

John Y. Ferry, Chairman
Kevin S. Carter, Director

MINUTES OF THE MEETING OF THE
SCHOOL & INSTITUTIONAL TRUST LANDS ADMINISTRATION
BOARD OF TRUSTEES

DATE: JUNE 4, 2009

PLACE: VERNAL, UTAH

ATTENDING: BOARD

John Y. Ferry
John Scales
James Lee
Mike Brown
Amanda Smith

STAFF

Kevin S. Carter
John Andrews
LaVonne Garrison
Kim Christy
NormaLee McMichael
Sonja Wallace
Kurt Higgins
Jim Davis
Ron Carlson
Lisa Schneider
Lynda Belnap

OTHERS IN ATTENDANCE:

Margaret Bird, State Office of Education
Karen Rupp, State Office of Education
Ivan Djambov, Office of Legislative Fiscal Analyst
Commissioner Mike McKee, Uintah County Commission

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Chairman Ferry welcomed Board members, Staff, and visitors to the meeting. He excused Mr. Ostler, as he is ill, and Mr. Lofgren, as he had a son graduating.

1. Approval of Minutes

The Board approved the Board minutes of May 14, 2009.

Lee / Brown. Unanimously approved.

“I move that we approve the Board minutes of May 14, 2009.”

Roll Call:

Mr. Scales - - yes

Mr. Lee - - yes

Mr. Brown - - yes

Ms. Smith - - yes

Mr. Ferry - - yes

2. Confirmation of Upcoming Meeting Dates

The Board, without motion, confirmed the following upcoming meeting dates:

July - - no meeting

August 13 - - Salt Lake City

September 10 - - Salt Lake City

October 7 & 8 - - St. George

November 12 - - Salt Lake City

December - - no meeting

3. Chairman's Report

a. Beneficiary Report

Ms. Margaret Bird gave the Board a report on the following issues:

- * There is a new State Superintendent of Public Instruction. It is Larry Shumway, and he will begin on July 1, 2009.
- * The State Office of Education sustained a 24 percent cut in its budget. Therefore, the beneficiaries' office has been moved back to the State Office of Education building.

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3. Chairman's Report (cont'd)

a. Beneficiary Report (cont'd)

- * Every year they are required to make a prediction in October as to what will be generated from the permanent fund and distributed to the schools. They had previously estimated about \$20 million. It now looks like it will be approximately \$24 million that can be distributed.
- * Because of the audit done of their section, it was determined by the State Superintendent to move much of the responsibility of the School Trust Program to the districts. This money needs to be used for academic purposes. Ms. Bird's group's responsibility now will be in an auditing capacity. The schools are all very appreciative of this money.
- * Ms. Bird's group has been instructed by spend more time on SITLA issues and the Treasurer's issues.
- * There has never been money set aside for training of the Community Councils.
- * She expressed their gratitude to the Board members on the Section 29 Committee; namely, Mr. Scales, Mr. Brown, and Mr. Lee.
- * She thanked the Staff on behalf of the beneficiaries for the wonderful tour yesterday.

b. Election of Board Chairman and Vice-Chairman

Lee / Scales. Unanimously approved.

“I move we nominate John Ferry for Chairman for another one-year term.”

Roll Call:

Mr. Scales - - yes

Mr. Lee - - yes

Mr. Brown - - yes

Ms. Smith - - yes

Mr. Ferry - - yes

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3. Chairman's Report (cont'd)

b. Election of Board Chairman and Vice-Chairman (cont'd)

Lee / Ferry. Unanimously approved.

“I move that we nominate John Scales as Vice-Chairman for another one-year term.”

Roll Call:

Mr. Scales - - yes

Mr. Lee - - yes

Mr. Brown - - yes

Ms. Smith - - yes

Mr. Ferry - - yes

c. Update on Section 29 Committee

Mr. Scales reported that this committee did meet. Board members on the committee are Mike Brown, James Lee, and John Scales. Tim Donaldson, representing the beneficiaries, also is on the committee. They were charged with looking at the transaction and determining how we might provide a mechanism for how this type of issue would not occur in the future and also should the Board hire outside counsel to look at this further. On the first issue, the Board has asked that a check list be provided by the Legal Group whenever the Board approves a transaction of this type. The checklist would be given to the contract managers so they know what they need to be following up on. The agency has already put in place other things that will help present this type of issue from happening again.

Secondly, we think this is an issue that can go on for a long time and should come to some type of conclusion, and they are recommending hiring outside counsel. Mr. Brown noted that the committee also discussed having a yearly audit on a complicated transaction such as this. This will be on the list to formalize in their recommendation. Director Carter stated that, from the minutes of the committee meeting, Staff will make recommendations as to what needs to be done. Mr. Lee asked that the minutes of that meeting be sent to the Board with the minutes of this meeting.

Lee / Brown. Unanimously approved.

“I move we go into closed session for the discussion of the character and competence of individuals and also for the discussion of potential litigation.”

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3. Chairman's Report (cont'd)

c. Update on Section 29 Committee (cont'd)

Roll Call:

Mr. Scales - - yes Mr. Lee - - yes
Mr. Brown - - yes Ms. Smith - - yes
Mr. Ferry - - yes

The Board went into closed session at 11:00 a.m. Those in attendance were Board members and Kevin Carter. Mr. Gayle McKeachnie joined the Board at 11:00. The Board returned to open session at 11:35 a.m.

Lee / Smith. Unanimously approved.

“I move we return to open session.”

Roll Call:

Mr. Scales - - yes Mr. Lee - - yes
Mr. Brown - - yes Ms. Smith - - yes
Mr. Ferry - - yes

Lee / Brown. Unanimously approved.

“I move that on the Section 29 transaction the Board and agency retain Gayle McKeachnie as special counsel to evaluate numerous issues relating to the Section 29 transaction and that, in defining the scope of employment, Mr. McKeachnie prepare a Letter of Agreement among the Board, the agency, and his firm describing the issues and Staff will report back to the Board on this.”

It was noted that the letter of Agreement should be done within three weeks.

Roll Call:

Mr. Scales - - yes Mr. Lee - - yes
Mr. Brown - - yes Ms. Smith - - yes
Mr. Ferry - - yes

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3. Chairman's Report (cont'd)

d. Report on Five-Year Plan

Director Carter gave the Board a recommended five-year plan and a copy of the FY 09 Incentive objectives as gleaned from that plan. The plan has undergone some further work since the Board reviewed it at the last meeting. He noted that we have added a Section IV to the plan entitled "Group Business Plan During Market Downturn". Most groups added this, but some did not since it was not necessary. Most of the plans are what was reviewed by the subcommittee for each group. There were some refinements done, but no substantial changes.

Director Carter thanked the Board members and beneficiaries for their time commitments to helping with this plan. It has been a very open collaborative effort that can be a guide to the Board and staff in coming years. This can be used to set additional objectives in the future, as well as individual Staff goals.

Mr. Scales stated it doesn't look like there is one overall agency section that states that these are the issues we need to deal with as our key agency issues. Maybe an "executive summary" or an overall strategic section of the agency could be added. Director Carter stated he is comfortable with pulling out what would be the key issues, but he wonders if the Board is comfortable with that process. Chairman Ferry indicated that we might should have something that sets forth our "preamble" as to what we are going to do in our five-year plan. Maybe a single page that will be our guidance in the next upcoming years.

Director Carter stated that he felt this should be done by the entire Board or a committee that would glean what needs to be next year's fiscal year goals from this plan. Mr. Scales stated that would be next year's action plan, but that action plan should be consistent with the overall goals of the agency. Ms. Smith agreed that this would be very helpful in having this set forth. Mr. Brown stated his company uses a sheet called a strategic framework that he will share with the Director that might be helpful in putting this together.

3. Chairman's Report (cont'd)

e. Report on Completion of FY 09 Incentive Objectives

Director Carter gave the Board a handout showing objectives that have been gleaned from the five-year plan. This handout showed the ones which have been completed, ones that will be done by the end of the fiscal year, and ones that are overlapping into other fiscal years. He noted that, when we began this fiscal year, Staff brought in a number of objectives that we thought we should do. The subcommittee alternatively thought we should do the planning process. We went through the planning process, but still ended up with four pages of objectives from that process. This, therefore, ended up being a double duty year; and Staff feels like it has been a very productive year. He noted this plan is a critical and extraordinarily valuable tool for moving us ahead.

Mr. Lee noted he will get the Director a template for an executive summary, and Staff will get that done. The board now needs to let the Staff know where to go next. It was noted the plan calls for Staff putting together a FY 2010 action plan for the Board's review. Chairman Ferry noted there is a subcommittee on objectives consisting of Mr. Ferry, Mr. Brown, Mr. Scales, and Ms. Bird. He feels the next step is for the Staff to put together the FY 10 action plan for review of the subcommittee and later review by the Board.

Mr. Brown thanked the Staff for the work on the plan and objectives.

Director Carter gave the Board the most current distribution report showing income as \$94,448,229. This exceeds the financial goal for this fiscal year, which would be \$81 million because gas prices are below \$5/mcf. Director Carter reviewed the remaining FY 09 incentive objectives and indicated he felt all of these had been completed. Mr. Scales stated he thinks Task 2 is the global recap he is talking about. Director Carter stated he feels those issues are addressed at different places in the plan, but not captured in an "executive summary".

Mr. Scales stated that early on in this process it was noted there would be other objectives that would come forth needing to be done this fiscal year. He stated that Staff and Board members have put much effort into this exercise and stated that the Board needs to make this a priority and an issue so that it is a living document all the time and helps and guides us with what we should be doing.

3. Chairman's Report (cont'd)

e. Report on Completion of FY 09 Incentive Objectives (cont'd)

Director Carter stated we have completed the steps to keep this plan from just being a “shelf” document. Ms. Bird stated the Board may want to consider meeting periodically in their subcommittees to make sure the plan keeps moving forward on track. The Board thought this was a good idea.

f. Discussion of Personnel Issues

Lee / Brown. Unanimously approved.

“I move we go into closed session for the discussion of the character and competence of individuals and also for the discussion of potential litigation.”

Roll Call:

Mr. Scales - - yes	Mr. Lee - - yes
Mr. Brown - - yes	Ms. Smith - - yes
Mr. Ferry - - yes	

The Board went into closed session at 11:00 a.m. Those in attendance were Board members and Kevin Carter. Director Carter left the closed session during part of the discussion. The Board returned to open session at 11:35 a.m.

Lee / Smith. Unanimously approved.

“I move we return to open session.”

Roll Call:

Mr. Scales - - yes	Mr. Lee - - yes
Mr. Brown - - yes	Ms. Smith - - yes
Mr. Ferry - - yes	

3. Chairman's Report (cont'd)

f. Discussion of Personnel Issues (cont'd)

Scales / Lee. Unanimously approved.

"I move that the Board recognize the efforts of the Trust Lands Administration Staff during FY 09 and that they have met their incentive objectives and that the bonuses be paid accordingly."

Roll Call:

Mr. Scales - - yes

Mr. Lee - - yes

Mr. Brown - - yes

Ms. Smith - - yes

Mr. Ferry - - yes

4. Director's Report

a. Review of Salary Range for Audit Manager

Director Carter gave the Board some information on this item. He referenced the statute which gives the authorization to the Board to create salary ranges for AS positions. The Board was given a chart showing all the exempt positions and the salary ranges for each. He noted that he felt that the salary range for the auditor was set too low. We have worked with DHRM and are recommending the range be changed to Steps 67 - 82. Director Carter noted that some of the market data provided by Staff could be somewhat higher than this.

Lee / Scales. Unanimously approved.

"I move we approve this request."

Roll Call:

Mr. Scales - - yes

Mr. Lee - - yes

Mr. Brown - - yes

Ms. Smith - - yes

Mr. Ferry - - yes

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4. Director's Report (cont'd)

b. Director's Update on Issues

I. History and Update on Jim Doyle Transaction

Mr. John Andrews updated the Board on the Jim Doyle transaction, which occurred many years ago. He showed the Board a power point presentation showing the location of the lands, etc.

Transaction History:

- * Early 1980's: DSL&F lease of 2400 acres in North Block to Rocky Mountain Ventures for real estate development.
- * Mid-1980's: James Doyle acquires lease through ELT
- * 1988: State legislation granting lessees option to purchase at fair-market value
- * 1989: ELT exercises option, offers \$240,000 as FMV
- * 1989: State counteroffer @ \$375,000
- * 1989: Deseret Mutual protest of sale, based on effect on value of adjacent property.
- * Hearing officer appointed; settlement during hearing approving sale for \$1.1 million with favorable terms for Doyle.
- * State Land Board and beneficiaries approve settlement on December 18, 1989.
- * May, 1990: Doyle sells 311 acres of 2560 to DMB for \$960,000; ELT receives patent for balance of land.
- * 1993
 - * Critical legislative audit.
 - * UEA and parents sue DSL&F, Doyle, and DMBA to set aside transaction
 - * DMBA/Doyle countersue; UEA and parents withdraw; USOE substituted as plaintiff.
- * 1994: Entire ELT property designated as no-take in Washington County (Desert Tortoise) HCP
- * 1966: Gayle McKeachnie retained as special counsel for beneficiaries; litigation settled.

The 1966 Settlement

- * ELT gives SITLA promissory note secured by first position participating mortgage
- * SITLA receives 30 percent of all sales proceeds after certain expenses until SITLA has received \$3,000,000; then 12.5 percent thereafter

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4. Director's Report (cont'd)

b. Director's Update on Issues (cont'd)

I. History and Update on Jim Doyle Transaction (cont'd)

- * Any land conveyances require SITLA consent and release
- * SITLA receipts to date from release of 558.28 acres are \$3,240,050 out of \$12,364,205 in gross receipts
- * Last Transaction 2007; Remaining acres 1341.17
- * Value?

Post-Settlement Issues

- * Doyle had limited success in obtaining substantial federal funding for conservation purchase; no success in exchanges
- * Doyle borrowed large amounts from creditors (Brennan, Carter) secured by second position in property
- * Doyle bankruptcy in D.C. 2004 - no action to date.
- * Proposed plan of reorganization to partition property among SITLA, Brennan, Carter, and Doyle - - held up by tax issues
- * Washington County Land Bill - - funding source for purchases 2010 and after.

This was for information to the Board.

c. Development Group Report

I. Follow-up on Amangiri Project

Director Carter gave the Board a handout showing the updated information the Board had requested last month on the Amangiri development and showing what Trust Lands' obligations are in this development. Mr. Brown asked what Amangiri had committed to us regarding water, etc. Director Carter explained this to the Board. This was for follow-up information to the Board.

5. Concurrence in Development Rules - R850-140

Mr. Andrews noted that the beneficiaries had a number of comments that need to be addressed, and we will address this rule at a later meeting. Mr. Lee suggested that Staff have Mr. Ostler and Mr. Lofgren focus on reviewing these rules before bringing them back to the Board.

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6. Consent Calendar

- a. Partial Release of Lands and Extensions of Some Acreage - - Wolverine Gas and Oil Corporation - - Sanpete County, Utah
-

There were no comments on this item, so it is approved as recommended.

- b. Negotiated Sale of Burger Bar Parcel - - PS 7352

There were no comments on this item, so it is approved as recommended.

Director Carter noted the presence of Commissioner Mike McKee. We have a great working relationship with Uintah County. Commissioner McKee expressed his appreciation to the Staff and Board for having such a well-managed organization.

Mr. McKee briefed the Board on the Seep Ridge road. Comments on this road were due last week. Trust Lands Administration has also contributed money to this road. There are organizations which don't want this to happen. Any support the County could get for this would be very helpful. Timing is extremely important. Any support to the BLM would be helpful. The road is 48 miles to the Uintah County line and is estimated to cost about \$2 million a mile to pave. He would like a letter of support to go to Selma Sierra and Bill Stringer of the BLM. Chairman Ferry noted that the Board authorized the Director to send a letter on behalf of the Board and agency in support of this road.

Lee / Brown. Unanimously approved.

“I move that we authorize the Director to send a letter on behalf of the Board and agency in support of this road.”

Roll Call:

Mr. Scales - - yes	Mr. Lee - - yes
Mr. Brown - - yes	Ms. Smith - - yes
Mr. Ferry - - yes	

Chairman Ferry noted we will postpone honoring Mr. Lee for his service on the Board until August.

Upon motion by Mr. Lee, the meeting adjourned at 11:40 a.m.

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