

Ruland Gill, Chairman  
David T. Terry, Director

MINUTES OF THE MEETING OF THE  
SCHOOL AND INSTITUTIONAL TRUST LANDS  
BOARD OF TRUSTEES

DATE: DECEMBER 14, 1995

PLACE: SALT LAKE CITY, UTAH

ATTENDING:

BOARD

STAFF

Ruland Gill  
John Harja  
Barbara Hjelle  
I. D. Nightingale  
Scott Robertson

David T. Terry  
Kevin Carter  
Jim Cooper  
John Andrews  
Dave Hebertson  
Richard Wilcox  
Doug Johnson  
Lynda Belnap

OTHERS IN ATTENDANCE

Laurie Poulsen, Governor's Office of Planning & Budget  
Margaret Bird, Beneficiaries' Representative  
Ric McBrier, Attorney General's Office  
Sherm Johanson, UAESP  
Paula Plant, Utah PTA  
Wes Johnson, Utah Parks & Recreation  
C. Booth Wallentine, Utah Farm Bureau Federation  
Dick Buist

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Chairman Gill welcomed Board members and staff to the meeting. He noted that Ms. Liston is recovering from surgery and will not be in attendance. He also noted that Mr. Peay is ill and will not be in attendance.

1. Board Business

a. Approval of Minutes & Next Meeting Date

Hjelle / Nightingale. Motion approved.

"I move we approve the Board minutes of October 25, 1995."

Roll Call:

Mr. Harja -- yes

Ms. Hjelle -- yes

Mr. Nightingale -- yes

Mr. Robertson -- abstained

Mr. Gill -- yes

The minutes of November 20 had not yet been sent to the Board.

The next meeting was set for January 12, 1996. Chairman Gill noted that the Governor wants to meet with the Board and the Director. This meeting has been set for January 12 at 11:30 a.m., in the Governor's office. Because of the legislative session, there will not be a February meeting. If there is any legislation that is critical to us in some way, we may call a conference call meeting.

b. Adoption of Prior Policy Statements

There were no policy statements for adoption this month.

e. Director's Report & Business

i. Real Estate Development Update

(1) St. George Update

The Director gave the Board an update on the St. George area. Two development projects are underway -- Gateway and Warm Springs. The agency has collected \$109,000 on Warm Springs to date, which is our share of the lot sales. We have collected \$26,950 from Oasis Leisure Homes. On Gateway, we have realized income of \$24,000. We have recently amended the lease agreement to allow them to close the remaining low-income units. We will realize income from this

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1. Board Business (cont'd)

e. Director's Report & Business (cont'd)

i. Real Estate Development Update (cont'd)

(1) St. George Update (cont'd)

at the end of the year. We have scheduled a meeting next week to discuss taking some of the land out of this lease for a commercial development area. We will talk to applicants regarding a long-term lease or a sale. We would prefer a long-term lease. There is also a golf course/residential portion that is not yet underway. Our goal with Gateway is to help them succeed with the idea being that, if they succeed, we succeed. We hope to have a meeting with them in January to work out some final agreements.

We also have some large proposals. There is a Green Springs Golf Course proposal, which is near Warm Springs development. We are also working with Genstar regarding developing some lands in the St. George area. We met with them to discuss development philosophy in general and the market in the St. George area. Primarily, these people are residential developers. They have identified a market of about 800 building permits per year. They could get about 10 percent of that market. They suggested trust lands would be wise to consider the market share we want to try to capture among all our projects in the area.

(Mr. Gill left the meeting at this point.)

This is one of the things we are going to look at in considering how many developers we will choose.

(2) Park City Update

In the Park City area, we have three special use lease agreements. One is a recreational lease that the developer would like to use for development. SULA 419 is the Wolf Mountain lease, which allows for development and recreational development. SULA 825 is the Lehmer/Condis family lease. The family owns the majority of the private land around this lease. United Park City Mines has some of it. This is the White Pine area. The residents in the area are sensitive to development. We are working on an exchange of these lands by using some of the lands in the Desert Tortoise Habitat area. We will work with BLM on this as well as the county.

1. Board Business (cont'd)

e. Director's Report & Business (cont'd)

i. Real Estate Development Update (cont'd)

(2) Park City Update (cont'd)

Basically, in this area the county is asking for cluster development. Our goal is to receive an equal benefit from the trust lands in the area as the private lands will receive. We are meeting next week with some of the county planning staff. SULA 841 is a small lease held by Trans-Wasatch, an affiliant of United Park City Mines. The lessee has an agreement with the agency which can affect nine agreements we have with them. This is a complicated lease arrangement that is not beneficial to either party. They would like to privatize a road, but they can't do it without our permission. Therefore, this will lead to a renegotiation of the lease agreement so that it will be more beneficial to both parties.

ii. Bureau of Mines Building Update

Ted Stephenson, of BLM, would like this agency to buy the Bureau or Mines Building by trading some quantity grant selections of the University of Utah, which may still have a 40-acre selection outstanding. Utah State University still has about 2700 acres remaining. Apparently, the latest proposal regarding this building is that Utah State would be a partner with the University of Utah in acquiring the building. Mr. Stephenson has spoken with the Interior Department regarding the quantity grant that the University still has and the problem with Interior giving the State a building when there is an outstanding debt. We have held that the Bureau of Mines Building is a great building, but not one we are wanting to get into right now. We think it is in the best interest of the beneficiaries to use those acres to acquire lands that have more potential for development.

iii. Surface Program Update

Mr. Wilcox stated that, in the last little while, we have discovered some cases of illegal subleasing -- one is on a communication site on West Mountain. There was a lessee illegally subleasing part of the site. (Mr. Gill returned at this point.) Also, a grazing lessee in Utah County was illegally subleasing. We collected \$9,000 on the grazing permit and then put the permit up for bid, on which we received four bids and a \$26,000 fee.

1. Board Business (cont'd)

e. Director's Report & Business (cont'd)

iii. Surface Program Update (cont'd)

There was a surface staff meeting this month; and the Director gave instructions on the business plans, monthly reports, etc. The Realty Specialists met with the Director on an individual basis regarding issues in their respective areas.

Ms. Hjelle stated she assumes the Staff is reviewing the Dixie Resource Management Plan. Staff indicated they are and are attending the public meeting tonight on it. The Director noted we have discussed the plan with the BLM. BLM stated this has gone on for 11 years, and they need to get a plan in place. The Director indicated it needs to be a good plan, however, and not a bad plan even if it takes six more months.

iv. Mineral Program Update

Mr. Cooper stated that many of the things the Minerals Section has been working on involves potential litigation and are not proper for discussion. He introduced Wes Johnson, of the Division of Parks and Recreation, who is working with the agency on the Wasatch Mountain State Park phosphate issue. Mr. Johnson stated they are looking at getting the legislature involved in possibly appropriating Parks some funds to pay a one-time payment for this resource. He indicated they will keep the Trust properly informed.

(1) Sec. 29 IRS Proposal

Mr. Cooper reviewed the Section 29 IRS proposal with the Board. This is a royalty interest sale - not a mineral interest sale. The interest is attached to a particular mineral lease, a specific well and formation; and the interest terminates when a lease terminates or a well is plugged. There are approximately 460 wells involved - 90,000 mmbtu's of production/month. Seventy percent of the production is from tight gas (63,000 mmbtu's = \$32,760/mo) and 30 percent from coal bed gas (27,000 mmbtu's = 28,080/mo). The credit is available through the year 2002. Staff scoped out what partners would be possible based on knowledge and experience. We came up with a short list. There were some limiting factors on who wanted to participate. Stephens Groups, Inc., was chosen. The Staff and some Board members met with Stephens, reviewed their background, discussed the basic transaction, and entered into a Letter of

1. Board Business (cont'd)

e. Director's Report & Business (cont'd)

iv. Mineral Program Update (cont'd)

(1) Sec. 29 IRS Proposal (cont'd)

Intent. We are now proceeding with the agreement based on the Letter of Intent. The letter authorizes a reserve analysis by an independent third party. Stephens and our agency will split the cost of this analysis. The analysis will show the history of the wells, operating costs, gas price forecasts, and ultimate recovery of the economic life of the wells. Stephens Group also undertook a due diligence agreement. The basic terms are: Stephens, at closing, will pay us for the net present value of the 1st 10 percent of the estimated recoverable reserves (approximately \$350,000). We would retain the underlying mineral interest and Stephens would receive the royalty interest. We would receive back a production payment of 99 percent of the actual production revenue. We would also receive 55 percent of the value of the tax credit. When the well has produced 90 percent of the estimates, they get 100 percent of the production proceeds and we get zero, as they have already paid us for the last 10 percent. If the estimates are not correct and the wells produce more than estimated, the remaining would be split 75 percent to us and 25 percent to Stephens. If the wells do not produce the estimated value of gas, there is no adjustment. Ms. Bird asked if there was a problem with the Constitution on the remitting back of the one percent royalty payment. Mr. Cooper noted that this is not a mineral sale, but a royalty interest sale. John Andrews stated this transaction also has to be approved by the IRS.

Mr. Cooper discussed with the Board a table showing the composite reserve estimates on the coal seam gas and the tight sands wells. The net present value of the entire tax credit is about \$3.8 million. Based on the information, we have, if we did this deal without any tax credit, we would receive \$10,770,000 through the life of the deal. The net present value of that is \$6.8 million. If we did the deal as structured and receive the tax credit, the total value of the tax credits is \$2 million. The net present value is \$1.6 million. Therefore, we would have \$7.8 million net present value. We would have a net present value increase of \$1,057,000. Mr. Cooper noted that our transaction costs will be approximately \$15,000 for the study and the attorney we have working on it. We have a Letter of Intent and are working on a final draft. We are expecting to close this effective January 1, and not later than January 31. We will need Board approval of the

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1. Board Business (cont'd)

e. Director's Report & Business (cont'd)

iv. Mineral Program Update (cont'd)

(1) Sec. 29 IRS Proposal (cont'd)

final agreement. John Andrews gave the Board a copy of the draft agreement for the Board's review. There will be additional documents; i.e., a deed of trust, an agreement allowing us to do the accounting, etc. This is proprietary material. A telephone meeting will be held to approve the final agreement. Chairman Gill recognized the Staff's initiative pursuing this opportunity.

v. Report on Cattlemen's Assoc. Meeting

Director Terry reported on the Cattlemen's Association Meeting. The Director, Ms. Liston, and Don Peay served as a panel at this meeting. Dave Hebertson also attended. The Director felt it was a great opportunity to work with these people. We emphasized to the Cattlemen that they are an important part of trust lands, bringing in about \$500,000 per year. The Director felt the meeting went very well. There are still some questions regarding grazing trust lands. Mr. Terry noted to them that our current rules do allow for competitive bidding. When a permit expires, it is open for competitive bid. At the time of bid, the previous permit holder has the right to match the highest competitive bid. Some of the livestock industry has concerns about this. Booth Wallentine, from the Farm Bureau, stated that there was a better feeling about the communication than he has seen for a long time between the trust and the grazing industry. He was pleased to see the Director at their meeting. He complimented the Board and Director on the openness that was expressed at the meeting. The Director noted that Allen White, a Tabby Mountain block grazing permittee, is following up on the suggestion to have a committee to work with the Board and Staff on the grazing issue.

d. Chairman's Report

i. Critical Success Factors, Mission Statement and Vision Statement

The Chairman gave the Board a draft of the Critical Success Factors including comments from the beneficiaries. The Board reviewed the draft in detail. The Chairman noted the numbers have been taken off and the document put in "bullet" format so that there is no priority on the items. The beneficiaries have added one which

1. Board Business (cont'd)

d. Chairman's Report (cont'd)

i. Critical Success Factors, Mission Statement and Vision Statement (cont'd)

reads "Focus on revenue production to the beneficiaries while enhancing the value of the asset base". The Board felt this was their fundamental duty and not necessarily a critical success factor. The Chairman recommended it be taken off. The Chairman noted that these will basically be established for a year. During that year, the Board will decide what to do to bring them about and then review them again for updating the next year. It was noted that there would be nothing to prevent revisitation or review of them during the year as necessary. The next document would describe how to accomplish each one of these. The Board reviewed these and made some changes. Ms. Bird stated she felt strongly that the one they added should be left in. After discussion, the Board felt possibly this should be a mission statement, but still felt it was not a critical success factor.

The proposal by the beneficiaries is as follows:

- \* Focus on revenue production to the beneficiaries while enhancing the value of the asset base.
- \* Conduct business and agency activities with honesty and integrity.
- \* Maintain business-function flexibility as to rapidly deploy resources in response to new or changing conditions/opportunities, whether surface or mineral.
- \* Continuously find ways to improve the efficiency and effectiveness of business processes.
- \* Continue to evaluate and prudently utilize technology within business processes especially by retaining and developing key employees.
- \* Capture the added value from the trust lands' surface inventory by providing cost-effective infrastructure development prior to sale or lease.

1. Board Business (cont'd)

d. Chairman's Report (cont'd)

i. Critical Success Factors, Mission Statement and Vision Statement (cont'd)

- \* Identify potential value-adding assets within the current trust land ownership and develop ways to exploit them as market conditions allow.
- \* Maintain an active list of options and plans to bank and/or develop trust lands for long-term growth in earnings while providing optimum near-term income and additions to the permanent fund.
- \* Capture value by repositioning non-performing assets into revenue-producing activities.
- \* Foster an organizational structure which enhances flexibility, teamwork, creativity, communication, coordination, and efficient process management.
- \* Foster within employees a broad business understanding and knowledge of how key performance parameters measure success.
- \* Identify and develop essential core competencies among the management and employees.
- \* Provide a clear definition of goals and strategies as well as a framework in which to achieve them and link the compensation plan for the management team to the achievement of the goals and objectives.
- \* Benchmark key performance parameters with past results, current programs, and future goals.
- \* Cultivate mutual trust and confidence between School and Institutional Trust Lands Administration and users of trust lands.
- \* Establish clear communication channels and foster support from government, business, and educational leaders.

1. Board Business (cont'd)

d. Chairman's Report (cont'd)

i. Critical Success Factors, Mission Statement and Vision Statement (cont'd)

After detailed discussion of the above, the Board made the following motion.

Harja / Hjelle. Unanimously approved.

"I move we adopt Critical Success Factors as proposed by the beneficiaries except that we eliminate #1, change #6 to read 'Capture added value from the trust lands' surface inventory by providing infrastructure development as appropriate prior to sale or lease', and use the Chair's previous draft on numbers 8 and 15."

Roll Call:

Mr. Harja -- yes

Ms. Hjelle -- yes

Mr. Nightingale -- yes

Mr. Robertson -- yes

Mr. Gill -- yes

c. Status Report on Board Assignments

i. Wilderness Bill Update -- John Harja

Mr. Harja reported that the wilderness bill changes almost hourly. We had a conference call meeting last week for an update on this. There have been significant amendments specifically dealing with some sort of a value determination process. It is being proposed that there be a window of no more than four years to decide what to do on the process. This is still open for discussion. It is out of the Senate and floor time is uncertain. They are looking at February or March. There might be some available floor time before Christmas, but we don't know if this will be heard. The House vote was set for this week. The committee met last week and presented an amended bill that did not include the Senate amendment. It had other changes regarding treating exemptions to various projects that cause concern. There were other changes presented, and that substantially is what went through the House Rules Committee and will be offered on the floor. However, today it was pulled from consideration and they are looking at January for discussion. It

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1. Board Business (cont'd)

c. Status Report on Board Assignments (cont'd)

i. Wilderness Bill Update -- John Harja (cont'd)

seems to be a timing issue. It looks like January for a House vote and the Senate awaits action. There are two versions in the House at this time. We have a new map that shows the Waldholtz' amendments. Representative Waldholtz is prepared to offer the new map when the bill is presented.

Ms. Hjelle asked if Mr. Harja felt the language as now drafted would preclude us from selling land, etc., before offering them for wilderness. Mr. Harja stated he intends to offer further amendments to make this more clear. There will also be some timeframes for responses included. Ms. Hjelle asked about how effective the environmental community will be after the first of the year, since they have had much press recently. Mr. Harja stated they will get much input no matter when the bill is heard. Possibly, we need to get a PTA "phone tree", etc., working at the time it is to be heard. Mr. Harja stated that, even if the wilderness bill passes, it is our option to look at lands that we might want to sell, etc. Chairman Gill stated that an editorial in the U. S. News Today was not necessarily correct as far as how much is spent on the wilderness recreation. The surveys are really stretched.

Ms. Bird asked if the Administration had looked at all the lands that are going to be impacted by wilderness and see if we could determine if there is something we could do to increase the values of our lands or our adjoining lands. Mr. Carter noted this is one of the Executive Session issues.

Hjelle / Harja. Unanimously approved.

"I move we go into Executive Session for the discussion of strategies and valuation and the purchase, exchange, or lease of real property."

Roll Call:

Mr. Harja -- yes  
Mr. Nightingale -- yes  
Mr. Gill -- yes

Ms. Hjelle -- yes  
Mr. Robertson -- yes

1. Board Business (cont'd)

c. Status Report on Board Assignments (cont'd)

i. Wilderness Bill Update -- John Harja (cont'd)

The Board went into Executive Session at 12:30 p.m. Those in attendance were Board members, David Terry, Dave Hebertson, Jim Cooper, Kevin carter, Richard Wilcox, Ric McBrier, John Andrews, Laurie Poulsen, Lynda Belnap, and Margaret Bird. The Board returned to open session at 1:40 p.m.

Hjelle / Robertson. Unanimously approved.

"I move we return to open session."

Roll Call:

Mr. Harja -- yes

Ms. Hjelle -- yes

Mr. Nightingale -- yes

Mr. Robertson -- yes

Mr. Gill -- yes

2. Lunch -- Executive Session Will Be Necessary For Discussion of UEA Law Suit

The Chairman asked Ms. Bird to give the Board comments on the UEA suit. She noted the Board is taking about five minutes to hear her and then probably about one our to hear the other side of the case. The Director asked her why we hadn't heard back from Superintendent Scott Bean regarding a letter we sent on this issue. Ms. Bird said Superintendent Bean is very busy and has been out of town. Ms. Bird noted this is a UEA suit, but now the Board of Education has entered and UEA has actually withdrawn. This was filed against the Board of State Lands and Forestry. After the agency was divided, UEA withdrew. This Board has not been named. She stated she hopes the Board will not consider being a defendant on this. Scott Bean feels passionately about this, and she doesn't feel he will bend. They feel strongly about school dollars being used to fight the State School Board.

Hjelle / Harja. Unanimously approved.

"I move we go into Executive Session for the purpose of discussing litigation."

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2. Lunch -- Executive Session Will Be Necessary For Discussion of UEA Law Suit (cont'd)

Roll Call:

Mr. Harja -- yes  
Mr. Nightingale -- yes  
Mr. Gill -- yes

Ms. Hjelle -- yes  
Mr. Robertson -- yes

The Board went into Executive Session at 2:00 p.m. Those in attendance were Board members, David Terry, Kevin Carter, Ric McBrier, John Andrews, Laurie Poulsen, and Lynda Belnap. At 3:00 p.m., everyone except the Board members and the Director was asked to leave. The Board returned to open session at 3:30 p.m.

Later in the meeting, the Director noted that Superintendent Scott Bean's Office had called; and he wants to meet with the Board and Director, Carol Lear, and Laurie Chivers this coming Monday at 1:30 p.m. Scott Robertson will attend with the Director. Any Board member that wants to attend may do so.

3. Proposed Policies and Procedures to Replace Procurement Code

Ric McBrier reviewed this issue with the Board. SITLA desires to use real estate brokers or real estate consultants from time to time in the marketing of its properties for sale, leases, exchange, or involvement in a joint venture or another business arrangement. SITLA believes that the selection, negotiation, and contracting of service providers can best be accomplished outside the restrictive procedures of the Utah Procurement Act. SITLA's authorizing statute permits the Board of Trustees to exempt the agency from the procurement statute through adoption of (1) a resolution of exemption; and (2) simultaneous adoption of policies of procurement, which "enable the administration to efficiently fulfill its responsibilities under the law". SITLA proposes that such an exemption resolution and procurement policy be adopted as to the retention and use of real estate brokers and real estate consultants in connection with proposed real estate transactions.

A proposed Resolution is as follows:

The Board of Trustees of the School and Institutional Trust Lands Administration ("SITLA") hereby exempts SITLA from the provisions of Title 63, Chapter 56 in connection with the following procurement activities: procurement of real estate brokerage or consulting services in connection with the

3. Proposed Policies & Procedures to Replace Procurement Code (cont'd)

marketing of the surface interest in trust lands for sale, lease, exchange, or involvement in a joint venture or other business arrangement. All contracting in connection with the retention of such services shall comply with the procurement policies being adopted by this Board of Trustees simultaneously herewith.

Proposed Policy is as follows:

1. The use of real estate brokerage and real estate consulting services ("Real Estate Services") in connection with the marketing of the surface interest in trust lands for sale, lease, exchange, or involvement in a joint venture or other business arrangement (a "Real Estate Transaction") is an appropriate vehicle in SITLA's ongoing effort to maximize return on trust assets.
2. The director of SITLA, working with his staff, is the appropriate party to determine those instances in which the use of Real State Services is appropriate.
3. It is appropriate that SITLA, in seeking Real Estate Services, have maximum flexibility in selecting the identity of the service provider as well as in negotiating the detailed terms concerning the services to be provided, and therefore, in connection with the retention of such services, SITLA should be freed from the procedural and substantive constraints of the Utah Procurement Code pursuant to the authority of the Board of Trustees under U.C.A. 53C-1-201(3)(a)(iv).
4. In taking action to obtain Real Estate Services, the Administration shall comply with the following internal procedures:
  - a. Prior to the retention of any service provider for real estate brokerage or consulting services (hereinafter, "Real Estate Services") in connection with the marketing of the surface interest in trust lands for sale, lease, exchange, or involvement in a joint venture or other business arrangement (a "Real Estate Transaction"), the director shall make a written determination that the retention of such Real Estate Services will, in the judgment and discretion of the director,

3. Proposed Policies & Procedures to Replace Procurement Code (cont'd)

enhance SITLA's opportunity to achieve optimum terms and conditions in connection with a proposed Real Estate Transaction, and will be in the best interests of the trust beneficiaries.

b. In connection with the solicitation for any Real Estate Services, SITLA shall contact at least three (3) potential service providers and seek proposals from such providers. SITLA may select one or more of such service providers for negotiation concerning the character and cost of such services, and may elect to enter into a contact with any one of such service providers without negotiation with the other potential service providers. SITLA shall make a written determination of the reason for its decision to select and negotiate with the chosen service provider.

c. Any service provider selected to perform real estate brokerage services (as opposed to consulting services) shall be fully licensed and in good standing in all regards with the State of Utah.

d. Any contract let to a service provider shall consist of terms and conditions (including commission or compensation structure) consistent with good commercial practices observed in the nongovernmental business community.

e. Any contract let to a service provider shall be approved by SITLA's legal counsel as to both form and substance.

f. SITLA shall not enter into any contact with a service provider which violates or, on account of factual circumstances or persons involved, gives the appearance of a conflict of interest or potential violation of the Utah Public Officer's and Employee's Ethics Act.

The Board discussed this proposal at some length. Mr. Robertson stated in the RFP there should be a disclosure requirement for contractors to disclose whether they have any conflicts regarding any employee in the agency or any Board members or whether they are working with anyone who has a contract with us. This wouldn't mean they would be eliminated, but only that they need to disclose this type of information. Mr. Robertson stated that we need to make

3. Proposed Policies & Procedures to Replace Procurement Code  
(cont'd)

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sure they will represent the seller and not the transaction. They would need to disclose this to the purchaser. Mr. Nightingale stated he felt that no matter what you do when you go out to the public with a real estate person, there will be some perception of "cronyism". Possibly, it should come to the Board after the fact. This would give oversight. Mr. McBrier stated it would be very simple for the agency to provide a short description of this type of arrangement to the Board. Mr. Nightingale noted he was happy to see us going to the private sector to obtain services.

Mr. Harja noted that there is a concern that this exemption might need to be approved by the legislature. He asked Mr. McBrier to look into this to see what his opinion was on whether or not it should. Mr. Gill noted that, in the definition of the real estate services, only surface is covered. Mr. McBrier stated this was by design. Mr. Gill stated possibly a mineral landsman would need to be used. He thought surface and minerals should be able to be deployed. Mr. Gill asked that the disclosure suggestion from the agency to the Board be followed. He suggested that prior to doing this, we notify the Board Chair. After it is done, notify the entire Board. This is only for purpose of their edification. Mr. Gill also asked that somewhere in the actual procedure the statutory authority be noted.

Ms. Bird stated this is great. It is her impression that banks keep a list with whom they have done successful transactions -- a "preferred vendor" list. She feels it would be important for the agency to start to develop a list like this. She also thinks it is important that we have a procedure in place that they get their commission immediately.

Mr. McBrier noted that, in light of this, there will need to be some discussion regarding how these people will be paid and where the money comes from. Historically, the money needs to go to the Permanent Fund from sales. It is our intention that the commissions come out of the development fund, which is appropriated annually. Mr. Nightingale asked if the selling price could be lowered to pay the commission. Mr. McBrier noted that would be very difficult.

In review, there needs to be modifications made to the policy which include (1) an obligation for those we do business with to give a disclosure statement; (2) prior to entering into any of these

3. Proposed Policies & Procedures to Replace Procurement Code  
(cont'd)

transactions, the Chairman would be notified (3) subsequent to hiring, a report would be given to the entire Board; and (4) the statutory authority will be noted.

Harja / Nightingale. Unanimously approved.

"I move that we approve the policy as written with the amendments as proposed and direct that Mr. McBrier and Mr. Harja write the actual resolution for adoption at the next meeting."

Roll Call:

Mr. Harja -- yes

Ms. Hjelle -- yes

Mr. Nightingale -- yes

Mr. Robertson -- yes

Mr. Gill -- yes

4. Proposed Policies and Rules to Allow Director to Reject  
Applications

Mr. Kevin Carter noted that the Board has expressed on several occasions its desire to allow the Administration to terminate an application that is not received at a desirable time or for a desirable purpose. The Administration has interpreted this as policy direction to develop rules that would give the Director greater flexibility in rejecting applications.

Rule amendments have been prepared which would enact this policy. The rules were developed to allow the Director to reject applications within three days of receipt for several reasons. Primarily, these reasons deal with prioritization and interference issues. For example, the rule would allow the agency to reject applications of leases, sales, easements, materials permits, or exchanges in areas where staffing capabilities were inadequate or when processing an application for a sale might jeopardize the ongoing inholdings/wilderness processes.

The Staff is suggesting three days as the time line to make this decision. The reason for this is Section 51-4-1- which reads:

4. Proposed Policies and Rules to Allow Director to Reject Applications (cont'd)

All officers, boards, commissions, institutions, departments, divisions, agencies, and other similar instrumentalities of the state of Utah shall deposit daily all collections of state money and other public funds transferred by this act to the state treasurer for deposit or investment whenever practicable, but not less than once every three days in a qualified depository for the credit of the state treasurer or with the state treasurer. The state treasurer may promulgate appropriate rules and regulations for the reporting and remitting to him of these funds.

Mr. Carter stated that, if we deposit an application fee, there would be agency-incurred costs in refunding it. Consequently, we would like to make this decision prior to depositing the fee; and if we choose to reject the application, we can return the fee as submitted.

Staff suggests the following addition to the rules:

R850-30-500. Application Procedures

1. Submittal

Applications for surface leases may be submitted to the Salt Lake Office, or area offices during office hours. The director may reject an application and return the application fee within three days of filing by making a finding that:

(a) agency activities with higher priorities would be adversely impacted by processing the application;

(b) the agency is presently considering an existing application or activity on the parcel; or

(c) the agency is anticipating an agency-initiated activity that would be adversely impacted by processing the application.

This same language would be added to R850-40-700(1), R850-80-300(1), R850-90-300(2), and R850-130-400(1). The Board was given copies of all these proposals.

The Board discussed this issue at some length. Mr. Robertson stated he feels it should be the Director's sole discretion and

4. Proposed Policies and Rules to Allow Director to Reject Applications (cont'd)

that applications should be able to be denied for any reason at all. Mr. Gill stated that every decision that is made has business and political ramifications. Therefore, he feels these rules would be needed. There was some concern regarding not refunding of the application fee in the other areas of the rule. Mr. Carter noted the rules could be modified by non-substantive changes to make them all consistent.

Nightingale / Hjelle. Unanimously approved.

"I move we concur in these rules."

Roll Call:

Mr. Harja -- yes

Ms. Hjelle -- yes

Mr. Nightingale -- yes

Mr. Robertson -- yes

Mr. Gill -- yes

5. Information Systems Update

The Director gave the Board a fiscal monthly report prepared by Mr. Johnson. Mr. Johnson reviewed this report in detail with the Board. Ms. Bird asked if the new information system will provide all the types of information we need by only entering the base information once. Mr. Carter explained that it is not necessarily what our system will be capable of doing, but what the State Fi-Net system will be able to accept. Mr. Nightingale asked that we add a month-to-month comparison on the reports. Mr. Johnson explained that income comes in cycles because of the billings, etc; therefore, the months would not necessarily be able to be compared. Mr. Nightingale stated he would like three columns on the report: (1) the current month, (2) last month, and (3) the current month a year ago. Mr. Cooper noted that there is a difference on the simultaneous sale numbers that he reports and the ones Mr. Johnson reports. Mr. Johnson stated it is the process that makes this difference. When the offering is opened, all the monies are deposited in the Suspense Account. They stay there until the lease is processed and returned, at which time the money for that lease is deposited to the proper accounts. The money shows up on Mr. Johnson's charts when the money is transferred. Mr. Nightingale

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5. Information Systems Update (cont'd)

noted that possibly a "suspense" column could be shown, which would account for the difference. By seeing the total income coming in and the total amount in suspense, it would give the Board a gross sales value. Mr. Nightingale will work with Staff on getting this into proper format.

Mr. Carter noted that we are working toward being able to enter data only once and have it be able to be distributed to both systems. If Fi-Net cannot deliver this ability by next month, we are going to obtain the hardware that will do this internally. We are still working on making our system compatible with the Fi-Net system enough to output reports that are useable for all our needs. We are still working on a system that will handle all our data needs. Our T-1 line is connected through the Department of Natural Resources (DNR). It is not a reliable link. This is also our link to everything else; i.e., the Capitol Building, etc. Therefore, we made a request and received permission to get our own direct line to the Capitol. The line was installed the week our employee who works on it left our agency. She came back and tested it, but it was much too slow. Now we have a new DP person who has been working on this. We now think we are ready to make the change.

Mr. Carter explained to the Board briefly our home page on the Internet. Mr. Buist stated that our hardware is so state-of-the-art that our personnel knowledge base is not up to that. Mr. Carter noted that within the next two months he hopes to make the T-1 change. We are also hoping to be fully off the DNR system soon. We have decided on the hardware we need and are trying to get it loaded now. We are doing full backups daily with the new system. The RFP that is now out is for the software that will run all this. The system we are getting is three times faster than DNR's system. We have received five bids on the RFP. We are just beginning to evaluate them. Staff would welcome the Board's input.

6. Legislative Update

The Chairman gave the Board a draft bill regarding the conservation of oil and gas which will be considered in this upcoming legislative session. It will be legislation that will affect our agency, and he asked that it be reviewed by Staff and the Board. He noted his company does not have interest in the three fields involved nor do they have an interest in the bill. He does want to declare a possible conflict, however. This bill is an enhanced recovery bill. He asked Mr. Cooper to come back next month to make a recommendation regarding it.

6. Legislative Update (cont'd)

Mr. Carter noted that the Board has adopted several legislative changes for this year. The Association of Counties has agreed to support and find a sponsor on the right-of-way extension bill. They have contacted Representative Tom Hatch. He stated he would be glad to sponsor this. Mr. Carter has asked him to sponsor the other bills we are proposing. Jim Wilson, of Legislative General Counsel, is working with us on the bills. The counties have asked for our support on the RS 2477 bill for a request for additional general funds to help in preparing their case. The Board felt we should support this. Mr. Carter noted that we have not heard that the counties have anything else that will affect us.

Chairman Gill asked Ms. Bird to report in January on any legislative activity that would affect our agency. He asked Mr. Carter to contact the counties and ask them to report on their issues in January. Mr. Cooper noted that Parks and Recreation may be running a bill to appropriate money for the Wasatch Mountain State Park phosphate issue.

Meeting adjourned at 4:35 p.m.