

**MINUTES FOR REGULAR COMMISSION MEETING HELD MARCH 17, 2008
BEGINNING AT 1:00 P.M. IN THE COMMISSION BOARD ROOM IN DUCHESNE,
UTAH**

Present

Commission Chairman W. Rod Harrison, Commissioner Kirk J. Wood, Deputy County Attorney Jonathan Stearmer, and Commission Assistant BobbiJo Bailey taking minutes of the meeting.

Absent

Commissioner Kent R. Peatross

Opening Comments

Assistant Bailey gave the prayer. There were no other comments.

Pledge of Allegiance

Any wishing to participate.

Consideration Of Payment Vouchers

Clerk Auditor Diane Freston joined the meeting at 1:06 P.M...

Both commissioners reviewed vouchers #105060 through #105137 dated March 08, 2008 in the amount of one hundred twenty thousand eight hundred two dollars and sixty nine cents (\$120,802.69). *Commissioner Wood motioned to approve the vouchers as presented. Chairman Harrison seconded the motion. Both commissioners voted aye and the motion passed.*

Consideration Of Oil And Gas Lease

Attorney Stearmer stated to unilaterally just accept a lease proposal is not the proper way of doing things with county property and will open it up to bid doing the proper functions.

Consideration Of Contract With Sheriff Department And Non-Coin Operated Inmate Telephone System

Attorney Stearmer stated that in further researching this, it would be appropriate to have the Sheriff's Office sign this contract; not needing the commission signature under these circumstances.

Consideration Of Resolution No. 08-06 A Resolution Adopting A New Fee Schedule Concerning Road Crossing And Easement Encroachments

Public Works Director Glen Murphy & Glen Durfey joined the meeting at 1:12 P.M...

Director Murphy stated that the letters have not been mailed out to the water companies but will go out today; and would recommend waiting until next Monday before we proceed. *Commissioner Wood motioned to postpone the adoption of Resolution No. 08-06 until further notice. Chairman Harrison seconded the motion. Both commissioners voted aye and the motion passed.*

Consideration Of The Minutes For Regular Commission Meeting Held March 10, 2008

Commissioner Wood motioned to approve the minutes as presented. Chairman Harrison seconded the motion. Both commissioners voted aye and the motion passed.

Adjournment

Chairman Harrison adjourned the meeting at 1:20 P.M.

1:30 P.M. Public Hearing --

Consideration Of Ordinance No. 08-260 An Ordinance Amending The Duchesne County Subdivision Ordinance

County Community Planning Administrator Mike Hyde joined the meeting at 1:30 P.M...

Administrator Hyde stated that there are amendments to the standards for the minor subdivision, mostly to either comply with state law or to address some short comings in minor subdivision rules we have come across in the last year. He also stated that the one hundred (100) year flood areas will be shown on preliminary and final plat maps once the county gets the study completed by the Federal Emergency Management Agency (FEMA), but the most significant part of this amendment is to address some inconsistencies that we had in our improvement guarantee

requirements for subdivisions; this would bring consistency to the improvement guarantee standards regardless of whether a sub-divider provides the county with a irrevocable letter of credit, escrow agreement, or surety bond. Administrator Hyde also stated that once the county accepts a road that is built according to county standards it is better determined to have two (2) winters elapse before the final ten percent (10%) of the improvement guarantee is released.

ORDINANCE #08-260

AN ORDINANCE AMENDING THE DUCHESNE COUNTY SUBDIVISION ORDINANCE

WHEREAS, Duchesne County desires to make amendments to its subdivision ordinance to address a wide variety of issues identified during administration of this ordinance; and

WHEREAS, the Duchesne County Planning Commission has advertised and conducted a public hearing on the proposed amendments and recommended approval thereof; and

WHEREAS, the Duchesne County Commissioners have advertised and conducted a public hearing on the proposed amendments and agrees with the Planning Commission recommendation.

BE IT HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS that:

SECTION 1. *The Duchesne County Subdivision Ordinance is amended as follows:*

Section 16.04.040 Definitions.

“Minor Subdivision” means the division of land into ~~nine~~ **ten** or fewer parcels provided that:

1. *A minor subdivision survey is prepared by a professional land surveyor for review and a decision by the land use authority after the required public hearing;*
2. *Minimum lot size and other land use standards are met (or a variance granted);*
3. *Written approval has been received from the sanitary sewer authority;*
4. *All parcels have public right of way access and no additional right of way is required to be dedicated pursuant to the Official Map or county standards;*
5. *Has ~~both a proposed~~ water source, approved in writing by the culinary water authority ~~and an electrical power source;~~*
6. *~~The division is not part of a phased development.~~ No further division by minor subdivision shall be allowed within one (1) year. Further division within one (1) year shall be accomplished by the standard subdivision process.*
7. *~~Commercial or industrial land divisions or divisions~~ **Divisions** requiring the construction of **public** roads, public water lines or public sewer lines are not eligible for the minor subdivision process;*
8. *The minor subdivision survey map is recorded in the County Recorder’s Office. **An electronic copy of the map shall also be provided to the Recorder at or before the time of recording.***

Section 16.12.030 Review procedure for a minor subdivision.

~~No minor subdivision, as defined by this code, shall be approved, filed or recorded until a public hearing has been held.~~ The Community Development Administrator is the land use authority for minor subdivisions and shall act as the hearings officer for minor subdivisions. ~~Notice of such public hearing shall be given in the same manner as for preliminary subdivision plats.~~ **A notice of intent to act upon a Minor Subdivision request shall be mailed to property owners within 300 feet of the land being subdivided, said notice to be mailed at least seven days in advance of the administrative decision date.** The Community Development Administrator shall use the standards in the definition of “minor subdivision” in making the decision to approve, approve with conditions or deny the request. The Planning Commission shall serve as the appeal authority for administrative minor subdivision decisions.

Section 16.16.030 Preliminary Plat Requirements

The preliminary plat shall be drawn to a scale suitable to show sufficient detail and shall be on twenty-four (24) inch by thirty-six (36) inch paper. The plat and attached documentation shall show:

A. The proposed name of the subdivision (there shall be no duplication of subdivision names within the unincorporated portion of Duchesne County).

B. Phased development shall include a master plan showing all future development in phases and their relationship to each other. In such cases, a drawing of the prospective future street system of the part submitted shall be considered in light of adjustments and connections with the future street system of the larger area. The preliminary plat shall show all property owned or optioned by the subdivider pertaining to the proposed subdivision at hand.

C. Sufficient information to locate accurately the property shown on the plat. The nearest section corner tie must be shown.

D. The names and addresses of the subdivider, the registered surveyor of the subdivision, and the owners of the land immediately adjoining the land to be subdivided shall be shown on the preliminary plat.

E. Contours at intervals to show the topography of the land shall be shown.

F. The boundary lines of the tract to be subdivided, including total acreage proposed for subdivision.

G. The location, widths, and other dimensions of all existing or platted streets and other important features such as easements, railroad lines, water courses (including irrigation canals and ditches), exceptional topography, bridges and buildings within or immediately adjacent to the tract of land to be subdivided.

H. Existing power lines, sewerage, storm drains, irrigation canals, water supply mains, and culverts within the tract and immediately adjacent thereto.

I. The locations, widths and other dimensions of proposed public streets, private streets, utility easements, parks, other open spaces and lots, with proper labeling of spaces dedicated to the public, or designated as private streets.

J. Buffer zones where noncompatible uses adjoin a proposed subdivision.

K. North arrow, and bar scale.

L. A review copy of proposed protective covenants, if applicable.

M. A statement of the existing zoning.

N. Proposed address of each lot.

O. Area of watershed, highlighting the resource areas of freshwater, groundwater, wetlands, and salt water, showing the various storm water best management practices in a systems approach.

P. Plans or written statements regarding the proposed storm drainage facilities and other proposed special improvements such as planting and parks, and any grading of individual lots.

Q. The proposed layout, dimensions, area, and number of each lot.

R. Established 66' right-of-way to existing County B road, state route or US highway.

S. Proposed construction, and permanent fencing along appropriate subdivision boundaries as determined by the Planning Commission. The fencing shall be as indicated in the subdivision standards.

T. The proposed Public Offering Statement, for subdivisions with ten or more lots, as outlined in Section 16.12.020 and any other items as established by the Planning Commission.

U. An approval letter from the sanitary sewer authority (Tri County Health Department) shall be on file with the planning office. The developer shall submit the following to the Tri County Health Department for their approval and approval shall be of record with the planning office ten working days prior to scheduling the preliminary plat before the Planning Commission:

1. Wherein onsite wastewater systems are proposed, the location of soil classification and percolation tests are shown proposing such use. Such location shall be indicated by "o" or a similar symbol.
2. Wherein onsite waste water systems are proposed, the results of all final soil and percolation test results shall be shown in the box table form on, or attached to, the plat over the signature of the person qualified to perform such tasks. This may be supplemented by a soils report from the local Soil Conservation District identifying the types of soils within the proposed subdivision area and identifying any soils constraints for a subdivision.
3. For any subdivision containing lots under 40 acres in size, and if a private water supply is proposed, the applicant shall submit adequate water rights and proof of water availability, flow and quality, in accordance with Section 16.28.030 (C) of this code.
4. For any subdivision, if a public water supply is proposed, the applicant shall obtain a letter of approval from the Division of Drinking Water and Tri-County Health Department stating the water supply meets the Safe Drinking Water Standards, or a letter from the Water District ascertaining sufficient amount of culinary water for the subdivision can be provided and water lines are being installed to each lot.

V. Areas subject to flooding in the event of a 100-year flood as determined by an adopted flood study.

Section 16.20.030 Final Plat Requirements

The final plat shall consist of a sheet of tracing Mylar at least three mil in thickness, approved by the County, to the outside trim dimensions of twenty-four (24) inches by thirty-six (36) inches, and the border line of the plat shall be drawn in heavy lines, leaving a space of at least one-half inch on the bottom, top, and right side, with at least one and one-half inches on the left side. The plat shall be so drawn that the top of the sheet faces either north or west, whichever accommodates the drawing best. All lines, dimensions, and markings shall be made on the Mylar with approved waterproof black ink. The plat shall be made to a scale suitable to show sufficient detail and the workmanship on the finished drawing shall be neat, clean and readable. The plat shall be signed by all parties duly authorized and required to sign, and shall contain the following information:

- A. A subdivision name in bold letters at the top of the Mylar as approved by the Planning Director, and a vicinity map locating the subdivision.
- B. A north point arrow, bar scale of the drawings and date.
- C. Accurately drawn boundaries showing the proper bearings and dimensions of all boundary lines of the subdivision. These lines should be slightly heavier than street and lot lines.
- D. The widths, lengths, bearings, (including basis of bearing), and curve data on center lines of proposed streets, and easements; the boundaries, bearing the dimensions of all portions within the subdivision as intended to be dedicated to the use of the public; the lines, dimensions, bearings, and the numbers of all lots, blocks, and parts consecutively by numbering approved by the Planning Commission. Private roads shall also be labeled. **Description or notation of lands within the final plat subject to flooding as determined by an adopted flood study.**

- E. Parcels of land to be dedicated as public parks or to be permanently reserved for private common open space shall also be titled “public park” or “private common open space,” whichever is applicable.
- F. The standard form approved by the Planning Commission for all subdivision plats lettered for the following:
 - 1. Legal description of the land for the subdivision.
 - 2. Registered professional land surveyor's “certificate of survey.”
 - 3. Owner's dedication certificate, including any records or other known interests.
 - 4. County Planning Commission's certificate of approval.
 - 5. Permanent address for each lot.
 - 6. County Commissioner's certificate of approval attested by the County Clerk.
 - 7. County Recorder’s certification of recording.
 - 8. Established 66 ft right-of-way to existing County B road or state route or U.S. highway.
 - 9. An affidavit from the County Treasurer showing that all taxes are current.
 - 10. An acknowledgment from the developer or their agent that the state of Utah Department of Business Regulation stating guidelines for the Land Sales Practices Act have been met for subdivisions having ten lots or more.
 - 11. A letter from the Road Supervisor approving the roads within the subdivision.
 - 12. The public offering statement as outline in Section 16.12.020.
 - 13. Title report.
 - 14. Any other items on the checklist as approved by the Planning Commission.

Section 16.24.030 Lots.

- A. The lot arrangement and design shall be such that the lots will provide satisfactory and desirable sites for buildings, and be properly related to topography and to existing and probable future utilities, rights-of-way, and other requirements.
- B. Each lot shall have frontage on a public street dedicated by the subdivision plat, or an existing publicly dedicated street which has not become public by the right of use and is at least twenty-four (24) feet wide travel surface with three-foot shoulders on each side.
- C. Buildings constructed on corner lots shall comply with the minimum setback for both streets, as provided in the County zoning ordinance.
- D. Side lines of lots shall be at approximately right angles to the street line, or radial to the street line.
- E. Remnants of lots less than the minimum size required by the zoning ordinance after the subdividing of a larger tract shall be added to adjacent lots rather than allowed to remain as unusable parcels. In no event shall the subdivision of land create a lot which does not conform to the zoning ordinance requirements of Duchesne County.
- F. Lots shall not exceed a ratio of five to one length to front. **This standard is waived if the lot frontage width is 1/32nd of the Section width or greater.**

G. No lot shall be bisected by a road or stream in subdivisions with lot size less than twenty (20) acres minimum.

Section 16.28.050 Guarantee of improvement

In lieu of actual construction and completion by the subdivider and acceptance by the Planning Commission of the improvements required by Titles 16 and 17, and before approval of the final plat by the commissioners, the subdivider shall guarantee the installation and construction of the required improvements within one year from the date of approval of the final plat and guarantee that the improvements shall be free from defective material or workmanship, for a period of ~~twelve (12) months~~ **two winters (based on the Spring Equinox)** from the date of completion by one or more of the following methods:

A. Escrow. The subdivider shall deposit with any insurance company, bank or savings and loan institution in an escrow account an amount of money equal to at least one hundred twenty-five (125%) percent of the costs of the improvements required by Titles 16 and 17 not previously accepted by the municipality. The costs of the improvements not accepted and not installed or constructed shall be determined by **an engineer or licensed contractor and reviewed by** the County Road Supervisor. The escrow agreement shall be subject to approval by the County Attorney and shall be signed by the subdivider, the County, and the escrow holder, and shall contain substantially the following:

AGREEMENT

The undersigned hereby promises and warrants that it has in an escrow account for the benefit of Duchesne County, the sum of \$_____, which represents at least 125% of the estimated costs of the improvements not accepted by Duchesne County and not constructed or installed by the developer of the _____ subdivision.

The undersigned hereby agrees that the foregoing sum of money shall be used exclusively for the purpose of paying the costs of materials, and construction and installation of the improvements required by the Duchesne County Subdivision Ordinance. The undersigned further agrees that the money held in **this** escrow account shall be paid out to the contractors installing and constructing the required improvements only upon an order executed by an authorized officer of Duchesne County and the subdivider.

The subdivider shall not withdraw from the escrow account any amount in excess of 100% of the estimated cost of the improvements, but shall pay from other sources any costs for such improvements which exceed 100% of the costs estimated by **the engineer or licensed contractor and approved by** the County Road Supervisor.

A sum equal to 10% of the estimated costs of improvements shall remain with the escrow holder for a period of ~~one year~~ **two winters** after all improvements are made and completed. If, after ~~one year~~ **two winters**, all or any of the required improvements are not installed, constructed, and maintained according to the standards required by Duchesne County and the Subdivision Ordinance of the same, Duchesne County shall notify in writing the subdivider that the defects **must** be corrected. If the defects are not corrected within ~~thirty (30)~~ **ninety (90)** days, Duchesne County may but shall not be required to correct the defects and charge to the escrow holder the costs of correcting the defects.

The escrow holder shall, on receiving reasonable proof from Duchesne County of the defect and that Duchesne County has incurred the cost of correcting the defect, pay to Duchesne County from the escrow account the cost of correcting the defect, and the escrow holder shall be held harmless by the parties by reason of payment to Duchesne County.

If, after ~~one year~~ **two winters from the date**, ~~the Commissioners~~ **Duchesne County** have ~~accepted~~ **accepts** the improvements required by its Subdivision Ordinance, the required improvements remain substantially free from latent defects, Duchesne County shall certify such fact to the escrow holder, and the escrow holder shall release to the subdivider any money still held in the escrow account, and the escrow holder shall be discharged of its obligation to Duchesne County.

(Authorized Signature)

The escrow agreement may contain such additional provisions as the parties deem necessary.

B. Irrevocable Letter of Credit. The subdivider shall file with Duchesne County an irrevocable letter of credit from a duly chartered state or national bank or savings and loan institution, which letter shall contain provisions substantially similar to that required in the escrow agreement. The form of the irrevocable letter of credit shall be substantially as follows:

Name of Bank

Address

IRREVOCABLE LETTER OF CREDIT

To: Duchesne County

Date: _____

Letter of Credit No.: _____

Gentlemen:

We hereby establish our irrevocable letter of credit in your favor for the account of (insert name of subdivider, subdivider's address) up to the aggregate amount of \$_____ (insert amount available by your draft(s) drawn on sight on _____ (insert name of bank, address of bank), accompanied by _____ (here insert terms which give Duchesne County control over payments). The terms would ordinarily read:

A statement signed by the officer of Duchesne County dated not later than (insert estimated completion date plus a couple of month leeway) as follows:

We certify that the on-site improvements related to the _____ (insert name of subdivision) have not been completed in accordance with County ordinances and that this drawing represents the amount necessary to complete those on-site improvements.

We hereby agree with drawers, endorsers and bona fide holders that all drafts under and in compliance with the terms of this credit will be duly honored upon presentation and delivery of documents as specified to the drawee or drawn and presented for negotiation on or before (insert completion date as set forth) at our bank.

Yours very truly,

Authorized Bank Officer

Upon completion and written acceptance of the road improvements guaranteed by the Irrevocable Letter of Credit, the County shall release its interest in 90% of the guarantee, with the remaining 10% held for two winters. Two winters after acceptance, if the road improvements continue to meet county standards, as determined by the County Public Works Department, the county will release its interest in the 10% guarantee. Upon completion and written acceptance of the water or sewer system improvements, the county shall release its interests in the entire letter of credit.

C. Bond. The subdivider shall furnish and file with the County planner a bond with corporate surety in an amount equal to one hundred twenty-five (125) percent of the cost of the improvements not previously installed, as estimated by **an engineer or licensed contractor and approved by the County engineer Road Supervisor** to assure the installation and construction of such improvements within twelve (12) months immediately following the approval of the subdivision plat by the commissioners, which bond shall be approved by the commissioners and County Attorney. **Upon completion and written acceptance of the road improvements guaranteed by the bond, the County shall release its interest in 90% of the bond, with the remaining 10% held for two winters. Two winters after acceptance, if the road improvements continue to meet county standards, as determined by the County Public Works Department, the county will release its interest in the 10% bond. Upon completion and written acceptance of the water or sewer system improvements, the county shall release its interests in the entire bond,** and which bond shall guarantee that the improvements shall be maintained in a state of good repair, free from material or workmanship defects, for a period of twelve (12) months from the date of completion. After twelve (12) months following the completion of improvements for which a surety or cash bond has been filed, the subdivider shall call for an inspection by the County Road Supervisor. If an inspection shows that the standards and specifications have been met in completion of such improvements, the bonds therefore shall be released within fourteen (14) days from the time of inspection.

~~Such surety or bond shall remain in force until such time as the County has completed the construction completion inspection for the purpose of guaranteeing all improvements, at which time the said improvements shall again be inspected by the County Road Supervisor and, if found to be in satisfactory condition, the County Road Supervisor will certify the same to the County Commission, who will release the bond. If the improvements are not found to be in satisfactory~~

~~condition, the County Road Supervisor shall so inform the County Commission, who shall order the subdivider to place the improvements in a satisfactory condition. In the event the subdivider refuses or neglects to make the necessary repairs, the County Commission may order the work done, using the proceeds from the letter of credit, escrow, or bond to defray expenses. The subdivider shall pay all costs not covered by the bond, escrow, or letter of credit.~~

D. Improvement Guarantee Required. If the subdivision improvements are completed and accepted prior to final plat approval, an improvement guarantee of ten percent of the actual road construction cost shall be deposited with Duchesne County. Two winters after acceptance, if the road improvements continue to meet county standards, as determined by the County Public Works Department, the county will release its interest in the 10% bond.

SECTION 2. Severability.

If any court of competent jurisdiction declares any Section of this Ordinance invalid, such decision shall be deemed to apply to that Section only, and shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared invalid.

SECTION 3. Effective Date.

This Ordinance shall become effective immediately upon passage.

DATED this _____ day of _____, 2008.

ATTEST:

DUCHESNE COUNTY
BOARD OF COMMISSIONERS

Diane Freston
County Clerk/Auditor

W. Rod Harrison, Chairman

Kent R. Peatross, Member

Kirk J. Wood, Member

Commissioner Wood motioned to adopt Ordinance 08-260 as recommended by the planning commission. Chairman Harrison seconded the motion. Both commissioners voted aye and the motion passed.

Consideration Of Amendment Of East Of Sterling Meadows Subdivision

Administrator Hyde addressed the commission with a map of the proposed amendment of the subdivision on the wall; this action would formalize a verbal agreement the county commissioners made with Mr. McDonald in 1993. Administrator Hyde stated that the County Surveyor has prepared a plat amendment to vacate the cul-de-sac and utility easement that runs from the cul-de-sac down to 650 South. He also stated that there is a twenty (20) foot wide easement that would provide access. *Commissioner Wood motioned to approve the amendment as recommended by the planning commission. Chairman Harrison seconded the motion. Both commissioners voted aye and the motion passed.*

Consideration Of Amendment Of Dale Gines Subdivision

Administrator Hyde stated that the Thurston's own sixteen (16) acres and would like to divide that into a five (5) and an eleven (11) acre lot; also there are existing homes, septic systems, a well, and an existing road way that is being provided by a right of way along south side of lots one (1) and two (2). He also stated that the owners of these two lots will have to sign the plat map to dedicate that right of way to serve these two (2) lots. All standards have been met. *Commissioner Wood motioned to approve the amendment as recommended by the planning commission. Chairman Harrison seconded the motion. Both commissioners voted aye and the motion passed.*

Consideration Of Ordinance No. 08-262 An Ordinance Vacating A Certain Road In Township Two (2) South Range Three (3) West USM

Chairman Harrison stated that this road is commonly known as the Old Ravola Dugway. Director Murphy stated that every interested party has been contacted. Attorney Stearmer stated that all landowners, Ute Tribe, and Department of Transportation have been given proper notification approximately two (2) weeks ago; the statute has been complied with.

ORDINANCE NO. 08-262

AN ORDINANCE VACATING A CERTAIN ROAD IN TOWNSHIP 2 SOUTH RANGE 3 WEST USM;

WHEREAS Duchesne County has a certain road located in Township 2 South Range 3 West USM, more particularly described as follows:

Township 2 South Range 3 West USM

SE ¼ of Section 33 & SW ¼ of Section 34

WHEREAS Glen Durfey, owner of acreage effected by this road, has requested that the county vacate the public's interest in this road; and

WHEREAS the county has reviewed this road and the role this road plays in the county's overall road and access plan; and

WHEREAS the county has determined, pursuant to the construction of a new road providing public access to SR 87, that this section of road is not necessary for the county's road, transportation and access plan; and

WHEREAS the County has conducted a public hearing on March 17, 2008, hearing input from the public and having noticed all necessary parties by way of first class mail, and published proper notice in a newspaper of general circulation in the county once a week for four (4) consecutive weeks prior to the hearing, publication, and for good cause shown,

BE IT HEREBY ORDAINED as follows:

1. The public's interest in the road located near the SE ¼ of Section 33 & SW ¼ of Section 34, Township 2 South Range 3 West USM, as shown on the attached map, is hereby vacated.

2. The vacation of said road shall only operate so as to terminate the public's interest in said road and shall not affect any private landowner's valid existing rights, including utility easements existing of record.

DATED this 17th day of March, 2008.

ATTEST:

Diane Freston
County Clerk\Auditor

DUCHESNE COUNTY:

W. R.
Harrison, Chairman

Kent R. Peatross, Commissioner

Kirk J. Wood, Commissioner

Commissioner Wood motioned to adopt Ordinance 08-262 as presented. Chairman Harrison seconded the motion. Both commissioners voted aye and the motion passed.

Adjournment

Chairman Harrison adjourned the meeting at 1:50 P.M.

Read and approved this 24th day of March 2008.

W. Rod Harrison
Commission Chairman

Diane Freston
Clerk/Auditor

*Minutes of meeting taken by BobbiJo Bailey*_____