mr. Zeenati recommended a change of the Board packet tool referring to the capabilities of iLegislate as the Board meeting tool which is the tool utilized by UDOT.

Staff indicated they would again look into that product.

ADJOURNMENT

The next regularly scheduled meeting of the Permanent Community Impact Board will be on Thursday, March 7, 2019 at the DWS office, 1385 South State Street, Salt Lake City, Utah at 8:00 a.m.

The meeting adjourned at 11:15 a.m.

Submitted by:
Candace Powers
Cristine Rhead

February 7, 2019