

**BOARD OF COUNTY COMMISSIONERS, UTAH COUNTY, UTAH**  
**MINUTES OF PUBLIC MEETING**  
**COMMISSION CHAMBERS, ROOM 1400**  
**OF THE UTAH COUNTY ADMINISTRATION BUILDING**  
**November 3, 2015 - 9:00 A.M.**

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

**ALSO PRESENT:**

Jeffrey R. Buhman, Utah County Attorney  
David Shawcroft, Civil Division Chief Deputy Attorney  
Robert J. Moore, Utah County Deputy Attorney  
Paul Jones, Utah County Deputy Attorney  
Carl Hollan, Utah County Deputy Attorney  
Bryan E. Thompson, Utah County Clerk/Auditor  
Sandy Nielson, Clerk/Auditor's Office - Tax Admin.  
Michelle Araujo, Utah County Commission Office  
Lisa K. Nielson, Utah County Commission Office  
Brian Voeks, Utah County Commission Office  
Kris Poulson, Utah County Assessor  
Peter A. Jepps, Utah County Assessor's Office  
Bryce Armstrong, Community Development  
Peggy Kelsey, Community Development  
Brandon Larsen, Community Development  
Joshua Ivie, Community Development  
Ralph Clegg, Utah County Health Department  
Richard Nance, Drug & Alcohol Prevention & Treatment  
Lana Jensen, Utah County Personnel Director  
Jane Ivie, Personnel Office

Neil Petersen, Information Systems Director  
Jerry Chapman, Information Systems  
Jeff Wilkinson, Information Systems  
Mark Arbon, Information Systems  
Richard Nielson, Utah County Public Works Director  
Jeff Smith, Utah County Recorder  
Andrea Allen, Utah County Recorder's Office  
James O. Tracy, Utah County Sheriff  
Dalene Higgins, Utah County Sheriff's Office  
Gary Ratcliffe, Utah County Surveyor  
Kim T. Jackson, Utah County Treasurer  
Cary McConnell, Utah County Assistant Treasurer  
Jan Corless, Benjamin Resident  
Jill Hanks, Salem Resident  
Nick Hanks, Salem Resident  
Larry Ballard, -No further information given-  
Zac Sherman, -No further information given-  
Leslie Slaugh, -No further information given-  
Mike Stansfield, Fairways Media  
Renée Caron, Clerk/Auditor Administrative Assistant

Commissioner Ellertson called the meeting to order at 9:07 A.M. and welcomed those present. The following matters were discussed:

**PRAYER/READING/THOUGHT:** Ralph Clegg, Utah County Health Department Interim Director

**PLEDGE OF ALLEGIANCE:** Greg Graves, Utah County Commissioner

In recognition of today's Election Day, Commissioner Lee took a moment of personal privilege to read the following poem and encourage citizens to participate in their local elections:

Voting  
by Bernard Howe

Voting is our given right, which men have died to keep.  
Voting shows our peoples might, so our country won't get in too deep.  
But there are those who never vote, and constantly seem to complain.  
Patriotism they don't promote, and their rights they choose to abstain.

Every vote does really count, to let our officials know  
For their actions they must account, or their ratings will never grow.  
So come next election time, go cast your vote with pride.  
Voting doesn't cost a dime, plus the outcome you help decide.

**CONSENT AGENDA**

1. **RATIFY THE APPROVAL OF (UP TO) A TWO-WEEK LEAVE OF ABSENCE WITHOUT PAY FOR A HEALTH DEPARTMENT EMPLOYEE**
2. **APPROVE (OR DENY) THE DIXON RANCH SUBDIVISION, PLAT 'A,' SUBJECT TO THE CONDITIONS STATED IN THE STAFF REPORT**
3. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE FY15 HOMELAND SECURITY GRANT AWARD DOCUMENT AND ASSOCIATED PAPERWORK FROM THE UTAH DEPARTMENT OF PUBLIC SAFETY**

Commissioner Ellertson mentioned concerns with grants that obligate the county to future commitments, and Utah County Sheriff James O. Tracy replied this award is not of that nature.

4. **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**
5. **ABATE PERSONAL PROPERTY ACCOUNTS ATTACHED FOR THE YEARS INDICATED, HAVING BEEN IDENTIFIED AS UNCOLLECTIBLE; THERE ARE NO ASSETS AVAILABLE**
6. **APPROVE PROPERTY TAX ACTIONS CONTAINED IN RECOMMENDATION LETTER NO. 2015-18**
7. **RATIFICATION OF PAYROLL**
8. **RATIFICATION OF WARRANT REGISTER SUMMARY**

Consent Agenda Item Nos. 1 through 8 were approved as written. Commissioner Ellertson recommended the following Regular Agenda items be moved to Consent:

2. **APPROVE THE MINUTES OF THE AUGUST 18, 2015 COMMISSION MEETING *(Continued from the October 6, 13, and 20, 2015 Commission meetings)***
3. **APPROVE THE MINUTES OF THE AUGUST 25, 2015 COMMISSION MEETING *(Continued from the October 13 and 20, 2015 Commission meetings)***
4. **APPROVE THE MINUTES OF THE SEPTEMBER 8, 2015 COMMISSION MEETING *(Continued from the October 13 and 20, 2015 Commission meetings)***
5. **DELETE ONE FULL-TIME CAREER SERVICE FINANCIAL ASSISTANT-ATTORNEY POSITION (CLASS CODE 6701, ACCOUNT 100-41450), AND ADD ONE FULL-TIME CAREER SERVICE PARALEGAL II POSITION (CLASS CODE 5700, ACCOUNT 100-41450) TO THE STAFFING PLAN OF THE UTAH COUNTY ATTORNEY'S OFFICE**

Utah County Attorney Jeffrey R. Buhman noted from the audience this change to the staffing plan will save the county money for the next six years.

UTAH COUNTY BOARD OF COMMISSIONERS

MINUTES - November 3, 2015

Page 3

7. **ADOPT (OR DENY) AN ORDINANCE AMENDING THE NC-1 NEIGHBORHOOD COMMERCIAL ZONE, SECTION 5-8-B-22 ADDING GREENHOUSES AND SECTION 5-8-B-23 ADDING AGRICULTURAL STRUCTURES TO THE UTAH COUNTY LAND USE ORDINANCE AS PERMITTED USES**
8. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MAINTENANCE AGREEMENT WITH CANON SOLUTIONS AMERICA FOR AN IR3530 COPIER, SERIAL NO. KJG03462, LOCATED IN THE RECORDER'S OFFICE; EXPIRES 11/18/2016**

Utah County Clerk/Auditor Bryan E. Thompson commented on the Canon Solutions American maintenance agreement being split between budget years.

10. **APPROVE AND AUTHORIZE AN ESCROW AGREEMENT WITH CREDIBLE WIRELESS LLC FOR SUBSTANCE ABUSE SOFTWARE**

Commissioner Ellertson asked Utah County Department of Drug and Alcohol Prevention and Treatment Director Richard Nance to have the Information Technology Department review this agreement with Credible Wireless before seeking approval from the Board.

The commissioners requested Regular Agenda Item No. 10 be continued to the next meeting of the Board.  
CONTINUED TO NOVEMBER 10, 2015

11. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE SUBDIVISION IMPROVEMENT AND WARRANTY AGREEMENT FOR THE DIXON RANCH SUBDIVISION, PLAT 'A,' IN THE AMOUNT OF \$1,250.00**
12. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE SUBDIVISION IMPROVEMENT AND WARRANTY AGREEMENT FOR SHEPHERD FARMS SUBDIVISION, PLAT 'A,' IN THE AMOUNT OF \$410.78 AS WELL AS SIGN THE LETTER APPROVING THE COMMENCEMENT OF THE ONE-YEAR WARRANTY PERIOD**
14. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE COOPERATIVE LAW ENFORCEMENT AGREEMENT WITH THE USDA, FOREST SERVICE INTERMOUNTAIN REGION UINTA-WASATCH-CACHE NATIONAL FOREST AGREEMENT NO. 16-LE-11041915-003**

Utah County Sheriff James O. Tracy noted from the audience that the dollar amount has decreased.

16. **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 and September 22, 2015 Commission meetings)**

The commissioners requested Regular Agenda Item No. 16 be tabled for discussion later in the agenda.

TABLED

*\*Please refer to the final page of these minutes for additional notations.*

17. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO EXECUTE A NOTICE OF VACANCY ON THE GOSHEN VALLEY LOCAL DISTRICT BOARD OF TRUSTEES**

# UTAH COUNTY BOARD OF COMMISSIONERS

MINUTES - November 3, 2015

Page 4

## ACTIONS TAKEN

**Consent Agenda Item Nos. 1, 7 and 8** were ratified; Nos. **2, 4 and 6** were approved; No. **3** was approved and authorized; and No. **5** was abated. **Regular Agenda Item Nos. 2 through 5** were approved; No. **7** was adopted; Nos. **8, 11, 12, 14 and 17** were approved and authorized; No. **10** was continued to the November 10, 2015 meeting of the Board; and No. **16** was tabled for further discussion.

**AGREEMENT NOS.:** 2015-727, 2015-728, 2015-729, 2015-730, 2015-731, 2015-732, 2015-733, 2015-734 and 2015-735

**ORDINANCE NO.:** 2015-25

**VACANCY NO.:** 2015-5

## REGULAR AGENDA

### **1. RECOGNITION OF THE UTAH COUNTY EMPLOYEE OF THE MONTH FOR NOVEMBER 2015**

Jerry Chapman of the Utah County Information Systems Department was recognized as the Employee of the Month for November 2015.

### **6. APPROVE AND ADOPT THE AMENDED AND RESTATED UTAH COUNTY CAFETERIA PLAN**

Utah County Personnel Director Lana Jensen explained that while this cafeteria plan has been in effect for many years at the county, the Internal Revenue Service requires it to be officially adopted to have the pre-tax advantages. This is the plan that allows employees to pay health, vision, and dental premiums on a pre-tax basis, and also includes the flex spending and dependent daycare accounts. Since the county has changed to a new third-party administrator this year, the plan must be adopted in the format that corresponds to how they administer it.

**Commissioner Graves made the motion to approve and adopt the amended and restated Utah County Cafeteria Plan as detailed in Regular Agenda Item No. 6. 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. 2015-736

### **9. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AMENDMENT TO AGREEMENT NO. 2014-786 WITH WESTAT FOR THE EVIDENCE-BASED COMMUNITY WELLNESS AND PREVENTION PROGRAMS**

Utah County Interim Health Department Director Ralph Clegg spoke about the 'Stepping On' program, which encourages and strengthens senior citizens to avoid falls. The county receives a grant from the Utah State Department of Health for the program; there is an increase this year of approximately \$1,000.00.

**Commissioner Lee made the motion to approve the amendment to Agreement No. 2014-786 with Westat for the evidence-based Community Wellness and Prevention programs as discussed in Regular Agenda Item No. 9. The motion was seconded by Commissioner Graves and carried with the following vote:**

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

AGREEMENT NO. 2015-737

UTAH COUNTY BOARD OF COMMISSIONERS

MINUTES - November 3, 2015

Page 5

**13. ADOPT A RESOLUTION AMENDING THE UTAH COUNTY FACILITY USE POLICY, INCLUDING POLICIES REGARDING AMUSEMENT RIDES AND HORSE TRIPPING, AS WELL AS VARIOUS MINOR CHANGES AND UPDATES**

Utah County Public Works Director Richard Nielson summarized that a new statute from the legislature requires a long reporting process for any facility which allows horse-tripping, so the county is choosing to not allow it at the one potential facility it could occur. When Mr. Nielson mentioned he is not familiar with horse-tripping, Commissioner Ellertson also joked about the county amusement park - which does not exist but is also mentioned in the policy. Commissioner Lee asked about the change of closing parks at 10PM rather than 11PM, and Mr. Nielson stated it was a request from the Parks Division based on feedback from camp hosts and ground crews. Commissioner Lee mentioned that 10PM is relatively early in the summertime, and Commissioner Ellertson asked whether there have been complaints. Mr. Nielson noted there are concerns about the types of activities which could take place in a park after 11PM. Commissioner Lee commented on audio systems, and Commissioner Graves pointed out that the trail system parkways are opened from 5AM to 11PM, which contradicts park hours. Commissioner Lee suggested continuing discussion for an additional week.

**Commissioner Lee made the motion to continue Regular Agenda Item No. 13 regarding the Utah County Facility Use Policy for one week to the November 10, 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 10, 2015

**15. ADOPT A RESOLUTION INITIATING PROCEEDINGS RELATING TO THE MODIFICATION OF SERVICES PROVIDED BY THE POLE CANYON BASIC LOCAL DISTRICT PURSUANT TO THE UTAH LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES - LOCAL DISTRICTS ACT, TITLE 17B, CHAPTER 1 ET SEQ. UTAH CODE ANNOTATED (1953), AS AMENDED; SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREON; PROVIDING FOR PUBLICATION OF A NOTICE OF INTENTION TO MODIFY THE SERVICES PROVIDED BY THE POLE CANYON BASIC LOCAL DISTRICT; PROVIDING FOR THE RECEIPT OF WRITTEN PROTESTS AND PRESCRIBING OTHER MATTERS RELATING THERETO**

Commissioner Ellertson asked about the relationship of cities which provide some of the services, and Utah County Deputy Attorney David Shawcroft clarified that the proposed resolution would better align Pole Canyon Service Area boundaries without causing any substantive changes. Mr. Shawcroft confirmed Commissioner Ellertson's statement that the services are not required, but can be provided by choice. Commissioner Ellertson questioned whether the city intends to continue operating in the same manner, and Mr. Shawcroft replied he does not know the details of the agreement between the city and the district. Commissioner Lee added that he had conversations with Pole Canyon and city representatives which indicated they are in alignment. Commissioner Graves pointed out a typing error within the public hearing notice.

**Commissioner Graves made the motion to adopt the resolution initiating proceedings relating to the modification of services provided by the Pole Canyon Basic Local District as outlined in Regular Agenda Item No. 15. 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. 2015-138

UTAH COUNTY BOARD OF COMMISSIONERS

MINUTES - November 3, 2015

Page 6

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

- 20. 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

- 21. 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 Graves made the motion to strike Regular Agenda Item Nos. 20 and 21 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 Lee and carried with the following vote:

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

- 18. 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 Graves 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 and Work Session Agenda items today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Lee and carried with the following vote:

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

SET

- 19. 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 Graves 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 and Work Session Agenda items today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Lee 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**

Utah County Clerk/Auditor Bryan E. Thompson commented on the uniqueness of this Election Day because of the different types of voting in the county. If you live in one of the vote-by-mail cities, consisting of Orem, Lehi, Alpine, Cedar Hills, and Vineyard, you should have received a ballot in the mail. If you did not or want to drop off your ballot, you must go to your City Center up until 8PM. The other cities have the standard polling locations, which close at 8PM.

This concluded discussion of most scheduled agenda items, and the meeting recessed at 9:39 A.M. to go into closed sessions. The public meeting reconvened at 10:23 A.M., and the commissioners returned to previously tabled Regular Agenda Item No. 16 for discussion.

### **REGULAR AGENDA**

- 16. 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 and September 22, 2015 Commission meetings)**

Cole Cannon, attorney for Clearwater Holdings, LLC, came forward. He summarized that the application to amend the Official Utah County Road Map is to extend a 300-foot section, and deferred to attorney Leslie Slaugh who is representing the Giles family for any questions. Mr. Slaugh approached and urged the commissioners to deny the Clearwater Holdings application, pointing out that this is the third time he and his clients have been before the Board to discuss an issue that would be an exception to the rule; he asked for the Commission to act according to standards. He commented on the concept of roads dedicated for public use and acceptance by the public body, pointing out that Utah County has set a minimum requirement of 56-feet for roads such as the one in question.

## UTAH COUNTY BOARD OF COMMISSIONERS

MINUTES - November 3, 2015

Page 8

Commissioner Lee pointed out that Leslie Slaugh's client increased the value of their property with a road that does not come up to par of the road coming in to the property, asking him to justify that difference of standards. Mr. Slaugh reminded the Board that the Commission had sent a letter which specified requirements for his clients to create two parcels for two houses based on existing county ordinances. He questioned why the county would require his clients to dedicate 56 feet if it was not necessary, yet make an exception for Clearwater Holdings. When Mr. Slaugh commented on a 24-foot road, Commissioner Lee asked whether he is arguing that the road should have been allowed to stay at 24 feet instead of 56 feet. Mr. Slaugh replied that his argument is the county should be consistent.

Commissioner Ellertson noted that the county may require a 56-foot road from Kyle Bateman with Clearwater Holdings, and Leslie Slaugh countered that a portion of the road would not meet that minimum. Commissioner Ellertson pointed out "that's correct; just as a portion of the road is not [56 feet] on Giles' [property]." Commissioner Ellertson repeated Commissioner Lee's question about substandard portions, and Mr. Slaugh explained the portion leading up to the Giles' property had been on the county road maps since 1976 and therefore had different standards. He discussed court decisions about public roads with Commissioners Ellertson and Lee, and Utah County Public Works Director Richard Nielson commented on aerial maps dating back to 1946. Cole Cannon commented that the Giles family is likewise benefitting from an inconsistency on the county's part, and the county would be applying the same standard to Clearwater Holdings as they had to the Giles family.

When Cole Cannon began speaking about the decision to vacate the road and the public right-of-way, Commissioner Graves noted that a finding on a separate application from 2001 (the Morley application) is already in place to direct Kyle Bateman and Clearwater Holdings on how to gain land access. Commissioner Graves pointed out that Mr. Bateman purchased the land knowing the rules which had been set for the Morley family; why should the county change now and vacate that previous legislative body's decision? Utah County Civil Division Chief Deputy Attorney David Shawcroft clarified the county decision was made in the year 2002, and Mr. Cannon quoted code regarding literal enforcement and the technical interpretation. Commissioner Graves mentioned the active court case between Clearwater Holdings and the Giles family, and Mr. Cannon stated they are not asking the county to change anything the appellate court is deciding. Their request is to grant the variance as it would be essential to the enjoyment of a substantial property right possessed by other property in the same zone, and the variance would not substantially affect the General Plan or be contrary to public interest.

Cole Cannon reiterated that Clearwater Holdings is not asking the Board to take anything from the Giles family, and reminded the commissioners his client would be improving the road with a cul-de-sac. Commissioner Ellertson asked about use of the property at the end of the cul-de-sac in relation to traffic volume, and Mr. Cannon replied the current application would restrict building to only nine houses. Commissioner Graves pointed out that it does not matter for this Board to agree if Mr. Cannon and his client will simply wait for a new legislative body to appeal any decision, as they are doing in this matter. Mr. Cannon countered that officials are elected, congress cannot bind future congresses, and he cannot give any assurances as to what will happen in the future with this land, but Clearwater Holdings is willing to adhere to some deed restrictions. Leslie Slaugh added that he has not studied whether the application would meet requirements for a variance because that was not the request. Utah County Civil Division Chief Deputy Attorney David Shawcroft noted that a variance request would have to go before the Board of Adjustment.

Commissioner Lee stated there is so much information that continues to be unveiled, suggesting the discussion be continued to a future meeting of the Board. Commissioner Graves expressed it is unfair to continue prolonging this decision.

**Commissioner Graves made the motion to strike Regular Agenda Item No. 16 from the calendar, in order to follow his standard of not changing or amending previous legislative action. The motion died for lack of a second.**



## UTAH COUNTY BOARD OF COMMISSIONERS

MINUTES - November 3, 2015

Page 9

Commissioner Lee asked for options in continuing discussion, and Utah County Civil Division Chief Deputy Attorney David Shawcroft suggested continuing it without date pending a resolution or decision from the appellate court. Continuing without date would also allow Clearwater Holdings the time to pursue a variance request if they believe that is the best option for them. Commissioner Graves pointed out that a new application can also be submitted if the Board chooses to strike this item from the agenda. Commissioner Lee stated he would be more comfortable with continuing discussion rather than striking it, as some action needs to take place. Commissioner Graves repeated that he does not want to re-address previous legislative action unless it is directly related to the safety or future issues of the county.

Cole Cannon stated he was only identifying the standards in which code allows for this type of action, and not officially requesting a variance - only an amendment to the Official Utah County Road Map. Commissioner Graves noted he truly and firmly believes there should be no restrictions upon a landowner's property, but he also believes there is already a prescribed action in order to obtain Mr. Cannon's request and he will not vote to reverse the previous decision.

Commissioners Ellertson and Graves discussed potential results of the appellate court decision with Cole Cannon. If the court rules in favor of Clearwater Holdings, the case could be remanded to a lower court and still not resolved in another year. Mr. Cannon pointed out only the Board of Commissioners can amend the Utah County Road Map; that would not be an appellate court decision.

**Commissioner Lee made the motion to continue discussion of Regular Agenda Item No. 16 to a future meeting of the Board, on a date yet to be determined.**

Because there was lack of a second, Commissioner Ellertson briefly suspended Robert's Rules of Order for the purpose of seconding this motion.

**The motion was seconded by Commissioner Ellertson, and discussion continued.**

Commissioner Ellertson asked Cole Cannon to summarize his client's intentions if the Giles family would agree to widening the 300-foot portion of road. Mr. Cannon explained they are offering to restrict the buildable lots to nine lots until the legislative body decides otherwise, or an alternative route is built. Mr. Cannon stated they would also pay for the improvements and reimburse the Giles' attorney's fees. Commissioner Graves warned against negotiating for the property owners, and Commissioner Ellertson clarified he only wants to make sure everyone understands the options. Commissioner Ellertson asked Shane Giles "what is the real reason you are objecting to this?" Mr. Giles answered that Clearwater Holdings came to him and declared they would take something that belongs to him. Mr. Giles stated he is not interested in selling; Kyle Bateman bought a problem and now wants him to fix it. Mr. Giles said he is not going to be pushed around. He moved there because he wanted a dead-end piece of ground for his family; that is his ground, and he has followed county guidance to protect it. Mr. Giles said his family could be kind and give away the gas and water, but he is simply not selling his 300 feet of ground.

Commissioner Graves commented on Shane Giles' conviction, reiterating that the agenda item should be stricken because Mr. Giles is not going to change his mind. Kyle Bateman came forward to state he is not asking to take anyone's land or for the Board to take any action that would result in the Giles family losing anything that they own. It has been determined that it is public road. When the Giles' house was built, the property owners down the street were not required to deed any ground within their legal description; they merely recognized that was a public road. The county asked the Giles' to dedicate the road which they had frontage upon, and the road value and safety is being incrementally improved as residents are asked to deed 56 feet as they develop. Mr. Bateman said he is not asking for anything different; only for the Board to recognize this has been a public road for decades, and to accept his 56 feet as well. This does not include rescinding any past legislative action, as this is an issue between Mr. Bateman and the county - not the Mr. Bateman and Mr. Giles. Mr. Bateman stated the Board could just take the part he is deeding and extend it to the county road, leaving the Giles alone, addressing the issue, and ending the war. In return he will improve the road and services.

# UTAH COUNTY BOARD OF COMMISSIONERS

MINUTES - November 3, 2015

Page 10

Kyle Bateman stated he just wants to exercise his property rights on his property; he is only here because he cannot build his house without the county giving permission. He and Commissioner Graves discussed whether or not the Giles property was really at a dead end, and they spoke about public roads and county maintenance. Mr. Bateman commented that it was arbitrary and capricious to require Mr. Morley obtain a dedication from the Giles family in order to build his house, but not demand the same of any other developer on the same road. Commissioner Graves noted Mr. Bateman bought the property knowing the conditions, and Mr. Bateman repeated that for all purposes, it is a county road. Mr. Bateman stated the decision made with Mr. Morley was wrong, and he returned to the county to correct it. The county in turn told Mr. Bateman to fight with the Giles family over it, which was also the wrong decision. Mr. Bateman said, "I wish from the beginning the county could have recognized that the only people we require property of are the people who are developing; not their neighbors down the road. We're not going to create these fights between neighbors." He stated it is wrong and an abuse of government to force the citizens to fight for land because the county wants it.

Commissioner Ellertson noted his interest in detailing the conditions of moving forward, and any circumstances surrounding that action. He expressed concern that the current motion for continuation is open-ended, but also said that it may provide flexibility in getting to the answers. Commissioner Ellertson indicated he would like the Board to move forward sooner rather than later.

**The motion to continue Regular Agenda Item No. 16 to a future meeting of the Utah County Board of Commissioners, on a date yet to be determined, made by Commissioner Lee and seconded by Commissioner Ellertson, carried with the following vote:**

**AYE: Larry A. Ellertson  
William C. Lee**

**NAY: Greg Graves**

CONTINUED WITHOUT DATE

*\*Please refer to the final page of these minutes for additional notations.*

The open meeting recessed a second time at 11:16 A.M. to go back into closed sessions. The public meeting reconvened again at 11:41 A.M.

**Commissioner Graves made the motion to adjourn the November 3, 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 11:41 A.M. The minutes of the November 3, 2015 Commission meeting were approved as transcribed on December 22, 2015.

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LARRY A. ELLERTSON, Commission Chair

UTAH COUNTY BOARD OF COMMISSIONERS  
MINUTES - November 3, 2015  
Page 11

ATTEST:

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BRYAN E. THOMPSON  
Utah County Clerk/Auditor

**\*Regular Agenda Item No. 16:**

The commissioners removed Regular Agenda Item No. 16 from the table following closed meetings, and voted two-to-one to continue discussion indefinitely to a future meeting of the Board.

Copies available on the Utah County website at [www.utahcounty.gov](http://www.utahcounty.gov)  
Recorded by Renée Huggins-Caron, Clerk/Auditor Administrative Assistant