

BOARD OF COUNTY COMMISSIONERS, UTAH COUNTY, UTAH
MINUTES OF PUBLIC MEETING
COMMISSION CHAMBERS, ROOM 1400
OF THE UTAH COUNTY ADMINISTRATION BUILDING
September 22, 2015 - 9:00 A.M.

PRESENT: COMMISSIONER LARRY A. ELLERTSON, CHAIR
COMMISSIONER WILLIAM C. LEE, VICE-CHAIR
COMMISSIONER GREG GRAVES

ALSO PRESENT:

David Shawcroft, Civil Division Chief Deputy Attorney	Bryce Armstrong, Community Development
Dianne Orcutt, Utah County Deputy Attorney	Peggy Kelsey, Community Development
Bryan E. Thompson, Utah County Clerk/Auditor	Joshua Ivie, Community Development
Scott C. Hogensen, Chief Deputy Clerk/Auditor	Rebecca Martell, Children's Justice Center
Sandy Nielson, Clerk/Auditor's Office - Tax Admin.	Jeff Smith, Utah County Recorder
Julie Rollins, Utah County Purchasing Agent	Andrea Allen, Utah County Recorder's Office
Michelle Araujo, Utah County Commission Office	Dalene Higgins, Utah County Sheriff's Office
Lisa K. Nielson, Utah County Commission Office	Kim T. Jackson, Utah County Treasurer
Brian Voeks, Utah County Commission Office	Jessica Reborn, Mountainland Assoc. of Governments
Merlin Ethington, Utah County Assessor's Office	Cole Cannon, Clearwater Holdings, LLC
Peter A. Jepps, Utah County Assessor's Office	Paul Kroff, Alpine City Resident
Clarissa Reeve, Utah County Assessor's Office	Leslie Slaugh, -No further information given-
Jim Stevens, Utah County Assessor's Office	Merlin Weekes, -No further information given-
Richard Nielson, Utah County Public Works Director	Renée Huggins-Caron, Clerk/Auditor Admin. Assistant

Commissioner Ellertson called the meeting to order at 9:09 A.M. and welcomed those present. The following matters were discussed:

PRAYER/READING/THOUGHT: Greg Graves, Utah County Commissioner

PLEDGE OF ALLEGIANCE: Bill Lee, Utah County Commissioner

CONSENT AGENDA

- 1. RATIFY THE SIGNATURE OF THE COMMISSION CHAIR ON THE COMPLETION CERTIFICATE FOR THE UTAH COUNTY EXCISE TAX REVENUE BONDS, SERIES 2013**
- 2. RATIFY THE SIGNATURE OF THE COMMISSION CHAIR ON THE PURCHASE AND WARRANTY AGREEMENT WITH COMMERCIAL ELECTRONICS FOR THE V2 ADVOCATE DIGITAL INTERVIEW RECORDING MANAGEMENT SYSTEM**
- 3. DECLARE THE ATTACHED LIST OF EQUIPMENT AND VEHICLES AS SURPLUS, AUTHORIZE THE DISPOSAL OF THESE ITEMS THROUGH PUBLIC AUCTION, AND AUTHORIZE BRYAN THOMPSON OR DESIGNEE TO RELEASE ANY APPLICABLE TITLE BY SIGNATURE**
- 4. DECLARE ATTACHED LIST OF EQUIPMENT AS SURPLUS AND AUTHORIZE PLACEMENT OF SUCH EQUIPMENT TO VARIOUS POLICE AGENCIES AS IDENTIFIED**
- 5. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE MODIFICATION TO CHALLENGE COST SHARE AGREEMENT NO. 2015-301 WITH THE USDA FOREST SERVICE UINTA-WASATCH-CACHE NATIONAL FOREST SERVICE PLEASANT GROVE RANGER DISTRICT**

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The Board requested Consent Agenda Item No. 5 be moved to the Regular Agenda for discussion.
PULLED TO REGULAR

6. **APPROVE TAX CREDITS AND REFUNDS RECOMMENDED BY THE COUNTY ASSESSOR'S OFFICE IN CANCELLATION AND CORRECTION LETTER NO. 60329, DATED SEPTEMBER 17, 2015**
7. **APPROVE REDUCING THE PENALTY IN THE AMOUNTS LISTED FOR THE ATTACHED PERSONAL PROPERTY ACCOUNTS, HAVING BEEN IDENTIFIED AS MEETING THE QUALIFICATIONS UNDER ORDINANCE NO. 2010-4 AND RESOLUTION NO. 2011-64 OF THE UTAH COUNTY CODE**
8. **ABATE PERSONAL PROPERTY ACCOUNTS ATTACHED FOR THE YEARS INDICATED, HAVING BEEN IDENTIFIED AS UNCOLLECTIBLE; THERE ARE NO ASSETS AVAILABLE**
9. **RATIFICATION OF PAYROLL**
10. **RATIFICATION OF WARRANT REGISTER SUMMARY FOR SEPTEMBER 15, 2015** *(Continued from the September 15, 2015 Commission meeting)*
11. **RATIFICATION OF WARRANT REGISTER SUMMARY FOR SEPTEMBER 22, 2015**

Consent Agenda Item Nos. 1 through 4, and 6 through 11, were approved as written. Commissioner Ellertson recommended the following Regular Agenda items be moved to Consent:

8. **APPROVE AND CERTIFY THE ENVIRONMENTAL REVIEW RECORD FOR THE AMERICAN FORK CITY WATER IMPROVEMENTS 2016 COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT**
9. **APPROVE AND CERTIFY THE ENVIRONMENTAL REVIEW RECORD FOR THE GOSHEN WATER DISTRIBUTION SYSTEM UPGRADE 2016 COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT**
10. **APPROVE AND CERTIFY THE ENVIRONMENTAL REVIEW RECORD FOR THE PLEASANT GROVE LIBRARY ELEVATOR 2016 COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT**
11. **APPROVE AND CERTIFY THE ENVIRONMENTAL REVIEW RECORD FOR THE SPANISH FORK CITY WATERLINE 2016 COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT**

ACTIONS TAKEN

Consent Agenda Item Nos. 1, 2, 9, 10 and 11 were ratified; Nos. 3 and 4 were declared as surplus; No. 5 was tabled for further discussion; Nos. 6 and 7 were approved; and No. 8 was abated. Regular Agenda Item Nos. 8, 9, 10 and 11 were approved and certified.

AGREEMENT NOS.: 2015-638, 2015-639, 2015-640, 2015-641, 2015-642, 2015-643, 2015-644, 2015-645, 2015-646, 2015-647 and 2015-648

REGULAR AGENDA

(PULLED FROM CONSENT)

- 5. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE MODIFICATION TO CHALLENGE COST SHARE AGREEMENT NO. 2015-301 WITH THE USDA FOREST SERVICE UINTA-WASATCH-CACHE NATIONAL FOREST SERVICE PLEASANT GROVE RANGER DISTRICT**

Dalene Higgins of the Utah County Sheriff's Office confirmed for Commissioner Ellertson that the monetary award is being reduced from \$31,134 to \$24,000, but it is not because of the \$15,000 in carry-over funds from the previous year. She explained that because the federal funding has been reduced, the county is not receiving as much money as previously. Utah County Clerk/Auditor Bryan E. Thompson asked whether the amount being spent is based on the reduction, and Ms. Higgins stated yes; the match is required, and the carry-over funds must also be spent this year.

Commissioner Graves made the motion to approve the modification to Challenge Cost Share Agreement No. 2015-301 with the USDA Forest Service Uinta-Wasatch-Cache National Forest Service Pleasant Grove Ranger District as outlined in Consent Agenda Item No. 5. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

AGREEMENT NO. 2015-649

REGULAR AGENDA

- 1. APPROVE THE MINUTES OF THE JUNE 30, 2015 COMMISSION MEETING *(Continued from the August 4, 18, and 25, and September 1, 8, and 15, 2015 Commission meetings)***

Commissioner Ellertson explained the Board is in agreement on the Work Session portion of the June 30, 2015 meeting minutes. He mentioned a public comment on Page 2 of the minutes related to property tax increases, noting for the record today that there is no \$75,000,000 property tax increase. Commissioner Lee questioned the appropriateness in altering the contents of the record. It was stated that the record would not be altered; any changes would only be noted in the minutes for today's meeting. After the Board members discussed the paragraph in question with Utah County Clerk/Auditor Bryan E. Thompson, they determined no correction was needed.

Commissioner Lee made the motion to approve the minutes of the June 30, 2015 Commission meeting as described in Regular Agenda Item No. 1. The motion was seconded by Commissioner Graves and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

APPROVED

- 2. APPROVE OR DENY A LATE VETERAN ABATEMENT APPLICATION FOR VERNON COPE, SERIAL NO. 45:300:0064, WITH A FINDING THAT THE FAILURE OF THE CLAIMANT TO TIMELY FILE THE APPLICATION WAS BEYOND THE CLAIMANT'S CONTROL AND TO NOT EXTEND THE DEADLINE WOULD BE AGAINST EQUITY OR GOOD CONSCIENCE**

Commissioner Graves made the motion to approve the late veteran abatement application for Vernon Cope on Property Serial No. 45:300:0064 as specified in Regular Agenda Item No. 2, with the finding that the failure of the claimant to timely file the application was beyond the claimant's reasonable control and to not extend the deadline would be against equity or good conscience. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

APPROVED

- 3. APPROVE OR DENY A LATE VETERAN ABATEMENT APPLICATION FOR JOHN FLORES, SERIAL NO. 41:486:0427, WITH A FINDING THAT THE FAILURE OF THE CLAIMANT TO TIMELY FILE THE APPLICATION WAS BEYOND THE CLAIMANT'S REASONABLE CONTROL AND TO NOT EXTEND THE DEADLINE WOULD BE AGAINST EQUITY OR GOOD CONSCIENCE**

Commissioner Ellertson clarified that no refund would be offered for previous years.

Commissioner Graves made the motion to approve the late veteran abatement application for John Flores on Property Serial No. 41:486:0427 as specified in Regular Agenda Item No. 3, with the finding that the failure of the claimant to timely file the application was beyond the claimant's reasonable control and to not extend the deadline would be against equity or good conscience. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

APPROVED

- 4. APPROVE OR DENY A LATE VETERAN ABATEMENT APPLICATION FOR HEATH HENRY, SERIAL NO. 52:484:0088, WITH A FINDING THAT THE FAILURE OF THE CLAIMANT TO TIMELY FILE THE APPLICATION WAS BEYOND THE CLAIMANT'S REASONABLE CONTROL AND TO NOT EXTEND THE DEADLINE WOULD BE AGAINST EQUITY OR GOOD CONSCIENCE**

Commissioner Graves made the motion to approve the late veteran abatement application for Heath Henry on Property Serial No. 52:484:0088 as specified in Regular Agenda Item No. 4, with the finding that the failure of the claimant to timely file the application was beyond the claimant's reasonable control and to not extend the deadline would be against equity or good conscience. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

APPROVED

- 5. ADOPT AN ORDINANCE AMENDING THE UTAH COUNTY GOVERNMENT FEE SCHEDULE ADOPTED IN BOOK FORM BY SECTION 2-1-6 OF THE UTAH COUNTY CODE**

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Commissioner Lee asked how it is determined that additional fees are needed above what employees are regularly tasked with as part of their work, which is already funded by taxes. Utah County Community Development Associate Director Bryce Armstrong commented on much of the department being funded by service areas for the general administration of zoning and land use ordinances, explaining that individuals with specific zoning questions who require an approval process pay an application fee for the detailed studies to accommodate those requests. Commissioner Lee summarized that some fees directly support the additional work, and asked how a fee schedule is balanced in a government operation. Mr. Armstrong replied that fees are generally kept low as the county does not want to discourage residents from applying, as it helps protect the citizens and prevents future problems - the challenge is to balance costs while providing the most services. Essentially, it is based on supply and demand. They reviewed the justification for agricultural protection fee increases, with Mr. Armstrong commenting on the site visits required to meet state code.

Commissioner Lee made the motion to adopt the ordinance amending the Utah County Government Fee Schedule as discussed in Regular Agenda Item No. 5. The motion was seconded by Commissioner Graves and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

ORDINANCE NO. 2015-23

The commissioners chose to address Regular Agenda Item Nos. 6 and 7 simultaneously, as they are directly related.

6. DENY (OR ADOPT) AN ORDINANCE TO AMEND THE UTAH COUNTY GENERAL PLAN LAND USE MAP FROM AGRICULTURAL/WATERSHED TO RESIDENTIAL, AND TO AMEND THE UTAH COUNTY ZONE MAP FROM THE CRITICAL ENVIRONMENT (CE-1) ZONE TO THE TRANSITIONAL RESIDENTIAL (TR-5) ZONE IN SECTION 13, T4S R1E AND SECTION 18, T4S R2E, ALPINE AREA OF UTAH COUNTY

CONTINUED TO SEPTEMBER 29, 2015

7. DENY (OR ADOPT) AN ORDINANCE TO AMEND THE UTAH COUNTY GENERAL PLAN LAND USE MAP FROM AGRICULTURAL/WATERSHED TO RESIDENTIAL, AND TO AMEND THE UTAH COUNTY ZONE MAP FROM THE CRITICAL ENVIRONMENT (CE-1) ZONE TO THE TRANSITIONAL RESIDENTIAL (TR-5) ZONE IN SECTION 18, T4S R2E, ALPINE AREA OF UTAH COUNTY

CONTINUED TO SEPTEMBER 29, 2015

Utah County Community Development Associate Director Bryce Armstrong explained the two applications are directly related, as portions of the same parcel are included in both applications. Commissioner Lee mentioned he had met with the applicant the previous day, and would like additional time to review the documents; the applicant has consented. Commissioner Ellertson joked that he and Commissioner Lee have now agreed on something: needing more time to review the applications.

Commissioner Lee made the motion to continue Regular Agenda Item Nos. 6 and 7 regarding ordinances to amend the Utah County General Plan Land Use Map from Agricultural/Watershed to Residential in Alpine areas of Utah County for one week to the September 29, 2015 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Graves and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves**
NAY: None

The Board suggested briefly tabling Regular Agenda Item No. 12, and moved on to first address Regular Agenda Item No. 13.

13. ADOPT A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT WITH MAPLETON CITY REGARDING LIBRARY SERVICES

Commissioner Ellertson asked about the sentence within Section 2 of the agreement stating the county “agrees to keep all books and records,” and Utah County Clerk/Auditor Bryan E. Thompson explained it is related to the keeping of financial records. Commissioner Ellertson suggested the wording be updated for the sake of clarity, and Utah County Civil Division Chief Deputy Attorney David Shawcroft noted it could be corrected in next year’s contract. Commissioner Ellertson reiterated for the record that ‘books and records’ refers to ‘financial records.’

Commissioner Lee noted this agreement was signed by the city on June 3, 2015, and yet is just now appearing on the county agenda. Commissioner Graves pointed out there is no penalty or late fee, and Bryan Thompson stated he would be responsible for making sure the invoice is sent.

Commissioner Graves made the motion to adopt the resolution approving and authorizing an interlocal cooperation agreement with Mapleton City regarding library services as identified in Regular Agenda Item No. 13. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves**
NAY: None

RESOLUTION NO. 2015-85
AGREEMENT NO. 2015-366

The commissioners returned to discussion of Regular Agenda Item No. 12 at this time.

12. APPROVE OR DENY REQUEST OF CLEARWATER HOLDINGS, LLC (KYLE BATEMAN) TO MODIFY THE PRIOR CONDITIONAL APPROVAL OF A REQUEST TO AMEND THE OFFICIAL UTAH COUNTY ROAD MAP TO EXTEND COUNTY ROAD 3200 WEST FROM THE NORTH PROPERTY LINE OF LOT 2 OF THE GILES SUBDIVISION, PLAT “A”, NORTH TO THE NORTH SECTION LINE OF SECTION 5, T8S, R2E, THEN ALONG THE SECTION LINE WEST TO THE WEST PROPERTY LINE OF PARCEL NO. 21:081:0001 (THE “ROAD EXTENSION”) (Continued from the August 18, 2015 Commission meeting)

Cole Cannon, attorney for Clearwater Holdings, LLC, came forward. Commissioner Ellertson mentioned each commissioner has seen the property in question. Mr. Cannon presented a letter and map to each of the Board members and Utah County Civil Division Chief Deputy Attorney David Shawcroft (*a copy of which can be found attached to these minutes*). He explained the county required the dedication of a paved 56-foot right-of-way when the Giles plat was recorded in May of 1999. Mr. Cannon reviewed documents from the Utah County Community Development Office to summarize the Giles family have dedicated all the roads to improvements and easements to the public, as shown on the map.

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Cole Cannon mentioned the Giles' relying on a letter from the previous director of the Utah County Community Development Office, dated 2011; they would not have stipulated to a thirty-foot road width without that letter. Mr. Cannon countered that if anyone would have relied upon the letter, it would be his client Clearwater Holdings, before purchasing 400 acres on the other side of a publicly recorded and dedicated 56-foot right-of-way.

Commissioner Ellertson asked about a "prior conditional approval," and Cole Cannon commented on the 'Morley' application. Mr. Cannon further reviewed the maps, and dates of recording with the commissioners. He is not sure why the county decided to vacate or stop maintaining the road, but reiterated this was a dedicated right-of-way before being purchased by the Giles. Mr. Cannon spoke about deeds overlapping the road, stating the county is asking Clearwater Holdings to perform tasks which were not required of the Giles. He discussed utility providers with the commissioners.

Cole Cannon volunteered to wait a month while allowing Utah County enough time to review the dedications, noting Clearwater Holdings would consent to build a turnaround if the Board decides it is needed for safety. Leslie Slaugh, representing Shane Giles and Leslie Giles, came forward to note he has not seen the documents Mr. Cannon presented to the commissioners. He contested that the right-of-way does not continue past a certain point on the map, and stated there is probably no provision in the county codes for an exception. Mr. Slaugh pointed out there is nothing unique in the configuration of the property that would require an exception, and if one were granted, it should follow a process or standard as the current layout is safe for the current use. He summarized that if land is going to be expanded to build additional houses, the road must also be expanded.

Commissioner Lee made the motion to continue Regular Agenda Item No. 12 regarding a request from Clearwater Holdings, LLC for six weeks to the November 3, 2015 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Graves and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

CONTINUED TO NOVEMBER 3, 2015

At this point, the commissioners determined which closed meetings would be necessary to set and which could be stricken from the Regular Agenda.

- 16. APPROVE AND SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS THE PURCHASE, EXCHANGE, OR LEASE OF REAL PROPERTY, WATER RIGHTS, OR WATER SHARES (Suggested for today's date, at this location, following the completion of the Regular Agenda and Work Session Agenda items) (Announce the vote of each commissioner)**

STRICKEN

- 17. APPROVE AND SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS THE SALE OF REAL PROPERTY, WATER RIGHTS, OR WATER SHARES, PREVIOUSLY PUBLICLY NOTICED FOR SALE (Suggested for today's date, at this location, following the completion of the Regular Agenda and Work Session Agenda items) (Announce the vote of each commissioner)**

STRICKEN

Commissioner Lee made the motion to strike Regular Agenda Item Nos. 16 and 17 to set dates, times, and locations for closed meetings for a strategy session to discuss the purchase, exchange, or lease of real property, water rights, or water shares; and for a strategy session to discuss the sale of real property, water rights, or water shares previously noticed for sale. The motion was seconded by Commissioner Graves and carried with the following vote:

AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None

14. APPROVE AND SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL OR INDIVIDUALS (Suggested for today's date, at this location, following the completion of the Regular Agenda and Work Session Agenda items) (Announce the vote of each commissioner)

Commissioner Lee made the motion to set a date, time and location for a closed meeting to discuss the character, professional competence, or physical or mental health of an individual or individuals to follow the Regular Agenda items today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Graves and carried with the following vote:

AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None

SET

15. APPROVE AND SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS PENDING OR REASONABLY IMMINENT LITIGATION (Suggested for today's date, at this location, following the completion of the Regular Agenda and Work Session Agenda items) (Announce the vote of each commissioner)

Commissioner Lee made the motion to set a date, time and location for a closed meeting for a strategy session to discuss pending or reasonably imminent litigation to follow the Regular Agenda items today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Graves and carried with the following vote:

AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None

SET

WORK SESSION

NO WORK SESSION ITEMS WERE SUBMITTED

PUBLIC COMMENTS

There were no public comments and the meeting recessed at 10:03 A.M. to go into closed meetings. The public meeting reconvened at 11:01 A.M.

Commissioner Graves made the motion to adjourn the September 29, 2015 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

There being no further business nor public comment, the meeting adjourned at 11:01 A.M. The minutes of the September 22, 2015 Commission meeting were approved as transcribed on October 20, 2015.

LARRY A. ELLERTSON, Commission Chair

ATTEST:

BRYAN E. THOMPSON
Utah County Clerk/Auditor