

**PERMANENT COMMUNITY IMPACT FUND BOARD MEETING**  
Department of Workforce Services  
Housing and Community Development Division, Salt Lake City, Utah  
Virtual Zoom Webinar  
APPROVED MINUTES  
November 5, 2020

**Members Present**

Jonathan Hardy	Chairman
Bruce Adams	Southeastern Utah Association of Local Governments
Naghi Zeenati	State Transportation Commission
Irene Hansen	Duchesne County
Jack Lytle	Uintah Basin Association of Governments
Dean Baker	Uintah County
Mike Dalton	Five County Association of Governments
Garth "Tooter" Ogden	Six County Association of Governments
David Damschen	State Treasurer

**Excused Board Members**

Kyle Stephens	State Board of Water Resources
Gregg Galecki	State Board of Water Quality

**Staff and Visitors**

Keith Heaton	Housing and Community Development
Candace Powers	Housing and Community Development
Gayle Gardner	Housing and Community Development
Brenda Brown	Housing and Community Development
Pam Sjostrom	Housing and Community Development
Aubrey Larsen	Housing and Community Development
Jordan Katcher	Housing and Community Development
Paul Moberly	Housing and Community Development
Ian Shumway	Housing and Community Development
Kayl Smith	Housing and Community Development
McKenna Marchant	Housing and Community Development
Brook McCarrick	Attorney General's Office
Skyler Davies	Division of Water Quality
Margaret Lautaimi	Department of Workforce Services
Marcus Keller	Zions Bank Public Finance
Mark Anderson	Zions Bank Public Finance
Aaron Averett	Sunrise-Engineering
Gordon Walker	East Zion Special Service District
Will Wright	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
Zach Leavitt	Six County Association of Governments
Tyler Timmons	Six County Association of Governments
Brian Barton	Jones & DeMille Engineering
Jeff McCarty	Sunrise-Engineering
Ben Coray	Sunrise-Engineering

Jason Blankenagel  
Justin Atkinson  
Ron Winterton  
Greg Todd  
Kurt Mower  
Bret Reynolds  
Unknown  
Darrell Fordham  
Stan Holmes  
Ann Harvey  
Nathan Hall  
Sarah Stock  
Jeff McCarty

Sunrise-Engineering  
Sunrise-Engineering  
Senator – Duchesne County  
Duchesne County  
Roosevelt City  
Civco Engineering  
Tar Sands Resistance  
Argyle Wilderness Preservation Alliance  
Sierra Club  
*No Coal in Oakland*  
Department of Environmental Quality  
Living Rivers

Other Attendees: 1206\*\*\*\*442; 1801\*\*\*\*769

## **WELCOME**

The Permanent Community Impact Fund Board (CIB) Meeting was held on Thursday, November 5, 2020 via Zoom Webinar and was called to order at 8:30 a.m. by Chairman Jonathan Hardy.

### **I. ADMINISTRATIVE ITEMS**

#### ***Briefing***

##### **1. Upcoming Meeting dates and Locations**

December 10, 2020 – Virtual Meeting via Zoom Webinar

January 7, 2021 – Virtual Meeting via Zoom Webinar

##### **2. Review of Agenda Items: [00:34]**

Chairman Hardy commented that today's Board Meeting will not hear funding requests from CIB applicants but will be a Board discussion and completion of action items from the Legislative Audit findings.

### **II. WELCOME AND INTRODUCTIONS [02:36]**

A roll call was conducted in regard to Board attendance. Kyle Stephens and Gregg Galecki were noted as excused, all other Board members were noted as present for today's meeting.

*Jack Lytle joined the meeting at 8:36*

Chairman Hardy introduced and welcomed Brook McCarrick of the Attorney General's Office as the new legal advisor to the Board.

### **III. APPROVAL OF MINUTES [5:00]**

Chairman Hardy requested a motion to approve the minutes from the October 1, 2020 meeting.

**Tooter Ogden made and Naghi Zeenati seconded a motion to approve the minutes of the October 1, 2020 meeting. The motion carried unanimously through voice vote.**

There were no agenda items 4-8 on the November 5, 2020 CIB Agenda.

### **9. BOARD MEMBER DISCUSSION AND/OR ACTION ITEMS [05:44]**

**9.1 CIB Loan Deferrals Report – No new deferral requests. Canyonlands is close to complete.**

[06:26]

Chairman Hardy noted that Chapter III and Chapter V will be discussed for decisions today. Chapters II, IV have been previously discussed but will be reviewed.

## 9.2 Chapter II: CIB Audit & Policy Change – August 6, 2020 Discussion & Approval Review.

(audit page 7) **Decisions August 6, 2020**

### **Chapter II: CIB Board should implement Policies ensuring funds alleviate impact.**

#### **Audit Recommendations** (audit page 22)

**2.1** *We recommend that the Permanent Community Impact Board adopt a policy in accordance with the Federal Mineral Leasing Act and Utah statute that provides criteria for how projects providing substantial economic development or that exacerbate impact will be reviewed and awarded.*

- Revised guidelines require the applicant to clearly define the public purpose of the project.
- The CIB Application will include a section for the applicant to identify how the project alleviates impacts on **public infrastructure, public finance, federal land, employment and safety.**
- The project may not be solely economic development, but may have a positive effect on the entity's fiscal health.

**2.2** *We recommend that the Permanent Community Impact Board review the project size, scope, intended beneficiaries, and budget of proposed projects and make a determination that the project is a good value for the community in alleviating impact.*

- The revised application will note cost per capita: entity population divided by cost of the project.
- The revised application now requires applicant to list allocation for operation and maintenance capability.

**2.3** *We recommend that the Permanent Community Impact Board require in policy that all applicants clearly identify their project's intended purpose and impacts to the community and that applicants provide evidence that there is clear impact alleviation.*

- Application guidelines have been revised to require clarification of the project's intended purpose and the alleviation of impacts regarding **public infrastructure, public finance, federal land, employment or safety** in the project description.
- The Board will consider the projects improvement on public infrastructure, public finance, federal land, employment and safety.

**2.4** *We recommend that the Permanent Community Impact Board staff monitor applications to ensure that each project's intended purpose is clearly stated and demonstrates how the project will alleviate impact before it is presented to the Board.*

- The APPLICATION will be modified to include guidance questions:
  - Are there mineral revenue development impacts that affect public infrastructure, public finance, federal land, employment or safety?
  - How might this project ease the burden on public infrastructure, public finance, federal land, employment or safety issues?
  - What is the percentage of non-private land in the county?
  - Who are the prime beneficiaries of this project?

[06:36]

### **Chapter III Discussion – November 5, 2020**

Keith Heaton indicated the Board discussed Chapter III on July 9, 2020 and today the Board will review and solidify policy. The Community Development Office (CDO) in coordination with the Regional Planning Program Planner's (RPP) have subsequently convened to discuss the audit recommendations. Recommendations will be presented today.

**9.3 Chapter III: Enhanced Planning and Consistent Decision-Making Are Needed** (audit page 23)

**Audit Recommendations** (audit page 36)

- 3.1** *We recommend that the Community Development Office, in conjunction with regional planners, develop a strategic plan for creating, updating, and implementing capital asset inventories across rural communities. The Permanent Community Impact Board should consider, where appropriate, providing additional resources to assist these efforts.*

The CDO has created an entire program for capital asset inventory. Program Specialist McKenna Marchant will be heading up this program to support the execution of those inventories.

- 3.2** *We recommend that the Community Development Office, in conjunction with regional planners in each Association of Government, work with communities to complete asset inventories and further recommend that the board require asset inventories to be completed prior to filing applications for new projects.*

With the assistance from the program, all applicants will be required to complete a Capital Asset Self Inventory (CASI) for FY 2022. The RPP's will work with their communities to determine if they are in a position to do the self-inventory. Several tools, guides and resources have been developed to assist. CASI will help communities to self-assess to understand what their capital needs are, what facilities they have and what condition those facilities are in.

Ms. Powers noted the Board is reviewing and voting to amend policy and/or rule.

Commissioner Adams asked for clarification of the Capital Asset Inventory and how it will be used to qualify or fund an application.

Chairman Hardy stated that communities begin with a Capital Asset Self Inventory list to prioritize items for the Capital Improvement List which the CIB application is based upon. This is new to the process but by providing the tools communities will be able to self-assess and create those inventories.

Mr. Heaton indicated the CASI will help entities identify assets in the community well before making application to CIB. The local officials and public will be involved in the ongoing process; not an annual list. It is a foundation for the Capital Improvement List with community awareness and involvement.

Commissioner Adams noted in the creation of the Capital Improvement List, there is no community involvement.

Mr. Heaton stated the process in compiling CASI will enable community involvement, along with elected officials, in the process of identifying eligible assets. However, it will not be a requirement for public involvement but the community should have the opportunity.

Commissioner Ogden asked the purpose of the CASI.

Chairman Hardy stated the Capital Asset List is to determine when infrastructure was built, useful life, replacement etc. It will assist in determining the priority projects for the annual Capital Improvement list.

Treasurer Damschen suggested consideration as to whether the CASI (Capital Asset Self Inventory) requirement should be incorporated into Administrative Rule and has the staff received feedback from local officials voicing concerns or questioning the proposed policies?

Ms. Marchant noted the CASI tool is being tested test in communities in each of the 5 AOG's that CIB funds. The CDO is recommending and communities are understanding the need for a CASI. The entities identify assets and determine what improvements need to be considered and placed on their individual Capital Improvement List. The tool then allows communities to make thoughtful and informed decisions in regard to infrastructure needs. Another part of the CASI tool is the GIS (Geospatial Information System) database to map assets for accurate reporting and data.

Treasurer Damschen noted this allows the Board to proactively work with the RPP's to help local governments in their planning processes... with supportive resources and without excessive expense.

Commissioner Adams acknowledged the benefit of having this tool to help communities identify assets that are aging or need improvements before it becomes an emergency.

Ms. Marchant noted the CASI and GIS tools were designed to assist communities to recognize potential or future issues before they become emergencies.

Commissioner Lytle appreciated the work that has been done but expressed concern with this requirement by FY2022; that it might be cumbersome.

Chairman Hardy stated proposal of the CASI tool is not to be a rule but is suggested as policy.

Ms. Marchant indicated the recommendation is to *request* completing the CASI spreadsheet for 2021 which will give time for the information to get to and through communities, but *require* it for 2022.

Mr. Heaton noted that CASI was designed to empower communities with a foundational step to assess needs and make informed decisions for infrastructure needs and improvements. The CASI will help with the Capital Improvement List. It is not to be a detriment to smaller communities that do not have staff; the RPP planners would meet and think through the infrastructure.

Chairman Hardy noted the Board's policy for Special Consideration which allows an application to be submitted for funding consideration in the case of bona fide emergency, without the Capital Improvement List or CASI. The CASI requirement is to incentivize community participation in the planning process of determining their capital improvement needs.

Commissioner Ogden and Mayor Baker both noted that the CASI requirement would be helpful as a way to provide an ongoing inventory for elected officials and communities to assess and prioritize needs and help in financial planning.

Ms. Marchant indicated there is a section in the CASI tool which facilitates ranking each project on a scale of 1-5 which leads to a prioritization how much attention a subcategory asset needs to prioritize projects. This provides continuity for the next mayor to view and see what has been prioritized and assess the infrastructure going forward.

***Mike Dalton made and David Damschen seconded a motion to adopt the recommendation to require asset inventories to be completed prior to filing applications for new projects using***

**the CASI (Community Asset Self Inventory) tool. The motion carried unanimously through roll call vote.**

[37:50]

- 3.3 Audit recommendation:** *The Community Development Office, in conjunction with regional planners in each Association of Government, coordinate their policies surrounding the process for prioritizing and amending capital improvement lists.*

Mr. Heaton indicated the following recommendations (*his explanation is in italics*) for the Board's consideration as Administrative Policy and Rule changes.

1. Local Capital Improvements List to be referred to as the **CIB Application List**.

*The name change better indicates what the listing is. Capital Improvement List is used for many descriptive lists.*

2. CIB Application Lists will be submitted no later than **May 1** of each year (currently in Administrative Rule as due April 1 of each year).

*The April 1 date was felt to be too soon and an extra month was suggested making the list due May 1<sup>st</sup>.*

3. Establish a uniform process and policy for the compilation of CIB Application Lists.

4. **CIB Application List** once finalized **will not be amended**. *The current policy allows for special consideration of applications for "a bona fide public safety or health emergency or for other compelling reasons" for item that are not on a Capital Improvement List will stand and not be amended.*

*It is redundant to amend the list with the availability of special consideration. The list will stand and if the project is not on the list and it's an emergency, it can be submitted under special consideration.*

5. Other compelling reasons for special consideration can be defined as "a demonstrated unforeseen financial opportunity with time sensitivity" (e.g., replacing water pipes in tandem with a UDOT project).

*This adds clarity as to what special consideration is.*

6. All projects put forward on the CIB Application List must align with prioritization of local capital improvements plans using CASI.

7. All projects on the CIB Application List should alleviate impacts to public infrastructure, public finance, federal land, employment or safety.

8. CIB Application Lists should encourage regional coordination of amenities.

9. All applicant entities must attend an application training prior to applying either online or a scheduled event conducted by RPP or CIB staff for community transparency.

*This is making the review of the tutorial mandatory so the public understands the process and what is required. The CIB staff is always available to assist applicants, but it is helpful if they have basic information and knowledge. This will empower the local elected officials rather than relying on an engineering firm to attend the tutorial and submit the application. There is digital training on-line and will require periodic updates.*

Commissioner Lytle wanted further clarification on #'s 6,7 and 8.

Chairman Hardy noted that the Board authorized the CASI requirement and the application must align with what has been prioritized locally.

CIB staff noted that the date of submitting the Capital Improvement List is in rule. The name of the list is in Rule. The Board will vote to amend the Administrative Rules with the date and name change. All other recommendations, for this section, are summary and policy.

Treasurer Damschen asked if an on-demand application training had been provided. He asked for clarification as to what is policy and what is rule.

Ms. Powers indicated there is an on-line training video, but will require revisions with the new authorized provisions the Board is discussing. The only items that are in rule and require amending the rule is the name of the Capital Improvement List and the date the list is due. The rest is program summary and policy.

Ms. Marchant referred to additional training tools or guidebooks that have been created by Aubrey Larsen of the CDO to assist in with GIS and a series of capital asset guidebooks; capital improvement planning, creating a capital asset inventory and planning for operations and maintenance costs.

In reference to #9, the CIB application form includes a check box to allow self-reporting on training attendance and the RPP's will facilitate trainings.

***Dean Baker made and Naghi Zeenati seconded a motion to approve recommendations 1 – 9 of Section 3.3 as listed. The motion carried with David Damschen, Tooter Ogden, Jack Lytle, Dean Baker, Mike Dalton, Bruce Adams and Naghi Zeenati voting in favor and Irene Hansen absent for vote.***

***3.4 We recommend that Permanent Community Impact Board enforce their rule that all applicants document that the public have been thoroughly informed of the size, scope, nature, and potential financial impact of any project prior to awarding funding.***

- CIB staff will continue to review and enforce the public hearing discussion requirement, hold applications until a reasonable public hearing is held to include the scope of work and the funding possibilities; that funding may be in the form of a loan.
- The Board may also require an additional public hearing if insufficient information is indicated in the public hearing minutes.

[54:40]

***3.5 We recommend that the Permanent Community Impact Board consider changes to the 50 percent match requirement for planning projects for rural communities with limited funding.***

Mr. Heaton referred to the July 2020 discussion of 50% planning match which has been required of all planning applications. Though it was a recommendation to alter that, there is value in requiring cash participation of the applicant. There is a lot of technical assistance in the CDO office and AOG to do planning without expense. Communities can choose to hire an engineer but that will require the 50% cash match. Reference was made to large planning grants wherein the match was not required due to the Board's discretion for special planning projects.

Mayor Baker indicated in the prior discussion he voiced his support of maintaining the 50% match requirement and continues to be in support of the requirement.

Chairman Hardy noted that consideration was given to altering the planning match requirement. The Board has affirmed the decision to maintain the policy for the reasons discussed. Rule **R990-8-3 D. Planning grants and studies normally require a fifty percent cash contribution by the applicant.**

## **Chapter 4 discussed September 3, 2020**

### **9.4 CIB Legislative Audit & Policy Change Discussion & Approval – Chapter IV (audit page 37)**

**Chapter IV: Strengthened Procurement Controls Are Needed for Some Board-Approved Projects.**

Audit Recommendations (audit page 43)

**4.1** We recommend that the Permanent Community Impact Board review all projects to ensure they are engaging in a competitive bid process.

- Funding recipients will be notified of procurement requirements and policy prior to contract.
- CIB contract for funding will include the requirement of following the Utah Procurement Code.
- State Procurement Standards must be followed across all project funded by CIB.

**4.2** We recommend that the Permanent Community Impact Board consider requiring that State Purchasing be used with larger projects and determine a threshold for imposing this requirement.

- CIB require recipients of funding for **projects over \$1,000 000 to solicit 3 bids.**
- **State Purchasing will be required** as a resource. <https://purchasing.utah.gov/for-agencies/>

**Chapter 5 - Board discussion November 5, 2020** [01:01:04]

**9.5 CIB Legislative Audit & Policy Change Discussion & Approval – Chapter V** (audit page 45)

**Chapter V: Internal Policies Are Not Consistently Followed and Are Incomplete. Discussed and finalized November 5, 2020.**

Audit Recommendations (audit page 53)

**5.1** We recommend that the Permanent Community Impact Board formally adopt and follow policies and controls regarding maximum award size, the total grant versus loan mix of all projects, and reimbursable expenditures.

Ms. Powers noted that the \$5,000,000 threshold is not in rule or statute and was initiated years ago when mineral lease funds were significantly reduced. The recommendation is that the established threshold be altered or eliminated.

**Bruce Adams made and David Damschen seconded a motion to eliminate the \$5,000,000 threshold. The motion carried unanimously through roll-call vote.**

**5.2** We recommend that the Permanent Community Impact Board staff review its contract monitoring procedures to ensure contracts have a **clear scope of work** with meaningful performance metrics.

Chairman Hardy noted that these recommendations are to staff in the administration process.

Ms. Powers indicated that staff has clarified the scopes of work and descriptions included on the review sheet for the Board to review, question and authorize at the review meeting. Funding is then allocated through reimbursement within that authorized scope of work. Expenses outside the discussed scope of work will not be reimbursed. This does not require a motion.

**5.3** We recommend that the Permanent Community Impact Board staff ensure completed projects are closed in a timely manner.

Ms. Powers noted that Brenda Brown has reconciled old accounts, closed a number of older accounts and recaptured \$1,131,798 to date. The recommendation is for there to be the following policy to best keep the fund revolving:

- CIB funding recipients will submit an email verification of completion with 24 months of funding or an explanation and request for an extension up to 12 months.



- Upon approval of an extension, the project completion and/or 2-year grant contract may be extended for up to 12 months.
- When the project funding has received no activity for longer than 6 months, the recipient may be contacted and the funding may then be recaptured.

***Naghi Zeenati made and Jack Lytle seconded a motion to approve recommendations regarding Chapter V 5.2 and 5.3. The motion carried with David Damschen, Tooter Ogden, Jack Lytle, Dean Baker, Mike Dalton, Bruce Adams and Naghi Zeenati in favor and Irene Hansen absent for vote.***

[01:11:27]

Chairman Hardy provided a review of prior discussions noting the Board will receive a final synopsis.

Chapter II: CIB Board should implement policies ensuring funds alleviate impact.

Audit Page 7

***Discussed and finalized August 6, 2020 as indicated above.***

*Commissioner Dalton left meeting at 9:43am (1:13:00)*

Chairman Hardy noted that Chapter II items are reviewed by staff and the application will not be placed on an agenda if the established criteria are inadequate. Additional questions have been added to the CIB application in regard to those criteria.

**Chapter III: Enhanced planning and consistent decision-making are needed.**

Audit Page 23

***Discussed and finalized November 5, 2020 (today)***

**Chapter IV: Strengthened Procurement controls are needed for some Board-Approved projects.**

Audit Page 37

***Discussed and finalized September 3, 2020 as indicated above.***

Chairman Hardy noted that Chapter IV items refer to a competitive bid process. Prior to executing a contract, the applicant will be notified of the procurement requirements which includes following the Utah Procurement Code and items over \$1,000,000 must solicit three bids and use State Purchasing is required.

Mayor Baker requested clarity on the 3 bid requirement which affects the new application from Naples City. Naples is trying to work in conjunction with the Canal Company's project which already had an engineer selected and has done the design. It is more economical for Naples City to have the contractor selected for the canal project also do the City project.

Chairman Hardy noted the primary focus for acquiring 3 bids is for construction. The professional services will be less than \$1,000,000. A project under \$1,000,000 could provide a sole-source justification or if there is co participation and contractors have been selected by partners, that could be an option. It has not been specifically clarified. There should be opportunities to bid on these large projects.

Commissioner Lytle suggested the end result is that entities are being responsible with this funding. He suggested DFCM is more in front of these things. Is the Board asking applicants to go to a source that

does not do these big projects? Perhaps the requirement to use State Purchasing should be as staff suggested; a recommendation instead of a requirement.

Ms. Powers noted the original staff suggestion was that State Purchasing be recommended. The Board moved to *require* the use of State Purchasing. The Board could have sole source exemptions or exceptions such as Mayor Baker indicated with multiple entities involved or a project more efficient in tandem with another project already underway.

Commissioner Lytle suggested this was implemented to have entities be more responsible with funding, but perhaps a *requirement* is too strong.

Chairman Hardy stated State Purchasing can accommodate sole source. State Purchasing helps independently verify that a procurement standard is being met. The entity could work with State Purchasing to get a 'sign-off' of sole source. The Board was tasked with determining the threshold for use of State Purchasing for CIB projects. It has been set at \$1,000,000.

Mayor Baker indicated a desire to move forward with the Naples project without unnecessary restrictions. There is concern with local engineering companies and it will take some effort to get on with State Purchasing. Naples City wants to have the ability to move forward with the project without a restrictive bottleneck. There needs to be flexibility especially for design. (1:30:00)

Commissioner Ogden expressed concerns regarding State Purchasing processes and procedures. It is broken in the State of Utah citing examples incurred in Sevier County wherein it does not save money. He suggested the Board not get tied up in that system and noted that requiring the use of State Purchasing could present additional problems.

Treasurer Damschen indicated Chris Hughes, Department Director over State Purchasing could facilitate a discussion to ensure better partnering between state entities and the Department.

Chairman Hardy referred to CIB staff as to the implementation of State Purchasing requirement for CIB application, noting the Board's decision was approved at the September 3, 2020 meeting.

Ms. Powers indicated applicants who were funded in October received an email with information regarding the new requirement which has caused some concern with the recent funding recipients.

Chairman Hardy suggested the new requirement become effective January 1, 2021 and suggested an invitation to State Purchasing to participate at the December 10, 2020 Board Meeting for discussion. If the Board needs to adjust this decision, there will be better understanding where the adjustments should be. There has been feedback from the communities concerning obstacles in this requirement. If there is a simple solution, we need to determine that. The policy should be adjusted before we fully implement it.

***Naghi Zeenati made and Jack Lytle seconded a motion to move the requirement of using State Purchasing for funding over \$1,000,000 to January 1, 2021.***

Commissioner Lytle noted this delay is a positive effort to clarify...to make certain the Board has things in place for our customers - the entities doing projects.

The Chairman called the question.

***Naghi Zeenati made and Jack Lytle seconded a motion to move the requirement of using State Purchasing for funding over \$1,000,000 to January 1, 2021. The motion carried unanimously through voice vote.***

**Chapter V: Internal Policies Are Not Consistently Followed or Are Incomplete** (Audit Page 45)

***Discussed and finalized November 5, 2020 (above)***

Chairman Hardy reviewed the prior Board actions on the Audit Chapters II and IV (see above). All audit issues have been discussed and are now final. A final audit document will be provided to the Board.

[01:39:51]

**ADJOURNMENT**

The next meeting of the Permanent Community Impact Board will be December 10, 2020 to be held virtually via Zoom Webinar.

The adjourned at 10:10 am.

Submitted by:  
Pamela Sjostrom  
Candace Powers