

**PERMANENT COMMUNITY IMPACT FUND POLICY MEETING**  
 Department of Workforce Services  
 Housing and Community Development Division, Salt Lake City, Utah  
 Salt Lake City, Utah  
**MINUTES**  
 July 7, 2022

**Members Present**

|                   |  |
|-------------------|--|
| Curtis Wells      | Chairman   |
| Kirt Slaugh       | State Treasurer                                    |
| Bruce Adams       | Southeastern Utah Association of Local Governments |
| Naghi Zeenati     | State Transportation Commission                    |
| Greg Todd         | Duchesne County                                    |
| Jack Lytle        | Uintah Basin Association of Governments            |
| Dean Baker        | Uintah County                                      |
| Jerry Taylor      | Five County Association of Governments             |
| Laura Hanson      | Governor's Office of Planning and Budget           |
| Scott Bartholomew | Six County Association of Governments              |

**Excused Board Members**

|                      |               |
|----------------------|---------------|
| Garth "Tooter" Ogden | Sevier County |
|----------------------|---------------|

**Staff and Visitors**

|                   |  |
|-------------------|--|
| Christina Oliver  | Housing and Community Development                  |
| Candace Powers    | Housing and Community Development                  |
| Brenda Brown      | Housing and Community Development                  |
| Paul Moberly      | Housing and Community Development                  |
| Zach Leavitt      | Housing and Community Development                  |
| Jordan Katcher    | Housing and Community Development                  |
| Cameron Carter    | Housing and Community Development                  |
| Kaylee Beck       | Department of Workforce Services                   |
| Brittany Hardy    | Department of Workforce Services                   |
| Aaron Waite       | Attorney General's Office                          |
| Skyler Davies     | Division of Water Quality                          |
| Skye Sieber       | Division of Drinking Water                         |
| Tamara Dockstader | Southeastern Utah Association of Local Governments |
| Todd Thorne       | Southeastern Utah Association of Local Governments |
| Will Wright       | Uintah Basin Association of Governments            |
| Kevin Yack        | Uintah Basin Association of Governments            |
| David Rust        | Uintah Basin Association of Governments            |
| Gary Zabriskie    | Five County Association of Governments             |
| Nate Wiberg       | Five County Association of Governments             |
| Brian Carver      | Bear River Association of Governments              |
| Zac Covington     | Bear River Association of Governments              |
| Tyler Timmons     | Six County Association of Governments              |
| Ron Winterton     | State Senate/Duchesne County                       |
| Brad Horrocks     | Uintah County                                      |

The Permanent Community Impact Fund Board (CIB) Policy Discussion Meeting was held on Thursday, July 7, 2022 at 1385 South State, Salt Lake City, Utah and was called to order at 9:04 a.m. by Chairman Curtis Wells.

### **WELCOME AND INTRODUCTIONS**

Chairman Wells welcomed everyone, introduced himself and requested each Board member to introduce themselves.

The Board recited the Utah Oath of Office which was signed and notarized.

The Board discussed future meeting dates and conflicts. Chairman Wells indicated he will be out of town on August 4, 2022. Commissioner Adams will be out of town on September 1, 2022. Meeting dates and conflicts were briefly discussed.

### **DWS Finance - Financial Outlook ~ Revenues and Allocations**

Kaylee Beck, DWS Financial Manager reviewed the Revenues and Allocations, income and financial outlook. Brittany Hardy, DWS finance was introduced as the DWS financial support for CIB.

There are 266 outstanding mineral lease fund loans, 340 outstanding bonus fund loans.

The Throughput Fund has approximately \$57 million which is not comprised of restricted mineral lease funds. The fund is restricted by the type of projects eligible to apply for this fund.

The fund balances, revenues, receipts, income revenue and fund projections were discussed.

The mineral lease and bonus revenues are down. Provision of funding in the form of a loan keeps the fund revolving as required in statute. The revenues indicated are as of the end of May 2022 and there is no way to predict the future.

### **Financial Review & Applications this trimester.**

Candace Powers, Permanent Community Impact Fund Board manager discussed the status of available funds; current revenue and received applications for that revenue noting the funding requests exceeds the available revenue.

#### **FUNDING REQUESTS:**

*Grant requests: \$14,589,611; Mineral Lease Loan requests, \$2,530,000; Bonus Loan requests: \$65,246,000 (interest bearing). Total Funding Requests: \$82,365,611*

#### **REVENUE as of June 2022:**

*Mineral Lease \$11,267,931 (which can accommodate grants & 0% and interest-bearing loans); Bonus \$36,300,492 (interest bearing loans); Major Infrastructure Set Aside \$5,988,525 (mineral lease funds = grant and loans); Throughput Infrastructure \$57,041,663.56*

*If funded as requested the Mineral lease balance would be <\$5,619,180> and the Bonus balance would be <\$28,945,508>*

Commissioner Adams noted interest rates are rising nationwide and the Board should consider the interest rate of the CIB loans.

Mr. Slaugh indicated there may be projects that don't fit the parameters of any other funding sources and must come through CIB to accomplish rural projects.

Mr. Prater stated Water Resources can only fund water projects; drinking water or irrigation. The Division of Drinking Water Board can only fund drinking water and not irrigation. The Water Quality Board can only fund sewer projects. The CIB can fund a variety of projects. The Water Coordinating Council was designed specifically to communicate who has available funding for eligible projects.

Mayor Baker stated that DDW and DWQ have a limited amount of funding which is allocated quickly. They fund the bigger cities and projects that CIB does not.

Mr. Zeenati noted requests for 100% loan keeps the fund revolving to continue funding availability into the future.

Commissioner Adams indicated CIB was seeking ARPA funding from the legislature did not receive any and referred to Laura Hanson for possible clarity.

Ms. Hanson indicated the ARPA funding received was \$25 million and the local program went through the Governor's Office of Economic Opportunity (GOEO) wherein Dan Hemmert oversees the process. The Infrastructure law that congress passed last fall provided increased funding levels to drinking water and clean water revolving loan funds. The GOEO has an application process to apply for grant funds which require a match.

Christina Oliver referenced the \$25 million ARPA which might be loan funding and will be verified. She then referred to approximately \$77 million in outstanding CIB awards having no activity for over a year. The funds may be returned to reduce the current deficit in revenue. If there is no activity within 12 months, they could come to the Board to discuss extenuating circumstances to maintain the awarded funding. She suggests all accounts be contacted when there is no activity for reasons they are not proceeding.

*Commissioner Adams and Commissioner Lytle discussed the pursuit of ARPA and perhaps not receiving ARPA funds was due to a lack of understanding that CIB is well set up to administer funds. It was noted the ARPA grant funds must be spent by 2026 and CIB funding could augment the ARPA.*

Commissioner Taylor stated most of the public does not understand CIB and the good it does. Some fight the mineral revenue source in their communities, but will seek CIB funding.

Mr. Zeenati referred back to unused funds that have been allocated and asked if the CIB has provisions to restructure the loan.

Ms. Oliver answered CIB does not have terms in the contracts that revisit the structure of the loan, but could discuss a policy. She referred referenced the previous discussion noting the ARPA Rural Opportunity Program has a \$21 million *loan* program and there are other smaller grant programs.

Mr. Prater stated the CIB loan authorization letter has a standing provision that states if they have not proceeded within 6 months of the funding authorization, the Board maintains the right to have the entity return to the Board to explain the status. 30 years ago, the Board did not have sufficient funding for the projects and tended to fund projects on the basis of when they were submitted. This created a dilemma for the Board to determine priorities so the Board asked the region to prioritize the projects in their region. The Board can ask the region to suggest the priority rather than the Board.

Chairman Wells recognized Aaron Waite, Attorney General's Office.

Mr. Waite indicated the loan authorization letter is sufficient to bring the entity back before the Board for review, but the Board could also put it in policy.

Mr. Slauch stated that most of the CIB loans are bonded for with bond attorneys involved and it would not be easy to amend that contract.

Ms. Powers indicated the loan authorization letter currently states that if the entity has not commenced activity on the project within 6 months, the entity must indicate a reason for the delay. Staff reaches out to discover the status, but rarely does the entity no longer wish to pursue the project. Staff does not have the authority to recapture the authorized funding noting a 12-month time limit in policy may give staff that ability. The bond process can be delayed for many reasons as there are numerous steps to the issuance of bonds but there is no current policy which places a definitive time limit on project commencement.

Commissioner Lytle suggested a review by staff for the Board to show the older projects which have not commenced. The Board would then know the flow and perhaps a policy could be developed. The delays are usually reasonable.

Mr. Slauch suggested the delays may be as a result of supply chain issues, which will affect all projects.

Mr. Waite stated the Board could ask an entity to explain the delay, but to take the funding back needs to be reviewed on a case by case basis.

Mayor Baker indicated Naples has a project that has been delayed for multiple reasons including state delays and federal delays. It was anticipated to have been done much earlier. The NEPA process has taken a very long time.

Mr. Prater stated that prior to closing on a loan, the project must have bids. He is working on a few large projects that want to bid as soon as possible as prices go up daily.

Commissioner Lytle acknowledged that staff has been monitoring those projects and it will help the Board to know the status.

Chairman Wells indicated the Board may establish a system for updates on projects that have had no activity. Commissioner Lytle suggested on a quarterly basis but then having a hard deadline.

Commissioner Lytle deferred to staff to determine deadlines but to let the Board know what they can anticipate on the projects like the Naples project. The Board could know why the project is delayed and the Board may consider the reasons to determine the status of funding.

Commissioner Lytle referred back to the ARPA allocation to the State and asked what had been spent. Ms. Hanson indicated it may all have been allocated, but will verify the status.

### **Bond Counsel - CIB Loans, Taxes and Bonds**

Bill Prater, Bond Counsel to the Board discussed the bonding process from Board approval to delivery of funds.

CIB loans require the borrower to issue a bond (promissory note) agreeing to pay back the loan on the basis of what the Board approved. A bond election is not required if a bond is payable solely from a revenue producing facility. Most of CIB loans are through revenue bonds. A reference was made to Castle Valley SSD which holds a bond election for a lump sum wherein they issue bonds for District projects.

Water revenue bonds pledge water revenue and sewer revenue bonds pledge sewer revenue as the source of repayment. The requirement is that net revenues after operation and maintenance must equal 125% of annual debt service. If not, water or sewer rates may be increased to meet that test.

Sales tax revenue bonds may be issued without a bond election if there is adequate sales tax revenue. Those revenues also must be 125% of the debt.

B&C Road Fund revenue bonds are issued for street and road improvements and pledge B&C road revenues with a maximum repayment term of 10 years.

Mineral Lease Revenue bonds issued for projects pledge mineral lease revenues with a maximum repayment term of 15 years.

Lease revenue bonds may be issued for buildings wherein the applicant may lease space in the building as a revenue source. Of note, the County cannot bind itself to a 30-year lease so there is an annually renewable lease. The issuance of a lease revenue bond requires a mortgage on the building. If there is a default, the CIB could foreclose on the property.

Facility revenue bonds may be accommodated for hospitals which are governmental entities and may pledge hospital revenue as a payment.

Special Assessment Bonds may be issued when a special assessment district is established which assesses the property within the district without a bond election. There are risks wherein most commercial lenders will not purchase special assessment bonds.

There was discussion concerning increasing project costs and decreasing revenue. Funded projects going out to bid are discovering the cost has increased over 30% of the estimate. Going forward, the Board may consider those projects already funded which may need additional funding.

#### Bond Process:

- Board approves financial assistance.
- Loan authorization letter is prepared and mailed to the entity.
- Conference call is conducted to explain terms and process, to identify responsibilities and to discuss timetable.
- Bond counsel prepares bond documents.
- Borrower adopts Parameters Resolution and sets date for public hearing.
- Borrower publishes notice of public hearing once a week for two successive weeks. (Public hearing cannot occur sooner than 14 days after first publication and bond closing cannot occur sooner than 30 days after second publication.)
- Borrower conducts public hearing. *CIB requires copy of public hearing minutes.*
- Borrower submits proof that it owns rights-of-way and easements. (If a lease revenue bond is being utilized, Borrower also submits a commitment for title insurance.)
- Borrower submits proof that net revenues are sufficient to cover debt service.
- Borrower completes plans and specifications, advertises for bids and opens bids (to confirm that funds approved are sufficient to cover project costs). *CIB requires bid tabulations.*
- Borrower adopts Final Bond Resolution.
- CIB staff arranges funds to be transferred to construction escrow.
- Bond closing is conducted.
- Bond attorney and local attorney submit legal opinions.
- Bond is signed by Borrower and delivered to Department of Finance as repository. Bond (and grant) proceeds and all other project funds are deposited into supervised escrow account.
- As construction continues, funds are disbursed from the escrow account via reimbursement on the basis of dual signatures.
- Once project is completed, if the funding was all loan, unused funds are applied to the end loan. *(May shorten the term, but does not decrease the annual payments.)*
- If the funding was all grant, remaining funds are recaptured. If funding was loan and grant, the loan is expensed first and the remaining funds are grant funds and recaptures.

Mr. Zeenati referred to \$100,000 being the minimum amount for a loan due to expenses associated with the issuance of bonds.

Mr. Prater referred to the *generic bond* documents which are standard documents which cannot be customized to fit the project, the project must fit the documents. Staff prepares the documents without a bond attorney. Those bonds would not sell on the open market thus the Board does not issue generic bonds for more than \$100,000.

### Challenges.

1. Repayment term limitations (mineral lease and B & C road fund)
2. Adequate revenues; 125% debt service coverage requirement
3. Creation of legal entity (LBA)
4. Building projects for districts; sublease arrangements. *Example, fire districts want to build a fire station but do not have a building authority. The County uses it's building authority to building the project and subleases the fire station to the Fire District. After the loan is paid off, the County will still own the building. Some fire districts choose to establish their own building authority so they will own the building upon completion.*

Commissioner Lytle asked about when a loan is paid off.

Mr. Prater indicated when a building authority loan is paid in full, the County LBA funded project reverts back to the County or the Fire District LBA reverts back to the Fire District ownership. When a project is funded with public funds, title cannot be transferred or project donated to another entity when the loan is paid in full. A governmental entity can transfer an asset only if they receive full fair market value.

5. Special assessment bonds
6. Securing other funds
7. Bidding process and Design Build. If an entity uses a design build scenario for the construction process wherein the project is not bid out but is designed as being built, it is difficult to ascertain if there is sufficient funding to complete the project. The contractor contract must have a maximum/not to exceed amount specified.
8. Small loans (generic bond documents)

Break [1:29:59 ]

### **Open Meetings Act (OPMA)**

Aaron Waite, Attorney General's Office provided OPMA training per Utah Code annotated 52-4-101 et seq. which requires that public business be conducted in public. A public body is an administrative, advisory, executive or legislative body of the State created by constitution, statute, rule or ordinance. CIB is a public body. Synopsis: Give timely notice, agendas must be specific, closed meetings only for statutory purposes, provide minutes in a timely manner, don't text or email during a meeting and be transparent.

Commissioner Adams asked who polices violations and what is the penalty? A commission may be sued but what actually is the penalty for being in violation of OPMA so who should be contacted when there is a violation?

Mr. Waite indicated that if the County sues the Board based on a violation of OPMA, the action taken by the Board could be voided and the Board could be subject to attorney's fees and associated costs. The Attorney General or the County Attorney could sue and any individual who is denied a right as a result of

the violation of OPMA can also sue. There is a 90-day limit to file a complaint which requires taking the issue to court wherein the court will determine the remedy.

### **CIB Statutory changes**

Aaron Waite discussed the history of CIB. The Federal Statute concerning the funds coming into CIB is 30 USC 191...which states *“to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service.”*

The State CIB statute is 35A-8-301 states the fund is for planning, construction and maintenance of public facilities, and provision of public service. 35A-8-305 expands the language.

In 2021 legislative changes occurred through SB176 which removed the work ‘Alleviation’ from the fund name and definitions were expanded indicating if a project expands mineral lease development or economic development, that does not negate the eligibility.

In 2022 legislative changes were made to the makeup of the Board through SB111.

Mr. Prater noted that historically the Board has acted under the AG opinion that the Board could not do economic development and asked for clarification of SB176.

Mr. Waite indicated that there was an opinion issued stating the funds could not be used for economic development. SB176 did not change that; the funds cannot go to non-governmental entities or a pass through to a private entity. The language was clarified to indicate that if as a result of CIB funding there was economic improvement, it did not invalidate the funding or project.

### **CIB Policy Book - Statute, Policy, Guidelines Discussion**

Candace Powers discussed the 2022 CIB Policy Book. The ‘Rainbow Sheet’ included in every Board packet represents a 5-year illustration of CIB revenue and awards by county and advises the Board as to production.

The project funding summary from FY98 through FY22 illustrates the grants, ML loans and Bonus loans authorized by the Board. It was noted that in 2018, 58% of the revenue was allocated as grant funds. The Board is tasked to keep the fund revolving. Loans may be allocated whenever possible from the mineral lease account.

The Throughput Fund was explained which is not mineral lease funds but statute requires the first project funded to be a bulk commodities ocean terminal. To fund another of the eligible projects, the legislature would need to change the statute.

The mineral lease revenue returned to the State is allocated by statute with CIB receiving 32.5% of the mineral lease revenue and 70% of the mineral lease bonus funds.

*Of Note, counties receive mineral lease funds directly as follows:*

40% of mineral lease deposits are distributed by the Division of Finance to counties, special service districts established by counties for the purpose of constructing, repairing, or maintaining roads; or for other purposes authorized by statute in amounts proportionate to the amount of mineral lease money generated by each county as determined by the county legislative body. *(Other criteria included in statute)*

5% is allocated to special service districts established by counties of the third, fourth, fifth, or sixth class in which 4.5% or less of the mineral lease money within the state is generated; and that are significantly socially or economically impacted by the development of minerals. *(Other criteria included in statute)*

The Board must adhere to statute and rule. The Board has rulemaking authority and may amend those rules. Board policy represents the guidelines of the fund, may be amended and is reviewed annually by the Board.

It was noted that the annual report which includes funding by category, is located on the website: <https://jobs.utah.gov/housing/community/cib/index.html>

There was a discussion of UDOT and CIB funding for roads and was noted that UDOT does have grant programs which cities can apply for.

Recess for lunch [2:25:18]

Reconvene 1:02 pm.

### **R990-8 Permanent Community Impact Fund Board - Rules R990-8 Board Objectives**

Paul Moberly discussed a proposed amendment to the rule to limit the number of projects to be placed on the CIB application list annually. The CIB application lists submitted by the AOG's for FY2023 included an abundance of projects which would likely not be funded in the fiscal year. The staff discussed it with each regional planner and it was suggested that the list include up to three from an entity. The prior year's lists excluding Mountainland and Wasatch Front were analyzed and it was noted that 19% of projects listed actually submitted applications.

The Board discussed the CIB application list, process and meaning noting a project must be on the list to be considered by the Board. The list was instituted to be a planning tool, but has become more of a wish list. The Board has "Special Consideration" as a mechanism for emergency projects to be considered. Only 1 or 2 projects of the many projects on the CIB application list from any one entity actually result in a submitted application for funding.

An explanation of the CIB application list was provided. The list was to facilitate planning and the CIB requested a vetted list be provided of the area's capital projects which may be seeking funding in the near future. It was then called the CIB Capital Improvements List. The name was changed last year to the CIB application list. A one-year list is submitted and a 2-5 year is compiled and held at the AOG. The one-year list should assist the Board to assess what might come in during the fiscal year and possibly anticipate the available funding.

The Capital Asset Self Inventory (CASI) which will be required before going forward to be on the CIB application list will help entities identify and prioritize the needs and provide a 'journal' for future elected officials to make decisions. The CASI is anticipated to be a living document, maintained by the entity which will provide a useful tool for infrastructure decisions to assist elected officials.

Ms. Hanson expressed support for a limit of well planned and ready projects from each entity.

Mr. Zeenati expressed concern that limiting the list may result in a reduced amount of applications and thus limit the number of CIB meetings.

Ms. Hanson indicated the number of actual applications submitted is a fraction of that list. Limiting the size of the overall list would likely provide a similar number of actual applications.

Commissioner Lytle stated there is already a filtering process at the AOG that is quite severe prior to an application for funding to the Board. He suggested there be a limit of perhaps 5 projects to allow for natural selection.

Mr. Slauch asked if there is additional work for CIB staff for each project placed on the CIB application list. What is the advantage of working from a smaller list rather than a more extensive list?

Ms. Powers indicated it is an advantage to the Board to project funding. It is not possible to project the funding with a large listing of projects and can a town possibly accommodate 5 projects versus 3 in a year.

Mayor Baker indicated he did not want the list limited as it does not provide a window for a project that becomes ready before the projects that are listed. The list should be 4 or 5 to allow for that possibility.



Commissioner Adams said if there are 24 counties that are producing counties with 3 projects each, that would be 72 projects for the year with 24 projects per trimester. The Board does not review that many projects in a trimester.

Ms. Powers noted it is not a problem for staff to receive a large list, but then it is not a planning tool with a comprehensive look at what an entity wants to accomplish in the current year. The CASI will help. There is still a 2-5-year list compilation and next year the CASI is required before the entity can list projects on the CIB application list.

Commissioner Lytle suggested there be no limitations and let the process with the CASI play out.

Ms. Hanson stated that if everything is a priority, nothing is a priority and supported the idea of having the 2-5-year list comprehensive and a one-year list limited to 3 top priority projects from the entity.

Commissioner Taylor supported the limit of 3-5 stating communities do need to narrow their projects to plan.

Ms. Powers indicated there is the Rule concerning the CIB application list which would need to be amended if the projects were limited. The best projects should be presented. In rule it states the entity prioritizes their projects, then the county prioritizes county wide. CIB funding should be accommodating infrastructure that is not already meeting the area needs.

Commissioner Todd said the Uintah Basin AOG thought there was no longer a 2-5-year list so numerous projects were placed on the one-year list.

Mr. Moberly reviewed the lists and currently, 86% of applicants on the CIB application list submit 3 or less project applications.

Commissioner Lytle stated the planning is going on in regard to the list. They have the flexibility to do the project that becomes ready and again indicated the limit should be at least 5.

Mayor Baker noted that bigger entities will have more capability than smaller entities to do projects and indicated support for 5 projects.

The Board stated they would to review the suggested project limit with their respective AOG's.

*It was noted that since 2000, one did 6, two did 5 and three that did 4.*

Chairman Wells noted the Board will review the proposal with their AOG's and the topic will be revisited at a future meeting.

### **Funding Tool Ratings Discussion** [3:07:00]

Paul Moberly reviewed the funding tool for the new Board. The tool was established as a response to the 2020 Legislative Audit which suggested the Board seek more consistency in funding. This year the Board approved 51% within the funding tool recommendation; in 2021 it was 43% with more loan funding in 2022 than 2021. Loans at 0.5% interest rate were most prevalent. The tool suggests a range of low, median and high.

The Board discussed the variables within the tool and the result of FY2022 funding decisions.

The two main funding tool factors are project type and mineral production and ultimately the Board makes the funding decisions after discussing and assessing the project. The Board has established a list of exemptions when a decision is made outside the funding tool and the list is provided each Board meeting.

*Ms. Hanson requested scheduling time for new Board members to better understand the funding tool.*

The funding tool data was displayed for review of the Board's funding decisions in regard to the funding tool and discussed. The tool was created as a guide and a reference point to facilitate internal consistency. The review sheet which is prepared with information provided by the applicant shows funding tool considerations which were explained. Applicant cash, mineral lease production of the county, percentage of public lands, county population classification, median adjusted gross income, and annual budget in regard to financial health influence the interest rate and the project type determines loan/grant ratio.

Mr. Slaugh noted 50% of the funding awards are not within the funding tool calculation so does the tool need to be modified with more factors? It is important for the Board to make better, more objective decisions with the current limited revenue.

Commissioner Adams stated that if the Board modifies everything, it becomes a bank and is not in favor of that direction. This Board is to help small communities that can't qualify for a bank loan and most small rural communities cannot do projects without assistance. The Legislature focuses most of the revenue on urban areas and very little funding gets to rural Utah from the State. The CIB is the source for rural communities with few options.

Mayor Baker indicated that Naples City gets 54% of the 1 cent sales tax and the other percentage goes to the Wasatch Front due to population. The CIB should be mindful of rural Utah.

Ms. Hanson indicated the Legislature makes the final decisions as to where State revenue is allocated. Having objectivity protects all; protects against criticism. Having clear rules about exemptions and when the Board follows that process will be helpful. Shouldn't financial hardship be built into the parameters of the tool?

Ms. Powers stated the Board considered affordability or financial situation, but in accessing that criteria, it was determined to ultimately punish the fiscally responsible entities and benefit the less fiscally responsible.

Mr. Slaugh stated it should be allocated to those areas impacted by mineral lease development.

Commissioner Adams noted that the top producers are not always the same as San Juan was a top producer a few years ago and now it is Uintah, Duchesne and Sevier.

Chairman Curtis asked if anyone had further questions or comments concerning the funding tool.

Mr. Moberly indicated he could schedule time one on one with any Board member for tool discussion. He would also appreciate the help of Deputy Treasurer Slaugh concerning the tool. The funding tool may benefit from a fresh start with criteria all are in support of.

The Board acknowledged Mr. Moberly's effort to create the funding tool and all the issues involved.

### **Community Development Office Planning Discussion**

Paul Moberly introduced the current members of the Community Development Office planning team which includes Jordan Katcher, Zach Leavitt and Cameron Carter who is an intern.

The CDO is transitioning to coordinate with the Regional Planning Program at the AOG's to enhance community assistance and to provide context to the RPP scope of work. It is anticipated that there will be a CDO support assigned to each AOG that receives the annual RPP funding.

Mr. Moberly shared some statistics concerning the number of applications that have been submitted from the AOG's since 2000.

Christina Oliver, Housing and Community Development Director indicated there is a lot of cross collaboration with the CDO, a presentation has been provided to the AOG's and there will be a presentation to the Governor's Office of Economic Opportunity (GOEO) and GOPB.

Laura Hanson, Governor's Office of Planning and Budget indicated it is the intent to provide distinct funding roles. A regional opportunity team will be implemented to include UDOT, GOEO, CDO, AOG

Planners and support for GOPB that would meet monthly with the AOG's to assess needs, assist with priorities and help connect to State resources and community partners. A new training coordinator will facilitate training opportunities for communities to understand State law.

Commissioner Lytle asked if they will speak staff or the AOG Board?

Ms. Hanson noted its primarily staff as the liaison, but speaking to the Board might be considered. Legislative funding to the AOG's for a new planning position is to focus on general planning support; grant writing assistance, updating general plans to consider new requirements for water and affordable housing. Some communities do not have a general plan or it is old so the new planner position will work with a few communities each year to update general plans. The CDO – Paul Moberly's team – will focus more on the capital asset self-inventory so entities come to the CIB with high priority applications. The role of the Regional Opportunity Team partners will be to help communities understand what funding resources are available.

**Regional Planning Program, Small Planning Grants Small Planning Grant Program** [4:10:51]

Zach Leavitt, Community Development Office provided an update on the Regional Planning Program which is funded with \$150,000 annually from CIB to the AOG for a full-time planner and planning assistance. Kevin Yack and Will Wright serve in the Uintah Basin AOG, Gary Zabriskie and Nate Wiberg serve in the Five County AOG, Tyler Timmons and Shay Morrison serve in the Six County AOG, Brian Carver and Zac Covington serve in the Bear River AOG, and Tamara Dockstader and Todd Thorne serve in the Southeastern Utah ALG.

They submit monthly reports representing their planning activities and Mr. Leavitt has created a dashboard showing the efforts of the planners in communities. The dashboard will be sent after the meeting.

Ms. Hanson expressed appreciation for the dashboard which is inclusive.

Mr. Moberly indicated the Board authorizes the program for 5 years with an annual review and contract for each of those 5 years. There is a proposed new scope of work for FY2023. Mr. Moberly reviewed the new scope noting that the scope has been discussed with the AOG planner. The FY2023 RPP scope will be provided to the Board.

One requirement this year is for planning assistance with the Capital Asset Self Inventory (CASI) for each town/city within the AOG. The communities are tasked with prioritizing projects and timing for those projects to seek funding. The planners facilitate the compilation of the CIB application list. There is currently an effort to standardize the process for compiling the CIB application list. They assist communities and entities as they apply for funding and facilitate the tutorials provided by CIB staff annually. The planners will be providing information about individual projects as part of their AOG review and in meetings with staff. They will contact entities post project to interview about the projects CIB funded and support their AOG with a focus on infrastructure.

Mr. Moberly indicated that the AOGs have requested approval to have some of the CIB annual funding to match other funding with a specific reference to the federal hazard mitigation grant. It is not an additional funding request, but a carve out of the \$150,000.

Mr. Zabriskie, Five County AOG planner stated when Five County AOG received their federal hazard mitigation grant the requirement was a 25% non-federal funds match.

Ms. Hanson suggested a conversation with the AOGs to determine if they could accomplish the required scope of work with 30% removed for matching. Is the request from all AOGs or is it from a specific AOG?

Mr. Moberly stated not all AOGs have requested the use as match; only two have done so.

Chairman Wells recognized Senator Ron Winterton to address the Board. [4:26:52]

Senator Winterton's understanding is that mineral lease revenue is federal dollars. It cannot be used to match other federal dollars. That is why Special Service Districts were established to receive mineral lease money, not counties due to that distinction. Therefore, he suggested another avenue for the match as he indicated it would be a violation of federal laws.

Ms. Powers, Fund Manager noted that historically, when the mineral lease funds are returned to the State of origin, they are considered state funds, not federal funds. That is why the use of CIB funding does not require the federal constraints.

Senator Winterton stated if there is an audit, it will be federal dollars that came to the State of Utah. He suggested a look at special service districts and the reason they receive it when UDOT was administering the allocations. He stated it is an offset to the PILT money which he deemed to be federal dollars and the CIB mineral lease funds are the same thing which is his understanding. He suggested a legal opinion.

Ms. Powers indicated it has always been the understanding of CIB that once the funds are in the State's possession, the funds are state funds and agreed that a legal opinion would be good.

Chairman Wells indicated there would be an administrative discussion to determine

Mr. Waite, Assistant Attorney General stated it will be reviewed a determination will be provided.

**CIB Water and Sewer Reviews & Understanding DEQ** [4:37:01]

Skye Sieber, Project Funding Manager with Division of Drinking Water and Skyler Davies, Engineer with Division of Water Quality explained the reviews they provide to the Board for water and sewer projects. They are staff to the DDW and DWQ Boards. DEQ and HCD have a two-year memorandum of agreement to provide the reviewing service; they review the projects for DDW and DWQ. It is an affordability analysis. They refer to MAGI (Median Adjusted Gross Income) from an area in their assessment. The MAGI is provided by the State Tax Commission annually based on tax returns filed in each zip code, city or town in Utah. The MAGI list is published on the DEQ website.

The reviews include a financial evaluation and they prepare a memo for CIB but they defer to the Board to make decisions based on the evaluation. They specify that plans and specifications are required to be reviewed and approved by the appropriate DEQ division prior to bid. The DDW does not consider a grant unless the water bill exceeds 1.75% of MAGI and DWQ, 1.40%. They consider population trends and a financial need. They have federal and state funds. Much like CIB, their state funds do not have the many restrictions of federal dollars.

The DEQ review memo includes the applicants request, an explanation of location and map, the background of the project, the description of need and what is included, the financial cost estimate, cost sharing, requested funding package, current rates and % of MAGI, a summary table with funding scenarios and finally a support statement.

Ms. Hanson asked if every project reviewed coming to the CIB also eligible for the revolving loan funds?

The Federal Infrastructure Jobs Act, the infrastructure bill has increased the amount of formula funding that DEQ receives; do you know how much more funding is available over the next five years from that bill?

Mr. Davies stated DWQ does not fund irrigation but they do fund storm water. There must be a water quality component to the project to be funded by DWQ. There are mixed projects that would be difficult for DWQ to fund.

Ms. Sieber indicated that DDW has received a lot more funding than usual as a result of the Federal Infrastructure Jobs bill. Annually the available funding was approximately \$11 million. Now we are getting supplemental or nearly 3 times that amount. There are also special funding grants for lead service line inventory and replacement, emerging contaminants.

Mr. Davies indicated that DWQ has received more funding but DWQ funds have been allocated over the next 4 or 5 years but stated they are receiving approximately \$15 million annually in additional funds. Applications for funding to DWQ for this year are approximately \$70 million.

Ms. Sieber stated that DDW can fund most projects regarding culinary water including water rights, dams and reservoirs.

Mr. Davies stated that DWQ funding will now come with *'Build American, Buy American'* restrictions which are more stringent than buy American Steel.

*There is additional information about DEQ in the Board packet.*

Chairman Wells indicated that the Board wanted to discuss the next meeting dates. August 4, 2022 is the next meeting. Chairman Wells will be absent for that meeting and has selected Commissioner Bruce Adams to be Chairman Pro Tem for that meeting.

Commissioner Adams indicated he would like to change the September 1, 2022 meeting.

Chairman Wells asked the Board for approval to move the meeting to Wednesday, September 7, 2022.

There was additional discussion with alternate dates and it was noted that moving meetings is difficult with already tight calendars; the CIB meetings have been calendared for the first Thursday. There are meeting conflicts with other dates.

Chairman Wells indicated the **September 1, 2022** date will stand for the September meeting.

**Presentation Seven County Infrastructure Coalition Annual Report** [5:12:27]

Keith Heaton, Executive Director Seven County Infrastructure Coalition (SCIC) and Brian Barton of Jones and DeMille Engineering presented the SCIC Annual Report.

Mr. Heaton stated the SCIC was initiated 8 years ago by Chairman Gordon Walker and the previous representative of UDOT on the Board. He noted the SCIC has been improving and expressed appreciation to the CIB for supporting this organization. SCIC is pursuing great things that would otherwise not be possible without CIB. SCIC considers projects in a broad scope and can work with the private sector. SCIC is a collaboration of seven counties; Mr. Heaton noted the counties and representatives of Daggett, Uintah, Duchesne, Carbon, Emery, San Juan and Sevier to do large projects. Accomplishments include providing support for the community so that they can be successful through planning. Specific projects include trails and recreation opportunities in Daggett County, broadband in

Daggett and San Juan counties, and the biggest project; the Uinta Basin Railroad. The Uinta Basin has been hampered by a lack of transportation which has a lot of products to move that the world needs such as the oil from the basin which is exceptional crude. The railroad will open multiple industries in the area for distribution. The economic impact to the Basin and the State is exponential. [5:22:41]

The SCIC has created tools which are publicly available for communities. Mr. Heaton acknowledged that the CIB and the CIB Board members have spent a lot of time to facilitate the success of communities and leaders. He acknowledged the efforts of Christina Oliver, Paul Moberly and the entire staff.

The SCIC works with the Governor's Office, and Laura Hanson of the GOPB to coordinate and plan for great projects and planning.

SCIC has received STB approval, Army Corps of Engineers approval but the Forest Service has had a few road bumps, but now the Utah Forest Service has the documents for public comments wherein it is anticipated the permitting will be completed in a few weeks wherein the project will be greenlighted.

Drexel Hamilton has agreed to purchase the plans and permits from SCIC; SCIC will receive a stipend as a partner and CIB will be reimbursed for those plans.

Mr. Heaton acknowledgement that every dollar the CIB provides to the Coalition is a dollar that could have been allocated to another community truly in need. He feels the railroad is going to benefit every community, the State and globally. Drexel Hamilton has an agreement with the Rio Grande Pacific Railroad to actually operate the rail. They have selected W. W. Clyde as the contractor and they have been securing sub-contractors as has been reported in the news.

Mr. Heaton stated this is not just a public private partnership between the State of Utah and its political subdivisions and the private sector; but one of the most important partners is the Ute Tribe. This project would not succeed without the support of the Tribe and they have been outstanding partners. The Tribe will have 5% ownership in the railroad and it is their railroad as well.

Mr. Slauch verified that as soon as the approval of the Forest Service is received, that is the last item before the sale to Drexel Hamilton.

Mr. Heaton indicated that is correct. It could be within the year, but there are a few legal issues. It is the process. The pending issues do not stop construction.

Commissioner Lytle indicated there is no established date wherein CIB will be reimbursed.

Mr. Heaton stated the unexpected hurdles are being addressed, but it is looking very positive.

Mr. Slauch further verified that the funds being returned are mineral lease funds and it was further stated by staff that the funding was allocated from the large infrastructure fund (mineral lease funds) and will be returned to that fund.

Mr. Zeenati asked if the purchase agreement between SCIC and Drexel Hamilton had been signed.

Mr. Heaton indicated the agreement has been signed. SCIC is also involved with the San Rafael Research Center in Emery County. This project is amazing, and innovative. The Idaho National Laboratory is a large complex in Idaho that does similar things but they have more work than they can handle. They support what Emery County is doing with the help of CIB and SCIC. The San Rafael Research Center (SRRC) will do all types of energy research. They received a combustion chamber for coal from the University of Utah to do coal research and pursue different ways to use coal. They also study nuclear options of energy; most of it is medical to include nuclear isotopes and molten salt that cools the reactor so it's not dangerous. The SRRC has been purchasing equipment with the CIB funding. It is a very successful facility. Credit is given to CIB, SCIC and the Emery County

Commissioners for thinking beyond normal infrastructure to make this happen. The San Rafael Research Center benefits Emery County and the whole state.

SCIC is working on road projects, transmission lines, upgraders and mini refineries. This will help to move industry to the rural areas and address air quality compliance. These projects will provide great employment opportunities for Utah.

SCIC is working with the Navajo on projects which the CIB cannot fund. There is legislative funding. Many of the Navajo do not have water and there is an effort with the legislative funding and the water settlement to get water accessible. SCIC is also working on roads to enable getting services to Navajo Mountain and surrounding areas. The Governor and Lt. Governor have made it a priority to assist and improve those areas.

Mr. Heaton stated the SCIC is also involved in research for coal to carbon fiber using coal and coal pitch for carbon fiber. It would be a lot less expensive than the current carbon fiber. Putting it together in a marketable way has been a challenge but they are working with organizations to pursue that. SCIC has received some funding from other organizations and the Legislature and other agencies. CIB is meant to assist communities and the Coalition *is also helping* communities in a big way but SCIC is diligently working to find other funding sources.

Mr. Heaton reviewed the SCIC use of CIB funding. It is acknowledged that CIB funds are not tax dollars but it is public funds and they seek to make the best use of those public funds to assist Utah. SCIC is committed to prudently use the funding, looking to the future in a big way for big opportunities.

Chairman Wells opened the meeting for discussion.

Mr. Slauch referenced the agreement between SCIC and Drexel Hamilton to fund the SCIC going forward; is that sufficient?

Mr. Heaton stated the funding from Drexel Hamilton is not enough to sustain the SCIC as constituted and continue to do the good work. It will allow SCIC to access loans with a revenue source.

Mr. Zeenati acknowledged the intent of SCIC to be diligent but asked the intent of SCIC after the last CIB funding tranche is allocated.

Mr. Heaton noted the ongoing revenue from Drexel Hamilton, exploring other projects with funding from other state agencies that offer grants but they do expect to return to CIB for funding. They have some legislative funding but there is no other recourse.

Commissioner Lytle thanked Mr. Heaton and acknowledged his leadership for CIB and now for SCIC. It is hoped that the CIB recognizes the value SCIC has been to CIB in helping to distribute the funding into projects CIB could not typically do. On both boards, he noted the benefits both ways.

Ms. Powers expressed appreciation for working with Mr. Heaton and he will likely escalate the good things that happen.

Chairman Wells stated the report was great and SCIC has a broad and interesting dynamic with an eye for innovation and how it applies to conventional resources such as coal to carbon fiber. It is impressive to see the leadership in these areas and looking forward to continuing the work with SCIC as they move forward.

### **Upcoming Meeting dates and Locations**

August 4, 2022 – 1385 South State Street, Salt Lake City, Utah

September 1, 2022 – 1385 South State Street, Salt Lake City, Utah

**ADJOURNMENT** [5:58:25]

The next meeting of the Permanent Community Impact Board will be August 4, 2022 at 1385 South State, Salt Lake City, Utah.

The meeting adjourned at approximately 4:30 pm.

Submitted by:  
Candace Powers