

SAN JUAN COUNTY COMMISSION MEETING
May 27, 2014

The regular meeting of the San Juan County Commission was held at 10:00 A.M. in the Commission Room at Monticello, Utah.

Present: Bruce Adams, Chairman
 Phil Lyman, Commissioner
 Kelly Pehrson, Chief Administrative Officer
 Norman L. Johnson, County Clerk /Auditor

Absent: Kenneth Maryboy, Commission Vice Chairman

Attendees: Monte Wells, Jerry McNeely, Marilyn Boynton, Nick Sandberg, Bob Turri, David Boyle, Bill Redd, Virginia Redd, Nicole Perkins, Stefnee Turk, Wesley Hunt, David Redd, Jon Hunt, Calvin Hunt, Joe Lyman, Marilyn Lyman, Patsy Shumway, Kay Shumway, Betty Shumway, Dan Shumway, Joy Howell, Clayton Palmer, Belly Howell, Robert Mueller, Josh Nielson, Frank Morrell, Sue Morrell, Trent Holliday, Logan Shumway, Lloyd Shumway, Adell Seely, Shelby Seely, David Bronson, Larry Sorrell, Jennifer Swanson, Brittney Carlson, Craig Stanley, Sherrie Stanley, Gary Guymon,

The minutes of May 12, 2014 were approved pending Commissioner Maryboy being able to review said minutes, on a motion by Commissioner Lyman and seconded by Commissioner Adams. Voting was unanimous.

Crystal Holt – SJC Personnel Office

Crystal presented three names as summer temporary hires for the Weed Department, Josh Keyes, Tyler Ketron and Regan McDaniel and one person as a Seasonal Surveyor Assistant, Jacob Regalado. After a brief discussion a motion to approve the hires was made by Commissioner Lyman and seconded by Commissioner Adams. Voting was unanimous.

Norman L. Johnson – SJC Clerk / Auditor

Norman presented the FY 2015 Social Services Block Grant proposed allocation. This year the County will receive \$58,907 and it is proposed that \$12,000 be allocated to San Juan Counseling and the balance of \$46,907 be used in the San Juan AAA program. He also requested the chairman's signature on the FY 2014 SSBG invoice to the state for \$59,063. A motion was made by Commissioner Lyman to authorize the requested allocation for FY2015 and have the Chairman sign the FY2014 invoice to the State of Utah. The motion was seconded by Commissioner Adams and passed with a unanimous vote.

Norman presented the minutes of the 2014 Tax Sale:

MAY TAX SALE

MINUTES – YEAR 2014

The tax sale, having been properly advertised, was held on May 22, 2014 at 10:00 AM in the west lobby of the San Juan County Administration Building at 117 South Main, Monticello Utah. County Clerk / Auditor, Norman L. Johnson conducted the Sale

At the appointed time and place, Mr. Johnson announced that all except two properties had been redeemed or removed from the sale. Four (4) Persons were present for the explanation of the process for bidding. It was explained to all present that San Juan County would issue a Tax Deed to the successful bidder which contains no warranties. It was also stated that the highest bid would be presented to the County Commission on Tuesday May 27, 2014 for acceptance or rejection. In attendance were: Ruth Randall, James Francom, Diane Eddington and Glenis Pearson, SJC Treasurer.

The property available for sale and the high bid were as follows:

<u>PARCEL NO.</u>	<u>NAME-DESCRIPTION</u>	<u>AMOUNT</u>
Parcel# A0000011001A	Ryan Torres PO Box 715 Washington, Utah 84780-0715 Legal: Monticello Townsite Survey, Plat A, Block 11, Lot 1: Beg at a Pt 104 Ft W of the SE Cor of Lot 1, Block 11, Monticello Townsite Survey, Plat A, and Rng Th W 110.05 Ft, N 162 Ft, E 110.05 Ft, S 162 Ft to POB (.41 AC)	\$ 1,918.05
Parcel# C40210261803	Douglas Shockley PO Box 3599 Basalt, CO 81621-3599 Legal: SEC 26 T40S R21E: Beg at a Pt 20 Ft N of the NE Cor of Lot 1, Block 3, Cottonwood Addition to the Bluff Townsite As Shown by the Official Plat Thereof on File With The Recorder of San Juan County State of Utah, Rng Thence W 120 Ft Following The N Boundary of Cottonwood Addition, Thence N 30 Ft, Thence E 120 Ft M/L to a Pt which in 30 Ft N of the POB, Th S 30 Ft to POB (.08 AC)	\$ 690.38

It is the recommendation of the County Clerk / Auditor that Parcel# C40210261803 is struck off to San Juan County for the taxes penalty, interest and administrative charges due in the amount of \$ 690.38 and Parcel #A0000011001A be sold to Ruth Randall for a bid in the amount of \$2,000.00 and that tax deeds be Issued accordingly.

Signed this 22 Day of May, 2014, Norman L. Johnson San Juan County Clerk / Auditor

Following a brief discussion a motion was made by Commissioner Lyman to follow the recommendations of the Clerk/Auditor and sell the County's interest in parcel #A0000011001A

to Ruth Randall for \$2,000 and strike off Parcel #C40210261803 to San Juan County and abate the Taxes, Penalty, Administrative Fees and Interest on the property. The motion was seconded by Commissioner Adams. Voting was unanimous.

In two other matters Mr. Johnson presented the Commissioners with a sample ballot to be used in the June 24, 2014 by mail Primary Election and a preliminary worksheet on the 2014 tax roll values of the County.

Kelly Pehrson – SJC CAO

Kelly presented three (3) building permits:

- COMNET – Communications Tower – Oljato
- Bart Jackson – restrooms – Spanish Valley
- Worthy Glover – Carport - Blanding

Commissioner Lyman made a motion to approve the permits provided all appropriate signatures and payments are in place. The motion was seconded by Commissioner Adams. Voting was unanimous.

In other matters Kelly reported that the electric Solar System, at the Cal Black Airport, is near finalization and looking good and the Piute Bridge project is around 75% completed. The CIB will meet Thursday in Cedar City, but he will not be able to attend and the Moab Business Park road project should start around the 10th of July.

Jerry McNeely – SJC Liaison

Jerry reported on meetings with SITLA, the Forrest Service, Park Service and BLM. He will be going on a field trip with SITLA to the South end of the county and he said Kate Cannon, of the NPS, still wants to set up a tour of Island in the Sky. The Forrest Service is working on their dispersed camping concept and he attended the BLM's Master Leasing meeting in Moab. At the BLM meeting they showed four alternative plans, copies of the plans were set out for the commission to review and discuss. There were not any of the proposed plans that appealed to the Commission. Commissioner Adams and Lyman briefly discussed the concept of creating an energy corridor which might impact the proposals.

Jerry also mentioned that the BLM is continuing to work on the Copper Mine site and on the Fidelity 3D seismic project. He attended last week's Spanish Valley Water meeting and said the Governor's Office has hired a grant writer to obtain funding to do a complete water study of the Spanish Valley and Moab area.

Nick Sandberg – SJC Planner

Nick discussed the activities of the Gunnison Sage Grouse (GSG) implementation team, which presently includes the National Fish and Wildlife Service. He said the conservation actions are for species survival and there will be more meetings in the future, which include the subspecies.

Nick has a draft letter on the BLM Master Leasing plan options but will revise it following the earlier discussion about a possible energy corridor.

Public Comments:

Bill Redd, former SJC Commissioner from Blanding, made comments pertaining to Grants, which are “contracts executed” and how it then pertains to the U.S. Constitution, Article VI, and Clause 1, the debts and engagement clause, and Article IX. He said we need to protect and take back our roads even if it is one at a time.

Kay Shumway, Citizen from Blanding, made three statements; 1) he urged the County Commission to support the state’s efforts to have the Federal Lands returned to the State of Utah, 2) use the county’s ability to file lawsuits to counter extremists lawsuits against the Federal Agencies and 3) he thanked Commissioner Lyman for organizing a way to express our frustration with federal restrictions.

Marilyn Boynton, Citizen from Blanding, asked for the county’s help in supporting, protecting and improving the access road in Comb Wash to the entrance of the San Juan Hill trail. She feels many tourists would use the road if it were improved. Commissioner Adams said the county has always supported the protection of the San Juan Hill Road and all of the Hole-In-The-Rock Trail.

Commission Reports:

Commissioner Lyman made comment about the great Memorial Day we all just enjoyed and then talked about the various uses within Recapture Canyon such as the LC Cattle Company, Gold Mining, the construction of the Recapture Dam and various other activities. He mentioned the April 22nd discussion on having a resolution from the County Commission. Commissioner Lyman then read the following Draft Resolution as a lead into a broader discussion on Recapture and the events of the past few weeks.

(Note: the Draft Resolution is inserted as presented without editing review)

DRAFT RESOLUTION No. _____, OF THE BOARD OF COUNTY COMMISSIONERS OF SAN JUAN COUNTY, UTAH, ASSERTING SAN JUAN COUNTY’S VALID EXISTING RIGHT-OF-WAY RELATED TO THE ROADS/TRAILS IN RECAPTURE CANYON.

MAY 27, 2014

WHEREAS, The legislative body of San Juan County, Utah has been duly elected by the citizens of San Juan County, and

WHEREAS, San Juan County, Utah is designated as a political sub-unit of the State of Utah with authority to act, and

WHEREAS, There are many trails and roads in San Juan County, most of which are identified on the Bureau of Land Management's (BLM's) Travel Management Plan, but many of which were overlooked by the BLM or the County in the adoption of the Travel Management Plan, and

WHEREAS, San Juan County is on record as objecting to the 2008 BLM Resource Management Plan (RMP) of which the Travel Management Plan is part, and

WHEREAS, As the board of commissioner of San Juan County, and on behalf of the citizens of this county and of the public who travel here, we claim these roads and trails as valid existing roads with the right and responsibility to maintain and, where appropriate, improve them, unless and until such claim has been formally abandon by the public and by the County, and

WHEREAS, We acknowledge that the Public Land within the geographic boundaries of San Juan County is property held in trust by the United States Government with all proprietary rights thereto, and that the BLM, through the passages of the Federal Lands Policy and Management Act of 1976 (FLPMA), which *establishes the agency's multiple use mandate*, is charged *with management, protection, development, and enhancement of public lands*, (emphasis added), and

WHEREAS, Recapture Canyon, located within San Juan County and running North to South immediately east of Blanding Utah, was acknowledged as "open" in BLM's 1991 San Juan Resource Management Plan(RMP), and

WHEREAS, In March, 2006, the County, at the request of the City of Blanding and others interested in promoting an existing trail through the bottom of Recapture Canyon, and under advisement of and consultation with the then current management and staff of the local and area BLM offices, applied for a Right-of-Way (ROW) under Title V of FLPMA, and

WHEREAS, the ROW application was not for construction of a new trail, but was to perform routine maintenance to existing trails and routes in an effort to encourage travel in the canyon to remain on a single established route through the canyon, and

WHEREAS, Nothing in Title V of FLPMA "shall have the effect of terminating any right-of-way or right-of-use heretofore issued, granted, or permitted," (quoted from FLPMA Title V, existing rights-of-way), and

WHEREAS, Since at least 2005, the BLM had been aware of the desire to promote the Recapture trail, and had provided feedback on the location of the trail, and BLM personnel, including archaeologists, had expressed verbal approval of the project including the improvements to the existing trail, and

WHEREAS, On September 13, 2007, the Acting Field Manager of the Monticello Field office of BLM issued a temporary “travel restriction” under the Code of Federal Regulations 43 (C.F.R) ss 8341.2, and

WHEREAS, C.F.R. 8341.2 states that “A closure or restriction order should be considered only after other management strategies and alternatives have been explored including cooperative efforts with local governments and organizations,” and

WHEREAS, C.F.R. 8341.2 also states: “The BLM policy requires that temporary closures or restrictions must be 24 months or less in duration,” noting certain exceptions, but maintaining the temporary character of a closure under this section, and

WHEREAS, Under the terms of the travel restriction, Recapture Canyon, was closed to Off-Highway Vehicle (OHV) use, citing considerable adverse effects from OHV use as the reason for the action, and

WHEREAS, This closure order was NOT intended to be a permanent order and did not change the designation from “open to cross-country motorized use,“ but was closed to OHV use UNTIL the alleged considerable adverse effects leading to the closure had been eliminated and measures implemented to prevent recurrence, and

WHEREAS, Since the travel restriction was implemented, San Juan County has, in good faith participated in more than 25 meetings with BLM and other consulting parties to arrive at an amenable resolution, and

WHEREAS, Recapture Canyon is rich in archaeological resources which San Juan County recognizes as valuable and worth protecting as far as possible, and

WHEREAS, San Juan County recognizes that archaeological sites, once damaged, are greatly diminished in value, and

WHEREAS, The main trail through the bottom of Recapture Canyon, while existing as a cattle trail, wagon road, or early motorized trail, crosses through and has crossed through known archaeological sites for more than a century, thus diminishing the archaeological value of a small number of sites in the canyon. and

WHEREAS, 43 U.S.C 1712 states that the BLM must keep apprised of local plans for land use inventory, planning, and management; meaningful involvement must be assured for local government officials in planning, development, and revision councils; and, should inconsistencies arise, they are to be resolved with preference for local plans, and

WHEREAS, in a coordination meeting between BLM and San Juan County on January 27, 2014, BLM Area Manager, Lance Porter, stated that the BLM is unable to act in the face of litigation, and

WHEREAS, San Juan County informed BLM at the January 27, 2014 coordination meeting that, while a bureaucratic stalemate between wilderness advocacy groups and BLM may be acceptable to BLM, it was not acceptable to San Juan County, and that the County would explore other options within their jurisdiction, and

WHEREAS, San Juan County also, as part of their working with the consulting parties and the BLM agreed in 2009, (with assurances given by BLM and other consulting parties for a streamlined resolution on the remaining trail), to drop from their ROW application the southern 7 miles running from the south gravel pit to Perkins Road, and

WHEREAS, only the routes depicted in the “closed section” were considered closed and “The areas outside the closure area were to remain “open” to all types of recreational use including motorized, in accordance with the 1991 RMP, and

WHEREAS, San Juan County is damaged by the endless delays of the BLM process, and the residents who enjoy this canyon are being unjustly discriminated against in their use of this resource, and

WHEREAS, San Juan County was told at the time of the travel restriction that a resolution would take six months as an estimate, and

WHEREAS, San Juan County has been more than reasonable in their participation and good faith reliance on assurances throughout the duration of this failed process.

NOW, THEREFORE, BE IT RESOLVED that The San Juan County board of Commissioners, on behalf of San Juan County and its residents claims a valid existing right-of-way on the trail through Recapture Canyon, including the pipeline maintenance road, and

BE IT FURTHER RESOLVED that San Juan County desires to protect its valid existing right-of-way while, at the same time, protecting archaeological sites from damage or from further damage, and is willing to reroute trails so long as proposed reroutes are done in accordance with existing laws and in coordination with the County’s master plan.

BE IT FURTHER RESOLVED that roads and trails, many of which have been used for decades or even centuries, are of major interest to the County and are not to be closed by any federal agency except in compliance with federal law that permits such closure “only after other management strategies and alternatives have been explored including cooperative efforts with local governments and organizations,” and

BE IT FURTHER RESOLVED that San Juan County asserts that the emergency closure of Recapture Canyon failed to explore other management strategies and alternatives BEFORE the action was taken, thus violating the provisions of C.F.R. 8341.2 making the emergency closure void, and

BE IT FURTHER RESOLVED that, San Juan County will voluntarily close Recapture Canyon to OHV use for a period of Ninety (90) days, Beginning May 27, 2014, provided that BLM agrees to earnestly explore management strategies and alternatives with the San Juan County during that time, and

BE IT FURTHER RESOLVED that, what BLM has called illegal construction, San Juan County deems ordinary and customary maintenance in accordance with maintaining our valid existing right-of-way.

Adopted by the San Juan County Board of Commissioners this 27th day of May, 2014:

_____	_____	_____
Bruce Adams	Kenneth Maryboy	Phil Lyman
Chairman	Commissioner	Commissioner

Commissioner Adams indicated he likes the resolution and that we have reason to pursue legal action as the BLM seems to start over every time there is a management change. There was considerable discussion from the floor and the Commissioners on the issue. Former Commissioner Bill Redd said “coordinate, cooperate, communicate but do not capitulate”, Commissioner Adams said he would like to have some time to review the Draft Resolution and have it looked over by our attorney’s and proposed it be placed on the June 9th agenda. Following continued discussion, on the Resolution, it was agreed to place it on the June 2nd work meeting agenda as an action item.

Commissioner Adams – did not have a report

At 12:12 PM Commissioner Lyman made a motion to go into an executive session which was seconded by Commissioner Adams. Voting was unanimous

Exit the Executive Session and Adjourn 12:30 PM.