

# ORDINANCE No. 09-17

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Date: 20-001-2009  
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KERI PALLESEN, Re  
DAGGETT COUNTY  
For: DAGGETT COUN

## AN ORDINANCE ADOPTING RULES AND REGULATIONS FOR THE DISPOSITION OF COUNTY REAL AND PERSONAL PROPERTY

**WHEREAS**, U.C.A. §17-50-312(3) requires the county legislative body to “provide by ordinance, resolution, rule, or regulation for the manner in which property shall be acquired, managed, and disposed of”; and

**WHEREAS**, U.C.A. §17-50-312(4) permits the county to define what constitutes a “significant parcel of real property” and “reasonable notice”; and

**WHEREAS**, the county legislative body finds that it is in the best interest of the county to revoke Ordinance 06-02; and

**WHEREAS**, it is in the best interest of Daggett County to establish clear and concise rules to govern the sale of real and personal property held by the county.

**THEREFORE, THE COUNTY LEGISLATIVE BODY OF DAGGETT COUNTY ORDAINS AS FOLLOWS:**

**SECTION I.** Real and Personal property shall be disposed of in the following manner:

**A. Disposal of Property Authorized:**

The Board of County Commissioners may dispose of, or control the disposition of, any county property, real or personal (including lost or abandoned property, and property whereby the county has any legal or equitable interest), the disposition of which is determined to be in the public interest and in accordance with good property management. The disposition of property or any interest therein, may be by public or private sale, exchange, exchange and sale, option to purchase, lease, lease with an option to purchase, rental, trade in, public auction, public advertisement for sealed bids, or any other lawful manner or means. Such disposition shall not be for less than a full and adequate consideration unless otherwise permitted by law, and such consideration may be other than monetary.

**B. Personal Property:**

The power to dispose of surplus, obsolete or unusable personal property held by the county is vested in the county auditor, and such disposition may be made in any manner

consistent with county policy. The county auditor shall have discretion, subject to the best interests of the county and its residents, and in accordance with good property management techniques, over the disposition and manner of disposition of surplus, obsolete or unusable personal property. However, no such disposition shall be final without the approval of the commission.

**C. Real Property In Public Use:**

- 1. Recommendation of Planning Commission; Approval of Commission; Hearing Required:** The disposition of real property that is in the public use, regardless of the value thereof, shall be made only with the approval of the commission and after receiving a recommendation from the appropriate planning commission where the property is situated and the holding of a public hearing with proper notice.
- 2. Included Real Property:**
  - a. Real property in public use is deemed to be significant real property for purposes of state law, and includes, but is not limited to, realty and improvements thereon in actual current use as governmental offices or other public buildings, courthouses, jails, police stations, fire stations, developed parks or other recreational or entertainment facilities, utilities, cemeteries, animal control facilities, hospitals or other health facilities, facilities for the welfare of the indigent, sanitary landfills, or any other realty or improvement thereon held for the benefit or advantage of the general public and not confined to use by privileged or particular individuals, without regard to whether that use may be classified as governmental or proprietary.
  - b. In addition to 2.25.030(B)(1), real property is deemed to be significant real property for purposes of state law if it larger than 10 acres, or has an estimated value, as determined by the Board of County commissioners, of more than one hundred thousand dollars (\$100,000.00).
- 3. Public Hearing; Notice:** The commission shall call and hold a public hearing concerning disposition of realty under this section, which hearing may be at any special or regularly scheduled meeting of the commission. All interested persons may appear and be heard at the hearing. Public notice shall be given of the hearing, which shall contain the date, time and place thereof, a statement of the purpose of the hearing, and a description of the property or the interest therein to be disposed of. Such notice shall be published at least once prior to the hearing in a newspaper of general circulation in the county, and the hearing shall be held no sooner than fourteen (14) days after the publication of the notice thereof.

**D. Real Property Not In Public Use:**

1. **Included Real Property:** Realty not in public use includes, but is not limited to, realty or improvements thereon existing as vacant lands; real property with vacant or unused buildings, structures or other improvements thereon; buildings used as maintenance or repair facilities and not open to the general public; buildings rented or leased by the county to private entities; or any other realty or improvements thereon not held for the benefit or advantage of the public, nor open to the general public or to a substantial portion thereof.
2. **Approval By Commission:** The commission shall approve the sale of such realty during any special or regularly scheduled meeting of the commission. No public hearing is required.
3. **Disposal Of Property:** Where property is acquired by the county for a specific purpose (such as in the case of transfers of development rights), said property may be disposed of by the county for that purpose under this section as real property not in public use. The commission may delegate the authority to dispose of this classification of property to an administrative official of the county.

**E. Approval By Commission; Record Keeping:**

1. **Approval:** No disposition of real or personal property, in public use or otherwise, shall be finalized until the commission, at a special or regularly scheduled commission meeting, shall have reviewed and approved the disposition by motion (personalty) or resolution (realty), manner of disposition, and consideration benefiting the county; except that the commission may, on a cases by case basis, preauthorize the final disposition of surplus property subject to such restrictions, if any, as it may deem appropriate. If such final disposition is authorized by the commission, the results of the final disposition shall be submitted to the commission for approval and ratification.
2. **Records:** The county auditor shall maintain permanent public records for conveyances of real property and transactions involving personal property greater than five thousand dollars (\$5,000.00). Such records must reflect a description of the property sold or otherwise conveyed, an appraisal of the real property conveyed, the manner of disposition, the consideration received by the county, the identity of the person to whom such property was sold or otherwise disposed of, the date of disposition, the date of approval by the commission, and the nature of the county's use of the property prior to disposition.

**F. General Rules:**

1. **Condemnation:** If real property was acquired by condemnation, the county shall give the original owner the right of first refusal prior to the disposition thereof.
2. **Federal Interests:** If real property was acquired with federal funds, the federal government must consent to any disposal thereof.

3. **Abandonment:** Where the county has acquired real or personal property by dedication for a specific purpose, it may abandon its interests to such only through a vacation proceeding. In the case of all other assets, the vacation is enacted by resolution of the county commission at a public meeting which has been properly noticed in accordance with the open meeting laws. Once the county's interest in the property has been vacated, the ownership of the property shall inure to the original owner who dedicated such to the county in the case of personal property or wholly dedicated land, or to the current owner where the county merely acquired a right-of-way interest to the land.
4. **Tax Sale:** Where the county has acquired real property through delinquent taxes, the tax sale requirements and procedures of U.C.A. §59-2-1301 et seq., shall apply.

**G. No Rights Created In Third Parties:**

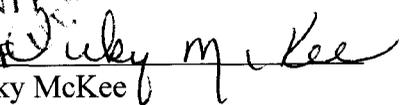
This chapter is not intended to, nor shall it be construed to, create any rights, claims or causes of action in third parties.

**SECTION II. Revocation of Ordinance 06-02**

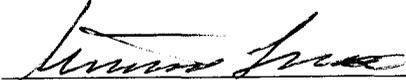
Ordinance 06-02 is hereby revoked and rescinded in its entirety.

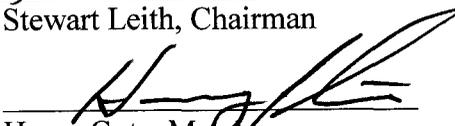
**SECTION III. Effective Date.**

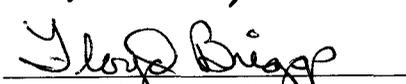
This ordinance shall take effect, fifteen (15) days after enactment, and after depositing of a copy in the Clerk-Treasurer's Office and proper posting throughout the county, as required by Utah Code Annotated section 17-53-208.


 Dated this 20<sup>th</sup> day of October, 2009  
 ATTEST:  
  
 Vicky McKee  
 County Clerk-Treasurer

BOARD OF DAGGETT  
COUNTY COMMISSIONERS:

  
 Stewart Leith, Chairman

  
 Henry Gutz, Member

  
 Floyd Briggs, Member