

THE BOARD OF COMMISSIONERS OF UTAH COUNTY, UTAH
COMMISSION CHAMBERS, ROOM 1400
OF THE UTAH COUNTY ADMINISTRATION BUILDING
Tuesday, February 9, 2016 at 9:00 A.M.

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

ALSO PRESENT:

Kris Poulson, Utah County Assessor	Mike Kipp, Double Eagle Assets
Kim Jackson, Utah County Treasurer	Peggy Kelsey, Community Development
Gary Ratcliffe, Utah County Surveyor	Katie England, <u>Daily Herald</u>
James O. Tracy, Utah County Sheriff	Tyler Plewe, Utah County Health Dept.
Jeff Smith, Utah County Recorder	Bryce C. Larsen, Utah County Health Dept.
David Shawcroft, Utah County Attorney's Office	Carl Hollan, Utah County Attorney's Office
Ralph Clegg, Health Dept. Executive Director	Leslie Slaugh, no further information
Lana Jensen, Utah Personnel Director	Burt Garfield, Utah County Assessor's Office
Michelle Araujo, Utah County Commission Office	Bryce Armstrong, Community Development
Lisa K. Nielson, Utah County Commission Office	Dianne Orcutt, Utah County Attorney's Office
Brian Voeks, Utah County Commission Office	Paul Jones, Utah County Attorney's Office
Dalene Higgs, Utah County Sheriff's Office	Mike Forshee, Utah County Sheriff's Office
Mike Stansfield, Fairways Media	Casey Voeks, Lehi, Utah resident
Steve Henline, no further information	Erin Edwards, Utah County Health Dept.
Randy D. Edwards, Utah County Veteran's Services	Reneé Huggins-Caron, Clerk/Auditor Adm. Asst.

Commissioner Ellertson called the meeting to order at 9:04 A.M. and welcomed those present. The following matters were discussed:

PRAYER/THOUGHT/READING: Commissioner Lee
PLEDGE OF ALLGIANCE: Lana Jensen

CONSENT AGENDA

1. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE AIRPLANE HANGER GROUND LEASE AGREEMENT WITH THE SPANISH FORK/SPRINGVILLE AIRPORT BOARD (CONTINUED FROM THE JANUARY 26, 2016 COMMISSION MEETING)

Commissioner Ellertson said, "The address generally in an agreement is the official county address, which would be the Provo address. With that change, I recommend it be approved."

2. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A JOINT AGREEMENT REGARDING APPOINTMENT OF SHERRIE HALL EVERETT FROM PROVO TO THE BOARD OF TRUSTEES OF THE UTAH TRANSIT AUTHORITY

3. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN EQUESTRIAN PARK STALL RENTAL AGREEMENT WITH TJ SUMMER**
4. **APPROVE TAX CREDITS AND REFUNDS RECOMMENDED BY THE COUNTY TREASURER'S OFFICE IN CANCELLATION LETTER NO. 20352, DATED FEBRUARY 3, 2016**
5. **APPROVE PROPERTY TAX ACTIONS CONTAINED IN RECOMMENDATION LETTER NO. 2016-2**
6. **RATIFICATION OF PAYROLL**
7. **RATIFICATION OF WARRANT REGISTER SUMMARY**

Consent Agenda Item Nos. 1 was approved with a stipulated change; Nos. 2-7 were approved as written. Commissioner Ellertson recommended the following Regular Agenda Items be moved to Consent.

1. APPROVE THE MINUTES OF THE JANUARY 5, 2016 COMMISSION MEETING

Approved with changes

2. **APPROVE THE MINUTES OF THE JANUARY 12, 2016 COMMISSION MEETING.**
3. **ADD ONE FULL-TIME CAREER SERVICE ELECTIONS SPECIALIST – TECHNICAL SERVICES POSITION (JOB CODE 6244) TO THE AUDITOR'S STAFFING PLAN**
4. **AUTHORIZE A CHANGE TO THE STAFFING PLAN OF THE PUBLIC WORKS – ROADS DIVISION TO DELETE ONE (1) FULL-TIME GRANT FUNDED CAREER SERVICE EQUIPMENT OPERATOR 1 – WEED CONTROL POSITION AND ADD ONE (1) FULL-TIME GRANT FUNDED CAREER SERVICE EQUIPMENT OOPERATOR II – WEED CONTROL POSITION**
5. **ADD ONE FULL-TIME CAREER SERVICE JAIL RECORDS CLERK, JOB CODE 6493, TO THE SHERIFF CORRECTIONS – SUPPORT SERICES DEPARTMENT STAFFING PLAN**
8. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A GRANT AGREEMENT WITH THE UTAH DEPARTMENT OF AGRICULTURE AND FOOD TO RECEIVE \$84,160.00 FOR THE SQUARROSE CWMA K NAPWEED YEAR 4 WEED CONTROL PROJECT**
9. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A GRANT AGREEMENT WITH THE UTAH DEPARTMENT OF AGRICULTURE AND FOOD TO RECEIVE \$39,565.00 FOR THE ELBERTA VALLEY WEED CONTROL PROJECT**
10. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A GRANT AGREEMENT WITH THE UTAH DEPARTMENT OF AGRICULTURE AND FOOD TO RECEIVE \$99,549 FOR THE UTAH LAKE SHORELINE RESTORATION AND PHRAGMITES REMOVAL – SOUTH SORE WEED CONTROL PROJECT**
12. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE STATE OF UTAH CONTRACT FOR BAILIFF AND SECURITY SERVICES**

13. **APPROVE A MOUNTAINLAND ASSOCIATION OF GOVERNMENTS UTAH COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT AWARD UP TO \$125,000 TO THE TOWN OF GOSHEN FOR THE WATERLINE UPGRADE 200 SOUTH FROM CENTER STREET TO 200 WEST**
14. **APPROVE A MOUNTAINLAND ASSOCIATION OF GOVERNMENTS UTAH COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT AWARD UP TO \$15,000 TO WEE CARE CENTER AT UTAH VALLEY UNIVERSITY FOR CHILDCARE FUNDING FOR LOW-INCOME STUDENT PARENTS**

ACTIONS TAKEN:

Consent Agenda Item Nos. 1, 2 and 3 were approved and authorized; Nos. 4 and 5 were approved; and Nos. 6 and 7 were ratified. Regular Agenda Item Nos. 1, 13 and 14 were approved; No. 2 was continued; No. 4 was authorized; and Nos. 8 through 12 were approved and authorized.

AGREEMENT NOS: **2016-121, 2016-122, 2016-123, 2016-124, 2016-125, 2016-126, 2016-127, 2016-128, 2016-129, 2016-130, 2016-131**

REGULAR AGENDA

6. **ADOPT (OR DENY) AN ORDINANCE AMENDING SHEETS 12 AND 13 OF THE OFFICIAL UTAH COUNTY ROAD MAP TO EXTEND 6200 WEST AS AN OFFICAL COUNTY ROAD, SUBJECT TO THE CONDITIONS FOUND IN THE STAFF REPORT, AND ACCEPT DEDICATION OF RIGHT-OF-WAY AS SET FORTH IN THE SUBJECT APPLICATION**

Brandon Larsen showed a presentation of a map of between 8400 South and 8800 South (West Mountain area) where there is a spur of 6200 West. This is where Monte Phelps owns a home and a U-Pick operation. He wants to expand his operation and build a new home there. Brandon showed an aerial photo of the property and explained Mr. Phelps' proposal to extend the road to the north to the edge of the subdivision and to build a cul-de-sac. He explained due to having to give two applications on this construction, this application is for the cul-de-sac. Today's purpose was to gauge the Commissioner's interest in a road dedication that would include the cul-de-sac. The majority of the road dedication would be through the plat amendment process.

Commissioner Graves asked, "So we are not talking about the portion in front of lots 3, 4 and 5?" Brandon answered no, just the cul-de-sac because the spur portion has to go through the plat amendment process. Commissioner Ellertson asked, "Elaborate on that if you will, because in my mind that's one of questions I have." Brandon explained how road dedications occur through the subdivision process. Commissioner Graves asked, "Is this a cul-de-sac or a parking lot (which I am not opposed to a parking lot for a u-pick operation)? Are we going to then have a parking lot coming off of that and then it's not a dead end because we would have a continuation of a road?" Brandon answered in his understanding the parking lot would be off the cul-de-sac on the owner's private property. He described the County Engineer's statement on the proposal in which he was concerned on the benefit to the public if this road will just access one new residence and a business. Because of this there may be a need for deeding land to the county for a future road. Brandon showed where 6000 West is on the map and said they hope to connect to it at some point in the future. Commissioner Graves asked, "So, you are saying

6000 West will never be connected all the way, then?” Brandon answered he thought that was possible if they did get a road dedication.

Commissioner Graves commented, “It just seems to me, keeping it in our grid system, if we connect it at 6000 West and allowed for subdivisions to spread off of that road in the future, would make more sense based on our current system.” Brandon agreed. He also described how property owners, if they wanted to develop his land, they would have to build that road to provide frontage to those lots.

Commissioner Lee asked, “Why would we want to do that when all around they are owned by other people. I mean, we don’t even know where the road is going to go. It seems like you have two, maybe three, options. I am just wondering why we would want to go down that path of doing that until the development actually takes place or there are some plans for it.” Brandon explained how the County Engineer felt if we could get some type of dedication that would connect us to 6000 West there would be potential benefits. The County would own the land to potentially build the road in the future.

Commissioner Graves replied, “But building a dead end road that even veers further west, that doesn’t get us closer to connectivity with 6000.” Brandon agreed he was right as the proposal only covered construction of the cul-de-sac. He continued saying how the County Engineer has suggested conditional additional right-a-way to build a future road. Brandon clarified which land belongs to the applicant as shown on the map outlined in green.

Commissioner Graves asked, “Why wouldn’t we extend and come straight down 6000 West to the south and come over and access and give him a parking lot or a dead end along his own property right there rather than change those three? I understand there is a little bit of, not a little bit, but significantly more costs, but as far as if we are concerned with connectivity well that definitely gives us a lot closer to connectivity there to create a future intersection potentially.” Brandon asked if he was saying to take the road over to 6000 West and up to...” Commissioner Graves interjected, “We proposed to just bring it all the way down to here and over in to his property because he already owns all this.” Brandon said he thought that is what the County Engineer is asking for is the right-a-way to be dedicated to the County.

Commissioner Lee asked, “Will we have the chance to have the honor to speak on this, too? We are talking about a 40 MPH road and when you have turns like that, 90 degree turns, that’s probably not what they are looking for. I am just wondering property wise...” Commissioner Ellertson added, “I think it was constructed at 40 MPH but probably signed at 25 MPH.” Brandon explained how the County Engineer had concerns that the road was designed for 25 MPH road. He continued saying how that would be one of the conditions of approval that you consider conditioning approval on him amending his proposal to redesign those roads for 40 MPH.

Commissioner Graves asked, “But on lots 3, 4 and 5, are those homeowners willing to potentially do that road?” Brandon explained that portion of the road would be done through the plat amendment process and the owners of those lots would have to sign that application. Commissioner Ellertson asked, “Is the blue section already in the subdivision?” Brandon answered yes. Commissioner Graves commented, “Based on your yellow, I am not sure it is not scientific, but it looks like we are going to be having changes in property titles because you will have a little triangle island.” Brandon answered yes.

Commissioner Ellertson asked, “Do you know how long that would be? It appears to be approximately 1000 feet or more. I mean from back to 8800. You don’t have any access. It’s all part of the same cul-de-sac.” Brandon explained according to his current proposal, there would be about 720 feet of impacted road and what that would include. Commissioner Ellertson stated, “So the issue is we don’t allow for cul-de-sacs, but in those jurisdictions that do, they generally have limits on the length of the cul-de-sacs at about 600 to 660 feet.” Brandon said in subdivisions we don’t allow them so there isn’t a length prohibition. Commissioner Ellertson asked, “Any safety concerns?” Brandon said neither the Fire Marshall nor the County Engineer in listed any concerns in their letters. Richard Nielson commented that regarding to safety, the cul-de-sac, having a 100 feet diameter turn-a-round, is a better setup than what is there currently with the *hammerhead* because the fire truck, an emergency vehicle or a delivery vehicle can actually turn around without having to backup. The cul-de-sac is safer. He continued explaining why they were asking for the continuation on to 6000 West so it doesn’t remain a dead end road in perpetuity.

Commissioner Lee asked, “If further development happens, even without the dedication now, they will try to make the road go all the way through. Why the dedication now; when there is so much speculation on where the road can go and will go?” Richard explained the with regard to the existing plat that is just north of 8800 South, where the road would go. Commissioner Ellertson said, “So what you are saying is, the south end of 6000 is further west than the north end of 6000.” Richard explained the difficulty with cul-de-sacs in cities is fire protection. Commissioner Graves said, “But, the thing is when you are talking the length of cul-de-sac, it is interesting that we count it after a turn. The reality is whether it is off of a 90 degree bend on a road that is already a quarter of a mile before the first time you can turn off of it, is it really still a 600 or 300 foot? No! It’s quarter of a mile. Because you can’t get off of it unless you go to the end. The problem though is by asking for a proposed easement, deed, or title transfer along that road, the reality is with a home right there, 6000 is never going to connect all the way through.” Commissioner Lee stated, “So, Richard, you would agree that even though the lanes of the cul-de-sac goes a little bit further, this road would overall be better to have the cul-de-sac than the hammerhead.” Richard answered in his opinion, yes.

Monty Phelps, of 8722 S 6200 West, explained the history of the property and what they wanted to do to it. He described how they wanted to keep their 20 acres intact in order to build a home. He discussed frustration at having to give everyone a right-a-way while he does the work.

Commissioner Graves asked, “Which of these three parcels, not that it necessarily matters, what kind of layout are you trying to see?” Shauna Phelps answered it was depending on what the Commissioners tell them, or where the easement goes on what they will do. Commissioner Graves rephrased his question asking, “What would you like to do with your land?” Shauna answered they just want to keep it a U-pick farm. Commissioner Graves continued asking, “If you get your ideal situation, what does it look like for you on this property? You currently come off the gravel road, it looks like.” Shauna answered no because it is a private road that a lot of the times is blocked off. Commissioner Graves looking at the map asked, “Is it a public road and not a County road?” After discussion on the map, Commissioner Graves commented, “So, they technically cannot access their road from 6000 South? They cannot access their road from 6000. So, you want a piece of easement or proposed property that they can’t actually even connect to yet. So we would still have a gap. That changes a lot. So, what you are saying is this is their three parcels. 6000, that little red up there, does not come and actually access their parcel. So, in other words, you are saying you want us to give you a dedication for land that goes all the way up their front

road connectivity, but we still have an island because there is no connectivity, because they can't access it because they have to trespass on private property to get onto their private property. That's a lot different to me. Then, we are impacting other land owners. And it sounds like one that is potentially the family is probably trying to figure out if he just passed away a short time ago."

Commissioner Lee asked, "So, where would you like to build?" Shauna said they originally wanted to build in the area near the cul-de-sac. Commissioner Graves said, "So, say we grant this, that dirt road that is there on that parcel, the new road would basically end that minus their private drive access. In your ground you would basically turn this into a farm where you would eliminate that dirt road. What I am saying is, your use, you're not planning on keeping that road. You are planning on this being a farm there." Shauna answered correct. Commissioner Ellertson asked, "Are you planning on removing the existing dirt road?" Shauna answered not right-a-way. Commissioner Ellertson continued, "It has been there forever, right?" Shauna explained the history of the parcel and the area.

Commissioner Graves asked, "The question is, then, how willing do you think these other landowners are in your discussions, because there is going to have to be some land swapped. I mean, it is one thing to say you are willing to foot the bill; that is a far cry from whether or not they are willing." Shauna said they were fine with it. Monty explained what the other owners already agreed to. Commissioner Graves asked, "They are fine with it knowing you are trying to put...because the potential hurdle for some people will be that you are potentially going to increase traffic on a dead end road for a u-pick farm. Do they know you are planning on a u-pick farm because even though we are only talking about 15 to 20 cars at a time? Some people get upset because it has gone from three cars to fifteen." Shauna explained how congested the road gets now and how the extension will benefit the other land owners.

Commissioner Ellertson asked, "Was there ever any thought or discussion about rather than swinging to the left, to swing to the right and make that other road the permanent road?" Shauna answered yes. Commissioner Graves said, "Their house would then be illegal because it wouldn't be on five acres. By standards they have to have a five acre property, because obviously, if it worked out alignment better, it would be much handier to go to the right." Brandon said if they were entertaining approving this application, what he would do in the past is tell the applicant to go and build the road and we will accept the dedication of the right-a-way and approve the amendment. Commissioner Lee asked, "So, you would prefer, I am guessing unless you state otherwise, you'd prefer we go all the way through with the cul-de-sac, stop there, then future dedications would be handled when the development actually comes. Or second, would you be okay with a dedication of right-a-way, but I thought I was hearing that you would like it to go straight to the north until it hits your property line and then stop. So, would that be your second option?" Shauna answered correct. Monty explained why they would rather have an easement. Commissioner Ellertson asked, "What is the acreage in parcel 62?" Brandon explained on the map the lot sizes. Commissioner Lee asked, "So what happens with the easement then if it is actually built if they have a home off to one side or the other?" Brandon explained the lots would have to meet the area minimums for size.

Commissioner Ellertson asked Brandon, "What about an easement concept?" Richard Nielson answered explained that if the road is built, it should be dedicated. In the short term, an easement would be a good way to go. Commissioner Graves commented, "An easement would be on the legal description. Correct me if I am wrong, all land adjacent land owners would see that and would know the intent verses an actual dedication." Richard replied it would no show on an actual plat. It would show up on an actual

document search. Commissioner Graves added, “The intent of an easement would be to, just that, to show the intent of future use.”

Commissioner Lee said, “I am just having some problems with the easement because it shows we are taking a guess on the future that may not happen. I am wondering why we would even do that? Why would we want to put an easement out there and say oops we made a mistake? We are going to have to change it all around.” Richard explained it is a document that provides a way but is not set in stone but can be modified. Commissioner Graves said, “At the same time, if a person comes in for a subdivision, or anything, you could require it at that time without an easement or without a dedication.” Richard answered yes and what would happen if someone wanted build a subdivision and it came in from the east.

Commissioner Lee commented, “So, if you go along with that line, it seems to me like just on a self-interest basis when somebody comes in there, they are going to try to divide the lots us so they get their best return on their investment. They have everything 5.25 acres. They are going to line the road to get the best out of it anyway. It seems to me like that would be the time in which we would look at it and say this is the correct road configuration.” Commissioner Ellertson said, “But the easement could be realigned at that time. All we are doing is guaranteeing that you would have some right to get through it with the understanding that most likely it would change.” Richard explained the concept of having an easement or a dedication.

Commissioner Graves said, “Not that this will for sure happen, but the speculation out in the West Mountain area is they have been talking about incorporating a city. How does an easement affect that because it will be with the county, correct, so it would disappear?” Richard said no, it would still be an easement owned by the county. The easement could be transferred to the city should they incorporate.

Commissioner Ellerston commented, “It is my understanding that with the current interest that we have and are having in regards to having in terms of maintaining and preserving agriculture, hopefully the easement will just be there forever. The agriculture would remain.” Commissioner Graves said, “You know, again, if these folks come back and say we want to subdivide this, we are going to require something totally different. But, the reality is how are we going to...I just don’t see why we would require an easement off of a gravel road, because if they subdivide we are going to want better than a gravel road. So, we are going to want a better standard that what they are tying into.” Commissioner Ellertson replied, “That is correct.” Commissioner Graves asked, “Do we have an easement on the road above? So, in other words, if they want to come in and subdivide, you are going to come in and say how now we need to pave this so we can maintain it so they can have a subdivision.”

Commissioner Lee said, “Let’s assume you have an easement that goes straight north to their north property line. Somebody comes in off 8400 S with some plans, and they come down with a road they want to connect it right where that easement is right now. Could they force that road to go through and say we have an easement there so we are going to make sure we build that road all the way through?” Richard said he didn’t think they could do that. In his opinion they couldn’t do that. Commissioner Graves explained, “My fear is along the other lines, with that for sale, does that potential road that is bisecting their farm right now, does someone buy it and look and say we have to tie in to that one.” Commissioner Lee said, “Where I am driving with that is, because if we are putting it out there as speculation saying we have an easement there so we can meander it later on to whatever works out to

be the best. The thought is maybe somebody comes down thinking that's going to be the line. They start building according to that and the property owners now say we don't want to do that. We would like to go somewhere else. We are not going to give up that easement. We are going to say that looks like that's going to be the line that needs to be connected all the way through which then divides their property." Commissioner Ellertson commented, "They are not going to be doing it alone. They are going to be talking to Brandon." Brandon added exactly. To this Commissioner Lee replied, "Well, true, but I am just saying that it creates a lot of speculation on my part whenever I am looking at that. Also, on a farm basis, if you are planting cherry trees or whatever, it's going to take six years if you are planting along that easement and all of a sudden that becomes the path of trying to make it to 8400. It's problematic."

Rob Moore reminded the commissioners of the basis given by the County Engineer on the easement and whether or not this road meets additional public purpose and is a benefit to the county. He said the county has to speculate on where roads will be in the future. Richard explained how the 400 feet of asphalt would have to be maintained by the county. He said he was giving his opinion on what needed to happen on the road.

Commissioner Ellertson commented, "Part of the challenge that I see is we do not know everything that is going to happen there. If we allow an easement, it doesn't interfere with what they want to do. It allows some protection for what might happen in the future that we don't know today." Commissioner Graves asked, "So what if we split the baby though on this easement and say...so what if instead of holding this land owner or this plat with the full easement, we only force or have a half dedication for half right-a-way. This is my problem, as long as we are going to hypothetically guess and hypothetically talk about the across the street people who are going to be the beneficiaries of somebody else coming in and paving this whole road. That is bad practice that somebody bares all of the expense. It is better practice and is practiced throughout most cities in this county that they share in those expenses. So, if we dedicate half of the easement on both sides, so the next time they come in on the other side, we require half of the easement so we are protected. Next time anyone comes in."

Richard explained if the applicant were to subdivide the property that the easement is going across, that would trigger the road dedication anyway. The easement would come into play should they not chose to develop the property. Rob explained the Planning Commissions purpose is to plan for future growth of the county. Many planning documents are just speculation as to where they think that growth will occur. Commissioner Graves said, "I don't disagree. I, one hundred percent agree. I came here with the full intent to discuss easements and dedications until I learned about a piece of land because now we are talking about a potential taking to make it work. I mean, we were creating a future problem for three future "suckers" to sit up here and deal with. That's what we are really talking about because there is not true connectivity. That is the problem." Commissioner Ellertson added, "The other view I have is we are actually providing a solution for the three future "suckers" to deal with. It could be potential solution for them." Commissioner Lee commented, "I think the developers in the end will figure it out." Commissioner Graves stated, "So, is the true question before us, are we in favor of talking and letting them go forward to figure?" Commissioner Ellertson asked, "What is the alternative? Does this have to be a county road?" Richard answered if they want to build a home on it, yes. Brandon said it is currently land locked and is ineligible for a building permit. Commissioner Ellertson said, "The existing home that is down there is in nonconformance at this time." To this numerous people spoke at one time on the neighbor's home and how they access it. Commissioner Ellertson said, "What I am hearing you say is you

are okay with and easement and you are okay with making it the most reasonable easement that can be made.” Options were shown on the map of where they could have the easement.

Commissioner Graves said, “With regards to the action item on here, I think we are talking not accepting a dedication but are talking about a potential easement. So do we need to continue this? Or change a description of an easement or do we just say yes, we are interested in hearing further and strike that last portion of it without any easement or dedication and know we are going to work out whatever details the property owners would like. What do we need to do today so they can progress, meet with their neighbors, meet with Richard and do this the way they would it and bring it back to us? What do we need to do?” Commissioner Lee asked, “Do we do a motion at all or can we just move it forward?” Commissioner Ellertson asked, “Can we continue it for a week or two?” Rob explained the item was to make the commissioners aware of the application.

Commissioner Graves made the motion to continue Item No. 6 without date. The motion was seconded by Commissioner Lee and carried with the following vote:

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

7. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AMENDMENT TO AGREEMENT NO. 2015-133 WITH PARAGO BERMUDA (CANADA) LTD. FOR WEB-BASED SOFTWARE PROGRAM WITH RELATED USER DOCUMENTATION FOR ENVIRONMENTAL HEALTH

Commissioner Ellertson asked Ralph Clegg, “What are we using right now?” He answered they were using this product right now because the other product was discontinued at the end of the previous year. Commissioner Ellertson said, “So we’ve already made the change.” Commissioner Graves asked, “Did we go through the bid process on it?” Ralph answered yes. He explained how they now have a swimming pool module with this new company that they could not get with the previous one after 8 years. Commissioner Ellertson asked, “Is the pricing in this for the entire product that we are using now?” Ralph answered in the affirmative. Commissioner Ellertson continued, “\$53,000 up front plus \$1,800 a month?” Ralph explained the company did so well they went over the agreement and this is catching up on it.

Commissioner Lee made the motion to approve Item No. 7 as stated. The motion was seconded by Commissioner Graves and carried with the following vote:

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

11. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A LABOR AGREEMENT WITH THE UTAH DEPARTMENT OF TRANSPORTATION (UDOT) (Continued from the February 2, 2016 Commission Meeting)

Commissioner Ellertson said, “The only question I had here is a simple question. I don’t know who answers it. You may not even need to come up. The question is, why do we not have the payment go directly to the Treasurer?” Dalene Higgins answered she thought it does. Commissioner Ellertson continued, “In the agreement it talks about coming to you, I think. So you are okay with it going directly to the Treasurer. It seems like it would be the better way, Kim? Kim Jackson answered yes. Sheriff

Tracy explained he thought it was an e-deposit from the state because he had never seen a physical check before. Commissioner Graves asked, “So, if they e-deposit this, why don’t they e-deposit the COP money? Why do they issue as check for that?” Sheriff Tracy answered he didn’t know but that it might be because it comes from a different appropriation than this one comes from.

Commissioner Ellertson read from No. 6 in the agreement, “All payments by UDOT to Utah County Sheriff’s Office shall be sent to Utah County Sheriff’s Office, 3075 N Main Street, Spanish Fork Utah. That’s what the agreement says. That’s what I am questioning.” Sheriff Tracy said he would check on that. Commissioner Ellertson replied, “We ought to make the agreement state whatever is happening. If it is mailing a check, it probably ought to go to the Treasurer.” Sheriff Tracy said it was possible it came to them to verify the hours worked or to see if it was correct. Commissioner Ellertson said, “It needs to say what is happening.” Sheriff Tracy said he would check on it. He also asked if it is going to the jail the way the agreement is now, do you care if it stays that way or to change it. Commissioner Ellertson replied, “I am thinking from a stand point of financial best practice, it would be best if it went directly to the Treasurer so long as you can verify what is there. But, he can communicate back with you that this is the check we’ve got.” Sheriff Tracy explained they receive a lot of checks that are brought over to the Treasurer’s Office. Commissioner Ellertson asked, “Do you deposit directly?” Sheriff Tracy answered no, they bring the moneys over to the Treasurer’s Office. Commissioner Ellertson said, “I am okay with it, I guess. It is not a big thing. We probably ought to look into the way we are doing that. We can always change it if it is wrong.”

Commissioner Graves made the motion to approve and authorize No. 11 as discussed. 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.: 2016-113

- 15. 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 PROPETY LINE OF PARCEL NO. 21:081:0001 (THE ‘ROAD EXTENSION’) (Continued from the August 18, September 22, and November 3, 2015 Commission meetings)**

Cole Cannon, on behalf of Clearwater Holdings, explained since the last meeting, the commissioners had inspected the site. He said they were asking to be treated like the other land owners on the street. The second consideration is they do not want one square inch of property to be taken from the Giles. They asked that the commission ratify the already express dedication of roadway that happened in 1999 by the Giles.

Commissioner Ellertson asked, “Your prior statements in terms of what you are desiring and what you are seeking are still in place, are still consistent with what we have talked about in the past?” Cole answered said what they request today is that the county just accept as a public roadway that 300 feet they have been talking about. He said the thing that will change is the county will end up with a safer turn-a-round that will be paid at the expense of his client. Commissioner Ellertson commented, “I think

there was some discussion before as to what number, and that type of information back on development side of things. You had suggested one per parcel.” Cole explained they thought it would be cleaner if they restrict by deed a building permit for one per parcel.

Leslie Slaugh, on behalf of the Giles parties, spoke on land use ordinances. He said there has never been an application for a building permit or a conditional use permit. He continued saying they didn’t know what is being requested. He stated the county is being asked to give advanced approval of a building permit. He commented there needs to be standards that need to be met. He spoke on additional exemptions to the land use codes that were being given to Clearwater which is contrary to code. He said the rules were not being followed and if not, they should be changed. He said there were not standards to be judged against. He discussed Utah County Code Section 17 and what it covers and what needs to be done to modify a land use ordinance (17-28A-205). In 2011, a letter came out from Jeff Mendenhall referencing an application made in 2002, the county said the application would be approved if certain things were done. He spoke on what the court said about the length of the road was less than 30 feet.

Shane Giles talked the history of the property since 2002 and how people applied for a building permit across this property. He mentioned meeting with Dave Shawcroft in 2011 wherein he was told nothing had changed on application. The letter he was given said nothing would change unless certain requirements were met. He spoke of the unfairness of having to pay money to defend himself when he had already done so previously. He said he felt someone was being rewarded at his expense. Commissioner Ellertson asked, “What are you suggesting?” Shane answered that someone was being rewarded; they are defending something they shouldn’t have to defend. He asked if the county was going to reimburse him for his attorney’s fees since 2002. He described how his private road has turned into a county road. He asked how this changed now. Commissioner Graves asked, “What has changed on these five things? The five things the county said has to be changed, have they been met? Why are we hearing this if these five things have been in existence for 14 years? If they haven’t been met, why are we now discussing it?” Shane reiterated how he continually asked the county if he needed to do anything and was told he had it in writing. Commissioner Graves commented, “Well, I think that’s a fair question. My question, besides obviously it is no longer Mr. Ray Morely and now is Mr. Bateman, what has changed?”

Dave Shawcroft explained what is currently being looked at is a request to modify the conditions associated with that prior approval. Commissioner Graves stated, “We can put our blinders on, but we know there is a builder’s permit coming. We know because they said...” Dave replied they may or may not, but this would facilitate the ability to do so in the future if it were approved. He continued saying as to any changes in the conditions, they haven’t been changed yet but the request today is that they be changed. Dave explained until this has been approved, he (Mr. Bateman) cannot get a building permit.

Commissioner Graves expressed, “Their question is the exact same valid one we just debated for an hour. Why put in an easement when there are no plans? Well, because we might. That is the same argument. We are having a circular argument and now we are on the other side. That is what they are saying. The hypocrisy of what we are doing to them is the appearance that we are telling the Phelps you have got to have an easement because, by dang, sooner or later we want a road. Here are the rules you need to play by. We gave them the rules to play by in 2002 and then reaffirmed them in 2011. Now, they are saying whoa, what changed? Why are you trying to change the rules? That is what they are

trying to say. I agree when them to that standpoint. It does appear the exact opposite to me of what we tried to ask of the Phelps is the exact opposite of what we are doing to them.”

Mr. Slauch spoke how the building permit application invokes standards for judicial review. He commented how the approach of ‘if you do this, we’ll do this’ is something the Commission shouldn’t get into the habit of doing. Commissioner Ellertson asked, “So, is your concern the fact that, there is a public road there, correct? They are asking to extend the public road.” Mr. Slauch repeated Shane’s concerns of how it was unfair for the county to change the rules after they had already relied on what the County said. Commissioner Graves said, “The irony is we just spent an hour debating and enforcing those exact same ordinances on a proposed, hypothetical situation for a u-pick farm. I mean, that’s as black and white as it is in my mind.”

Commissioner Lee added, “First off, I wanted to apologize to the Giles on the notification. I thought, you know, on the county basis that we were going to have some notification there. I think we tried to remedy that and say we would put it off a week so there was more proper notification. It was a mistake and on behalf of the county I hope you would accept that we were looking, when we recognized that happened, that there was a reach out saying we would put it off for a week so we would have more property notification.”

Commissioner Graves stated, “I am sure Bryce has come up to address the questions I asked or addressed. It may help or you may want to respond.” Bryce Armstrong clarified the two situations from staff’s perspective. He said the Phelps application was asking to extend an existing cul-de-sac 400 feet and was recommended for approval subject to meeting all county standards including the 56 feet right-a-way. That is consistent with what was required in 2002. The actual extension of a county road has been consistent. In 2002, the County Commission required that road be built to County standards. In 2016, the 400 feet was recommended be built to County standards.

Commissioner Graves added, “So, the Giles would say the road that they are trying to turn into is not built to County Standards, so why are we allowing it? Again, that is their argument.” Commissioner Lee asked, “The 300 feet, I mean, you are talking about the road going down or are you talking about the 300 feet? That road? The 300 feet?” Commissioner Graves replied, “The public road that is not at county standards.” Bryce explained there are two different road designations that are being mixed together. Class D and Class B roads are being confused. The subject road now was approved to be a Class B road in 2002 subject to the conditions that is a purpose of this meeting. The Class D road designation is what they have been referring to. Commissioner Graves interjected, “But in 2002, they told wanted a 56 feet right-a-way dedication. Do we have a 56-foot right-a-way dedication? I am not aware of one either.” Dave Shawcroft explained for this section of 300 feet, there is no dedication. He continued explaining that the requirement for the dedication is being asked to be waived. Commissioner Graves added, “That is what I mean. That is what the Giles are saying. In that letter from the County from 2002, referencing in 2011, that’s what they are talking about. Here we talked about another 56 feet easement or dedicated right-a-way on the Phelps and now we are saying nope you don’t need. Now, I understand Mr. Bateman is willing to put the road to County standards (56 feet). The contention here is for that 300 and some-odd feet, it is not a county road.” Commissioner Lee asked, “Why do we not count it as a county road?” Commissioner Graves clarified his statement by saying, “Excuse me, it is not a county standard road that meets due to the 56 feet right-a-way. Their contention is in No. 2, they were told there will not be anything going. That’s their argument is from that point on

until the 56-foot right-a-way dedication, which is why I believe all the court battles are going, that until that happens, they believed there was no future development. Now, in their contention, I believe (and please correct me if I am wrong) when they went to court and got the judgement, the judgement said yes, this is a county road. We all agree this is a public road. But, it is not a public road with a 56-foot right-a-way dedication to which point Mr. Bateman appealed. We have not heard that appeal. Now, I know I am not a lawyer and I know I am playing one on TV right now, but I believe that is the crux of this whole thing. So my earlier thing was, why are we interfering with that because if the court comes back - which is why I suggested we continue it until we hear – if the court comes back and says, ‘The appeal is right. Go back and fight this out. Get the 56-foot right-a-way dedications. Then, none of this matters because then those conditions would have all been met. We would adopt it. We would fix it and Mr. Bateman would be granted his building permits and everything. But until such time, the Giles feel like whoa, whoa, whoa, what has changed here? Nothing has changed. They are still spending hundreds of thousands of dollars defending what the county has given them. That’s what I believe their frustration and argument is.”

Commissioner Ellertson asked, “Why is there not a 56-foot road?” Commissioner Graves answered, “Because there is a steep river on one side and we would have to condemn their property on the other. That is the truth!” Commissioner Ellertson replied, “Well, we wouldn’t have to.” Commissioner Graves agreed, “Well, no you are right. The County could go in and we could bridge or put a thing in there to their protect rights.” Commissioner Ellertson countered, “No, that is not what I was getting at.” To this Commissioner Graves added, “Again, we don’t...there is not a 56-foot right-a-way because they don’t want to give up their land.” Commissioner Lee said, “They could allow a 56-foot right-a-way.” Commissioner Graves said, “You know what? If somebody comes to my land right now and says, ‘Hey, we want to do this. Give up your land.’ I tell you, I am with them.” Commissioner Ellertson replied, “They didn’t say give up...” Commissioner Graves stated, “Well in essence, to give up a 56-foot right-a-way, would they not have to give up their private property to give a dedication of it? They do!” Commissioner Ellertson replied, “It depends on what the word *give* means, I suppose.” Commissioner Lee added, “*Sell*.” Commissioner Graves agreed, “Sell...they would be forced to sell with money and compensation, but they still lose their land that they acquired rightly by legal title and deed in order to allow future development for somebody that knew the conditions. I know he knew the conditions because he had to drive on that public road, 30 feet wide, to get to view the land that he is on.” Commissioner Ellertson commented, “But if you look at where the fences are...” Commissioner Graves interjected, “I don’t disagree that they have not fenced to comply. That does not mean that they have given up their land. I have a curve on one side and a curve on the other. That doesn’t mean my property runs for infinity because I haven’t put a curve on my property.” Commissioner Ellertson replied, “I understand.”

Cole Cannon replied to Mr. Slauch’s comments on not knowing what the request is. He said his letter of July 30, 2015 explicitly stated the request. He read what the letter stated. He said they are not trying to circumvent any building permit process. He said they were asking this road that was previously on the Utah County Road Map be ratified what was previously and was expressly dedicated by the Giles. As to the arbitrary allegation, he commented he thought it would actually be arbitrary to deny it instead of approving it. He said when the Giles got their building permit in 1999, their predecessors to the south were not required to get a similar 56-foot right-a-way. That is what the Giles are requesting Clearwater get.

Commissioner Graves responded, “Two points of clarification, in 1999 when they would have come for application, would not have the landowner, Morley at that point, been given notice that a permit was issued. So, he would have raised those complaints. Two, hold on, when you say the Giles dedicated, be careful, because you are right. They haven’t technically dedicated. They stipulated that is a public road for the 30 feet. It’s the other 26 feet that the dedication, this whole thing is hinging upon.” Cole explained he was not saying Morley had anything to do with the 1999 application. He stressed what he was saying was when the Giles came in 1999, this Commission or its staff did not require them to get the landowners to the south to do a 56-foot right-a-way even though the road standards then required a 56-foot right-a-way. The Commission waived then and just as they are asking for it to waive now. Second, he said he did not say the Giles actually dedicated 56-foot right-a-way through the court. What they dedicated was on the 1999 plat was, ‘Be it known to all men by these present that this 56 foot that is shown on the plat that the surveyor has drawn is dedicated to the use of the public.’ He described how the *engineer* their engineer drafted had their signature on it. This was the condition they were accepted to get their building permit. Commissioner Graves asked, “Then, why did the court rule against you in that matter? Why did you have to appeal it? I guess that is my question. If it is so cut and dry that there is a map and they got a signature, then why...” Cole explained he was not the attorney at that time. He responded to Commissioner Graves asking what has changed. He said the Giles had expressly granted new easements for a gas line, a water line and an electrical line. He said his client has the right to work on this 10 feet easement if these pipes break. He continued saying the Giles couldn’t build or park a car on that 10 feet. He said that was an important distinction of what has changed. To Commissioner Graves asking is this theoretical just like the Phelps, they might have eventually come to request a building permit. Right now, he said, his client wants a road. He wants a public road so he can have his turn-a-round. He said he was willing to do it at his own expense. He spoke on how his client spent millions of dollars after relying on a recorded plat signed by them in 1999 that said it was a public right-a-way. Then, he was told he can’t do one building permit. Why? He said the justification was this was his little piece of heaven and he didn’t want anybody in his back yard.

Commissioner Graves explained, “My understanding is, for an example, when the gas line was granted on the easement, they weren’t saying no future development. It is their contention that farming or raising of livestock would take place and that was the reason for a gas line. Which is why they tried to be good neighbors and tried to work with that.” He continued saying, “I am flat out telling you that is the answer I was given in telling from them. So, I am not even guessing on that.” Cole said he would take that at face value. But he was telling they can’t build anything on the express easement. He refuted Shane Giles’ allegory that they bought a dented car and wanted them to fix it. He said they were not asking the Giles for one thing; not one penny. He said they were asking the Commission to accept 300-foot stretch of land to be a part of the official road map as it was in the past. In exchange, they would be giving a nice, paved turn-a-round public access which they thought would be good for the county.

Leslie Slaugh returned with a picture of the proposed dedication. He explained the map shows a hash tagged area that he said was not the 56-foot wide right-a-way but the surplus. The said the court didn’t use this because of that. He said the county’s aerial photographs don’t show it is 56 feet. Commissioner Ellertson said, “The note does say it is 56 feet.” Leslie said beyond it says 56 but the arrow “County Street Dedication” points to a hashed tag area and not to the 56 feet. He said he was not involved when the Giles put in their subdivision but his understanding is the road would have been prior to the 1975

exception and would have been on the road map prior to then. He added there would not have been an exception.

Commissioner Graves said, "That is an important distinction, too. Prior to 1975, any future new roads are completely different. I know the County does it all the time. I have heard that 100 times. The better question is *Should we?* Dave Shawcroft answered the difference is when the Giles made their application, the road to the south was already a Class B county road. Whereas in this case, the request is to extend and create a new Class B county road. He said that was the legal difference between the two. The reality is the road to the south did not meet county standards at that time and still does not today. We still approve subdivisions today on roads that are already on the road map as a Class B county road that do not meet county standards. The applicant is not required to go down the road and improve those to county standards. Out on the land, there is not a difference because when the Giles came in and did their subdivision, the road to the south did not have a 56-foot wide dedication. But, they were lucky so to speak, because it was already on the official county road map. So, they were not required to improve it to county standards. Dave continued saying in this case the request is an extension of a road. Therefore, under our ordinance, in order to do that, the applicant must have frontage on the county road. In this case, they don't. So, if he wants a building permit, it has to be a new county road. Commissioner Ellertson asked, "Are we talking about the east/west portion or the north/south portion?" Dave answered both. He said he could do that to the east/west portion. It is just the 300 feet where he can't get the full width of dedication. Commissioner Ellertson asked, "And the county dedication ends 300 feet south of where the east/west section starts?" Dave answered correct. He continued saying he guessed to some extent, even if this is approved, there will still be county road coming up to this point that does not include a full width dedication south of the Giles' subdivision.

Commissioner Ellertson asked, "I have a question on this notation. One says *county street dedication*. At some point in time, is this where it ends, right here?" Richard Nielson answered the 300 feet Mr. Shawcroft talked about starts here and extends out to here. This is the north line of the Giles' plat. Commissioner Ellertson stated, "This plat, the portion that they are talking about doing something with shows 56 feet right-a-way." Richard replied right, that extends out to the 300-foot mark Mr. Shawcroft spoke about. Commissioner Graves countered, "Except that is not the direction of the road. It makes a hard left." Richard explained the map and where the road goes and where the lot where the house is."

Commissioner Graves commented, "So when we talk about the previous county road maps and why, I think if I can piece together my best guess, where you talked about, and if I remember right, there used to be a bridge there that must have gotten washed out in one of floods when we had water years ago (50's, 70's, whatever). Either way, I wasn't born." Richard said it was shown on an old map and was prior to the floods of '52 because in the aerials of '52 the bridge is gone. Commissioner Graves continued, "So when we talk about this mess, the difference is really that road actually carried straight across. So, even though we bend the road, the bridge actually went straight at one point. So, when we say why did the plat on Giles get taken off the road map. Because it actually never was on the road map, got washed away with the flood. The old road map, it wasn't originally on it." Richard counted no, because on the road maps in the 50's, 60's and even the early 70's, the official county road map did show the dog-leg paralleling the river and actually continued down a-ways into the Clearwater Holdings parcels. Commissioner Graves replied, "Okay."

Commissioner Lee asked, "So, Richard, when we put a marker out there that says 'End of County Road' was that done, I am sure you didn't do it, did they determine by what?" Richard answered that was based on where the Official B Road ends; which is the north line of the Giles' plat. Previously it went further. Commissioner Graves stated, "We spent money to go out and say the end of the county road." Richard explained prior to when the Giles did their plat, it ended to the south of their plat. It extended with the Giles plat to the north line of the plat. Prior to them putting the plat, the official county road designation ended back further to the south. Commissioner Lee commented, "I see." Dave agreed with Richard's explanation. Commissioner Ellertson asked, "Do we know how far back?" Richard answered said he didn't know if it was at their south property line or some other point. Commissioner Lee asked, "So of course, there wasn't asked to extend the county road down to that point?" Richard asked with the subdivision? Commissioner Lee answered, "With the subdivision, yes." Richard answered with the subdivision and the dedication that followed with that. Commissioner Ellertson asked, "That was the 56 feet?" Richard answered it was the 56 feet or the portion thereof they had control of. He asked if you look at the dedication of the straight portion of the road, they dedicated, he didn't know if it was out to the east side of the asphalt or out to their property line or where that line is, it's not 56 feet but the 56 feet would be on their property. Commissioner Ellertson said, "So, 28 would have gone to the west line. Okay, so it's a bit of an anomaly road anyway."

Bryce Armstrong talked about how the road was shown on the 1975 road map. Commissioner Ellertson asked, "Does it show the road Richard was talking about?" Bryce answered on the County Road Map, yes. He explained in 1980, there was a county-wide general plan amendment where all the roads maps were amended. This road was not included on the county road map. It ended south of what we are talking about by approximately 1000 feet. In 1990, a predecessor owner asked to extend that by 1000 feet which got it to its current location to the Giles' property. Commissioner Graves said, "So, because there are two places where it ends on Giles' property." Bryce said Engle was the previous property owner who wanted the required frontage to build a home.

Commissioner Graves said, "Since 1999, nobody has come and made this a county road. Therefore, that's why our sign stops right there." Richard agreed. Commissioner Graves continued, "The question still remains, how do we consider this? Why are we going to allow a 56-foot road?" Richard explained it is a County 'B' road. Commissioner Ellertson said, "That's what I was trying to understand." Bryce continued explaining in 1990 the road was extended. Then, when the Giles came in in 1999, they had to dedicate that portion their subdivision fronted on. The area to the south was already previously established as a county road.

Commissioner Lee stated, "So the history that I am seeing it as somebody developed it further and further, the road goes from being a *B road* to *D road* and they move the marker down. Is that consistent with the history?" Bryce answered the B road at that time in 1999 stopped where it is shown on the plat where the road dedication is. In 2002, it was approved to extend all the way going west subject to the conditions that have been referenced and Mr. Giles has been relying on.

Commissioner Graves asked Bryce, "Building permits have been discussed. There is very evidently a barn. So, which would have required a building permit. So, how do we, I've heard us talk about building permits that can only be permitted if there is a road. If technically we haven't allowed access, how did we allow that?" Bryce answered certain occupied structures require frontage. A barn is not subject to that requirement.

(Dave Shawcroft reviewed maps at the bench with the commissioners wherein the audio was too low to discern what was being said.)

Commissioner Graves said, "So, the court basically said it is public access but it is not a dedicated right-a-way." Dave agreed. Commissioner Ellertson said, "At that point in time, where the B road ended here, they would have no reason to say because there was no 'B' road here. It was a D road. The court all they were saying is we understand there is a public road beyond there." Dave said the court found that there was at least 30 feet. "By stipulation it was determined to be 30 feet." Commissioner Graves said, "Not a 56-foot right-a-way as the plat indicates." Commissioner Ellertson asked, "A stipulation between...?" Commissioner Graves answered, "...by the Giles. They said it is a 30-foot public road." Commissioner Ellertson said, "Unilateral decision, right?" Dave answered they stipulated it. Part of the issue was whether there was a public road. Commissioner Ellertson said, "Asking is, if someone were to look at this, they would say that is a 56-foot right-a-way." Dave commented there was some ambiguity on the plat. Commissioner Graves said, "Except for then you have a legal ruling that says it is not a 56-foot right-a-way. Yes, because that is what they are appealing." Commissioner Ellertson countered, "What the legal ruling said was is that we recognize that this is a D road to this point in time. Beyond that we are going to stipulate to 30 feet." Commissioner Graves disagreed saying, "No, the legal opinion very specifically says this is not a 56 foot dedicated road/right-a-way." Commissioner Lee commented, "It seems to me that they are trying to state what is actually there on the ground." Commissioner Graves agreed saying, "Right, which is a 30-foot road, public road." Commissioner Lee said, "That is what they were trying to stipulate, that is what is on our maps and that is what is on the ground." Cole Cannon and Leslie Slaugh reviewed the court ruling for the Board by reading different sections. Leslie summarized that the judge had that in front of him and decided it was 30 feet. Commissioner Graves stated, "But, which is the grounds for your appeal is to hear the 56-foot right-a-way which your appeal is on the judge's clarification, the judge literally said this is a 30-foot right-a-way as stipulated by the land owner because there was no other evidence. This is a 30-foot right-a-way not a 56-foot right-a-way. That is the grounds on which you are appealing."

Cole said they had grounds for their appeal but it doesn't change what the County can do. He said if the County wants to avoid arbitrary decision making, it should give to them the exact same thing it gave the Giles when it granted the Giles subdivision. As Mr. Shawcroft reiterated the County frequently does grant subdivisions when you don't show roadways leading up them. That is the standard the Giles were being held to.

Commissioner Graves commented, "I don't know, I think it goes along with the comments I made last week. I just think we have a process, in this case it was the Planning Commission, and for the same reasons stated, I have a problem with us interjecting our self into it. I understand we can. I still don't think we should. So, it has gone through. Planning Commission has probably heard this more than once, I am guessing, just based on how many times we have heard it. I am guessing they have heard it more than once. It was their recommendations for those five things. Upon those five conditions, they agree, as do I, they should go on. At the same time, I am not trying to stop Mr. Bateman from using his property. As I have told the Giles, I don't care if you put 500 lots on it, if that is what he wants to do and that is allowed. Whatever if there is a way to make it work. But, I just think it is a dangerous precedent to start interfering with the process we have, whether it be Planning Commission or any other body to

ignore the work they all do with staff. Again, I see their...I have listened to Richard and I understand the great benefit this is to the county to have a dead end cul-de-sac where we can turn around and plow the sometimes 30 foot, sometimes 12 foot, sometimes 80 foot roads. But, I based on that I just think it is dangerous for us to get involved especially when there is a court decision based on the exact 56-foot right-a-way. What in nature potentially either meet or set once and for all those standards as okay, if this is the standard at which you guys are going to operate, we have to decide there is or there isn't. I just continue the court term; I don't think it is right."

Commissioner Lee asked to have a five-minute break at this point. The meeting recessed at 11:10 A.M. and returned at 11:16 A.M.

Commissioner Lee commented, "In working through this, I can appreciate looking back to the past and seeing how things were done. Obviously we can see from looking at the past how this road has gone through all kinds of gyrations. Being that it was, we had bridges there at one time, public roads, D roads, B roads, back and forth as things progressed or not progressed or as they recessed. So, my biggest concern is, though, comes in trying to look at this in a sense of what has happened and how it progresses forward. Then, also, probably along the lines of what's ultimately in my mind is a fair stance with it. When I see private property and individuals wanting to access private property, being the Giles at one point when they purchased that or somebody up the road, whatever the case is. I have a hard time saying why can't we allow another who has property further on to also progress and not just have access but also an opportunity what they can on their private property. So, it is...although I looked back and I said why did they do what they did with the prior commission. I am not sure. I am sure they had their reasons for doing this, whatever it was. It's hard for me to judge that. And in essence somebody may be with the Giles on their property, when they went to build, somebody up the road could have contested that and fought that but they didn't. For whatever reason, who know. So, I am looking at this purely from a private property rights and an opportunity to be able not just access but to use that property down the road. That is kind of an indicator of where I am at."

Commissioner Graves added, "Well, I don't disagree with you. But again, I think when we are talking about utilization of somebody's private property to make it for somebody else's, that's where we all have our pause obviously. But, to indicate that Mr. Bateman and his 9 parcels can't be used but for this one access point, is just not true. There are other access points. That's for me the hiccup."

Commissioner Ellertson commented, "The other side in taking into account what you just said, the other side of it is why does one control the use of another." Commissioner Graves said, "That's right." Commissioner Ellertson added, "I guess the point that we are hearing is the road exists in a similar state to the south. The road that is being proposed to be added to the plan would improve the situation in the area. I think that is what we have heard. So, the question would be how does the reference you made, Greg, of the Planning Commission play into the decision we have today?" Commissioner Graves answered, "Well, the Planning Commission telling us they would require for safety, or whatever, county standards which is the threshold they use as county standards being a 56-foot right-a-way. Again, the only reason that I hesitate on it is because there is an impending court decision. The case has been heard. We are waiting for a decision from the judge on that matter. If the judge comes back and says there is a 56-foot right-a-way, to me as mad as the Giles may be, that is a whole different situation. The judge has said. I have no reason to disagree. But, the other side if the judge says no, then we need to have a different discussion again." Commissioner Ellertson asked, "Well, but does that change my

opinion of what ought to happen I guess is the question? That's the only one of the issues on the Planning Commission that gives you pause?" Commissioner Graves said, "Well, yea, because the 56-foot right-a-way...again we have these standards that Richard, bless is heart, tries to protect and work with all of us every day. But, at the same time, just because it has been allowed four hundred times doesn't make it good practice. And so sooner or later we have to do what is right with still allowing...that is the balance we are all awaiting. That is why this is so hard because we see every point and every point that we want to marry them to and make this work. But for a bridge that would be built by the county in two places to cross that river, I'd don't know if that exists in this one point. So, again I know all of us intend to do the same thing, that is help both parties."

Commissioner Ellertson replied, "Sure, what I am asking though is to the five points you raised from the Planning Commission." Dave Shawcroft just for clarification explained the request is to modify the requirements imposed by the County Commission back then. Commissioner Graves countered, "But they follow the Planning Commission's recommendations." Dave replied the Planning Commission made recommendations to the County Commission in '02 where they were imposed by the County Commission. Commissioner Ellertson said, "I am saying the one of the five, the other 4 seem to be acceptable?" Commissioner Graves pointed out, "The other 4 still exists because we have our current engineer who says this is right. This what we need. It's safe. The only one is No. 2 that says the 56-foot right-a-way. But, for that exception, if they had said public roadway..." Commissioner Ellertson replied, "I can understand why they said that because that is the standards. If that same commission was posed with the same situation. What would they do?" Commissioner Graves explained, "My only pause on this isn't if there wasn't a pending court decision, then, yea, we should be taking this action. We were told the judge could hear by now." Commissioner Ellertson asked, "Are you thinking this will influence the judge?" Commissioner Graves answered, "I do. I actually think it does influence because if we go ahead and pass it, there is no reason for an appeal. And there is no reason for a decision to be reached. I truly do believe that. What would be the extent of having an appeal?" Commissioner Ellertson asked, "Would that be a favor to both parties? So they quit paying these attorney fees?" Dave added he would not expect that this would have an effect on the pending court case. Even if you approve the request today, there are still restrictions with regard to one residence per parcel. There are also restrictions with regard to subdivisions and large scale developments on the property. Those would not be there if there was a full 56-foot right-a-way. So he thought the case will continue. Commissioner Graves said, "That gives me pause then on Mr. Bateman's behalf because, again I understand why we do, but, I struggle to put restrictions on his land that doesn't say but for every 5 acres..." Commissioner Ellertson stated, "The issue could be unless another ingress/egress is established." Commissioner Graves remarked, "But, as we both know, that means the u-shaped road that ties in into this one road here, accomplishes all that. By County Standard, I don't know how many acres he's got, but if he spent millions based on where it is at, it's probably hundreds of acres. So, if he can put a road that loops between these 9 parcels, gets the commission to buy off on it, he could put 20 homes in there through a round road that ties in to these two points because you only need two access points for a subdivision." Commissioner Ellertson explained, "I am not say what the subdivision ordinance provides for. I am saying if you put a limit on that, you can address your concerns." Commissioner Lee said, "That's all future."

Commissioner Graves explained, "Part of what kind of bothers me is we are being asked in some respect, kind of disingenuously when it said well prove this, we haven't come for a building permit. Then, why have we had the discussion about what homes..." Commissioner Ellertson stated, "I don't

think there is any question the fact there is some intent there.” Commissioner Graves said, “I agree, but when we make those statements, it gives me pause to say okay, well, are we really putting all our cards on the table because, again, we are talking about access so he can put, in Mr. Bateman’s own word 7 months ago, ‘I want my own little piece of heaven. I want to build a home on my property.’ I think he should. There is a reason Giles live there, too. It may be one of the safe havens and nice places of the county. Sorry for spreading that secret. But, the reality is, you know, when we talk about it in that regards, are we truly setting new precedent or are we doing the same we have always done? I guess in the agreement with the Giles, if we are just doing the same thing that was always done, let’s make Richard’s life easier and get rid of the limitations and just say ‘Hey, what do you think the best practices is? (wink, wink) Right?’” Commissioner Ellertson reiterated, “Well no, I think it is fine to have a standard.” Commissioner Graves said, “But, we are not following it. That’s the contention.” Commissioner Ellertson explained, “A standard is a guide. That is what you strive to get. It is not a perfect world.”

Commissioner Graves said, “Right, but the written standard is that which every developer and landowner tries to follow and we try to uphold the rules to. When we make exceptions, we tell people they are above or more important, or different, I shouldn’t say more important that is the wrong phase, different than the rules may require. Because there are exceptions. But in every other case, we note those exceptions in our code. I know because we have attorneys that tell us well this page, this page, this page, this page, and this page, right?”

Commissioner Lee added, “So, we do have exceptions. This is not like the exceptions are off or being made up along the way. That is the reason why we are going through this because if it is one of the processes that we go through for exceptions.” Commissioner Graves, “Right. And again, my comments were not meant to sway a vote. It was just to put on record the contentions, no not the contentions, but the thoughts we have all be struggling with and having because as we have weighed back and forth on this issue individually and collectively when we have gone out there. It is just that. What is that right balance? Was is the right thing to do? Because at the end of the day, it is all we are trying to do here, what is the right thing for everybody involved knowing that somebody is going to be unhappy with certain portions. What are we okay with?”

Commissioner Lee agreed, “You know, I agree. And for the most part, holding to the line or holding to what we have, that is who I try to be. I try to hold to that. And I think when the exception happens, usually it happens, we need to snap back to what our policies are or our procedure or ordinances. I think that is the reason why we have these in place in many respects is to say there are exceptions. There are times in which we look at it and frankly, when I look at this and what is going on here, it concerns me that it almost looks like this piece is holding hostage, you know, to a certain extent of what can be done with private property. That is concerning to me. If would be concerning to anybody who’s at looking at that. I think that in that case, that is the reason why it is hard. It’s hard to look at that and say what are we doing with this and how can we best go forward. If there is an exception, there is an exception. We try to do the best we can with it.”

Commissioner Graves remarked, “I just thought of something. Please, I don’t want to open this back up. But just for clarification on a comment that was made, the 10 foot easements for utilities, correct me if I am wrong, is that between the white fence that is there and the existing 30-foot roadway? It comes

down through there.” Shane Giles stated from the audience that it was between the riverside, the river bank and other side of the road. Cole added the water is on the other side of the road.

Commissioner Graves said, “So, when we talk about, and that’s where I thought they were, that’s also concerning to me because as we allow, as we should - I shouldn’t say we should, my opinion is if Mr. Bateman wants to eventually subdivide this, that road then can never be a 56-foot road. If we can’t build over the top of the right-a-way, then therefore have to condemn land to take it and move that easement for water. So, we are never going to have a 56-foot roadway because like Cole said, you can’t build on it. Well, if we do, we have a bigger safety concern. It’s not about a snowplow that is only driving 15 -20 MPH around that bend pushing snow. It’s all future development as those people come by, you are never going to have wider than the 30-foot road.”

Commissioner Ellertson commented, “Speaking of these easements right now, what are they for? Gas and water, did I hear?” Commissioner Graves answered, “There are three. Gas, water and power.” Commissioner Ellertson asked, “Is there underground power in the area there?” Cole answered by describing where each of the easements are located. He said if they would be willing to assign the easement to the County the water line if that would resolve any of the issues. He said he disagreed with the characterization that a 56-foot road could never be had because of their easements. Commissioner Graves stated, “Well, Mr. Cannon is the one that said you can never build...” Cole explained the Giles could not build over the land by nature of the easement; the county can. Commissioner Graves contended, “But based on the court ruling, you see this goes back to me contention, the court ruling that 26 feet is owned by the Giles. Even though they’ve allowed the right-a-way, there is no doubt they tried to be good neighbors and allowed this right-a-way. To me, this is taking of private property in order to do it. Now, again, waiving it to do a 30-foot road that is different.” Cole asked how it was taking private property. Commissioner Graves explained, “It’s because they built the road themselves. They gave the right-a-way for use on their own property. They built a 30-foot road. They have stipulated it is a public access road. Then, from the 30 feet to the 56-foot right-a-way, if that is truly 26 feet, which has the right-a-way, that is granted for water and everything, if we were to build that road, the Giles’ still contend and based on the legal opinion by the judge, that is their property. And so therefore, they would be giving up their property. And again, it’s a whole separate situation than the 30-foot road. But to extend to make that a 56-foot wide road for future stuff, we would have to take property. Which I know none of us...” Cole added just for the record there is 56 feet from the corner of the fence over to the river bank. It doesn’t put you into the water. Commissioner Graves replied, “We know there is.”

Commissioner Ellertson said, “The thought that comes to my mind as you are having that discussion is two issues. One is that, and again I don’t know what the structure of the water line is, whether it would have to be replaced in order to have something built over it. Or whether it could be built over. It’s common to have water and gas particularly in roadways. So it could withstand a roadway. So that would not restrict the road as far as I am saying. The other point I am I remember is that at one point in time, there was an offer to acquire the property to extend the right-a-way to 56 feet and to make that improvement if I am recalling correctly.” Commissioner Graves added, “Well, and again, if he buys it or we go in and say we want this road and we buy it...” Commissioner Ellertson explained, “All I am saying is there was an offer to keep them whole on the...” Commissioner Graves interrupted saying, “I understand. And again, I am not faulting, not trying to fault Mr. Bateman for attempting to do this the best he can to make it work for his land. I am not at all. I am just saying that is where my pause is. By ruling we need to be very careful if we grant this by saying we accept this that we accept this 30-foot not

56, because I do believe that 26 is potentially still very much in question and still under legal title of the Giles.” Cole said he tends to agree. He questioned if the county is being granted the right to build a 56-foot road. Commissioner Ellertson answered, “It is the standard asphalt width county road.” Richard Nielson added it is 24 feet with a 3-foot gravel shoulder on each side. He explained the right-a-way is 56 feet. The traveled surface is 24 plus the shoulders. Commissioner Ellertson asked, “So, 30 feet gets you the roadway that you usually build on a 56-foot right-a-way, correct?” Richard answered correct. Dave commented the paved surface road widths would be to standards. Commissioner Graves asked, “Then why do we have a standard that requires an additional 13 feet on both sides?” Richard answered clear zones and safety issues so power poles and trees that are too close to the pavement. He said it was a standard that is strived for but isn’t always available. Commissioner Ellertson remarked, “So, from a roadway stand point and safety, this could be/would be constructed to the same width as the 56-foot right-a-way would be?” Richard explained the 300-foot section that is in question at the time the Giles did their subdivision and proved their part along the front, they actually improved this portion of the road as well at their expense. There was an old existing road there previously.

Shane Giles returned and explained when they applied for their building permit, they were told they had to have 250 feet county-dedicated frontage per residence on their subdivision. He said they did that and afterwards was at their own dime and is still on their own property. He said they graciously agreed to 30 feet. If the county standard is 56 feet, then the county would be taking property to allow building on it. Commissioner Ellertson replied, “They are not building on a 30-foot road. They are building on a 56-foot right-a-way if they build.” Shane continued saying if Mr. Bateman wants to build, he is going to be building across a 30-foot road. Commissioner Ellertson asked, “How is it going from 56-foot to 30?” Commissioner Graves said, “Because they are going to have the same paved surface is what he is talking about.” Commissioner Ellertson stated, “Well, that’s what he’s got.” Commissioner Graves countered, “No, but again, we are talking from a different knowledge basis. Our general public looks at a road and says ‘A 56-foot road is 56 feet of paved.’” Commissioner Ellertson stated, “All I am saying is the dedicated road way just as it is in front of your home will be same as anything he built. The only section that is 30 feet is the 300 feet.” Shane continued saying everything he has been going on still goes back to those items. If they are not met, will they still allow that? He said if they hadn’t improved that road at their expense, they wouldn’t be here today. Commissioner Ellertson said, “No, I don’t think that is right. I think you could still be here. Because at one point in time, that road in an unimproved condition was still on the county road map. That road was still there.” Shane said it wasn’t 30 feet wide. Commissioner Ellertson said, “Well, it was what it was.” Shane said the reason they did that was so they could access their own property. The dedication shows where it stops. Commissioner Ellertson stated, “That’s the dedication of the county road.” Shane continued saying that’s when the delineator was put in. Commissioner Ellertson said, “But the road that goes beyond there, Richard, is a ‘D’ road.” Richard said correct beyond the marker. Commissioner Ellertson added, “The road that goes beyond is still a county road. It is just not a County ‘B’ road.” Commissioner Graves stated, “It’s not a public road. It’s a ‘public’ road.” Commissioner Ellertson said, “Which is a County ‘D’ road.” Dave agreed. Commissioner Graves asked, “Then why do we have a sign that says...we should not have those signs up there then.” Richard explained that’s where county maintenance ends. Commissioner Graves said, “So we take tax money to repair and take care of County ‘D’ roads even though we use it in our calculations for ‘B’ and ‘C’ funds but we don’t maintain it?” Richard answered they do not get any funds for ‘D’ roads.

Shane addressed another scenario of when the river became high and the bank needed to be heightened, the county said it wasn’t their responsibility to fix it. He asked how the county could say it

is their road but not help to defend it. Commissioner Graves said, “This is my contention, too, because this year with the high water, if the road washes away, my fear is we will be coming to you we need your help in fixing your road. That’s honestly, that’s where I struggle with this.” Commissioner Ellertson said, “The part of the challenge is, do you want us on your property.” Shane explained the snow plows only came as far as his parent’s house because that is as far as they were instructed to go. He asked again why the county wouldn’t help defending the road. Commissioner Ellertson said, “I can’t speak for the past. I don’t know.”

Kyle Bateman explained when he purchased the property, he interviewed one of the County road staff he knew. He said was told they regularly did go down and do various tasks along the road all the way down to the gate including the dog-leg and the east/west section. He described in 2011, when the floodwaters were high, he called the county because he was worried about flooding on the end of the north end of the 300-foot section. The county came down and said they would provide fill or sandbags as required. He said they were really flexible on that. He reiterated that the County has been doing certain maintenance tasks on the road. He described his main issue is the County has treated that road as a county road for all practical purposes. He continued saying they didn’t think it had ever been officially vacated. He reiterated that he thinks it has been treated as a County road for decades.

Commissioner Graves said, “They have been stopping. That’s why we put up the sign.” Kyle explained this was what happened in his experience when he was researching the property. Commissioner Graves then asked Richard, “What changed because I believe that sign is still up there today? It was up there last week when I drove by.” Commissioner Ellertson said, “Because that’s where ‘B’ road ends.” Commissioner Graves stated, “Right! Under my scenario, you all told me that we are not going to change the plowing, baloney! If we are going to allow a road after all of a sudden we are going to continue it all the way...because if right now we are stopping our maintenance, you are not still going to maintain that 300 feet. Because our contingency is still we are going to put up a sign here and a sign here saying you have now left, I mean you might as well put up a ‘Welcome to Giles’ Country’ because 300 feet...” Richard explained the sign will come down if the Board chooses to change that requirement and the 300 feet will become a ‘B’ road that’s what the action would do. That 300 feet would be an official County ‘B’ road. He continued explaining the difference in the Phelp’s road and this one.

Commissioner Graves explained, “That’s why you like this. I understand this. It is a helpful situation for you and your maintenance. I understand that. That’s part of what is hard about this. Because I do see how helpful it is.” Richard said there was pros and cons to it.

Jay Giles refuted Kyles’ statement about the snow plow. He said it turns around in his driveway. He mentioned about the fencing and how when the waterline was put it a portion was removed.

Commissioner Graves said, “Well, this decision is not getting any easier.” Commissioner Ellertson added, “It’s hard because some of us have been on both sides. I, myself, have been through a process where we had property down on the farm, and where there was a subdivision going, not like this exactly, but where we were asked to allow land to be utilized in a common roadway. So, I understand the feelings that are there about that. I told them at the time, we don’t plan to develop and still haven’t developed. So, this is hard. I know it is hard. But, I guess I looked at it by a standpoint of saying what is in the best interest of everyone involved and why am I doing this. Why would I restrict someone? In this one, I think part of the issue is, I know it doesn’t make the Giles’ family happier or Mr. Slaugh either

one, when I say this, I recognize there are differences, but as you look at what is on the ground, I don't see a lot of differences. In fact, maybe it's less imposition on what we are being asked to look at here as opposed to what is further south on this same roadway in terms of the roadway that exists. So, that is all playing into what I am thinking on it. I appreciate the fact that there are two prior property rights questions here. They both have private property rights. I guess I look at the one and say there was at least offered and could be accepted if they wanted to, and I don't know that it affects anything beyond the existing fence line if they really wanted to be compensated for what would make it a 56-foot road right-a-way but they chose not to. That is fine. So, the question is if we can still get a safe road. I believe we've been told we can get a safe road there. It probably improves the over-all situation when you get down into that area in terms of the extension and having the cul-de-sac and everything that would be involved. Anyway, my thoughts..."

Commissioner Lee said he was ready to make a motion. Dave Shawcroft said if they were inclined to grant the request, then he suggested it be indicated in the motion and it be continued for one week to draft Findings of Fact, Conclusion and Decision.

Commissioner Graves said, "To be very clear, there are a lot of lines on this action item, what exactly are we approving if we approve this request? We are literally saying our County Road Maps are inaccurate. We are accepting the 300 feet as a county road." Commissioner Lee and Commissioner Ellertson both stated, "It already is a County road." Commissioner Ellertson added, "We are accepting it as a County 'B' road when the completion of the rest of it." Commissioner Graves said, "Accepting it as a County 'B' road to the end of that property. That is all we are doing. That is all we are doing. That is all this action does." Dave explained part of what is being done is modifying requirement No. 2/Condition No. 2 from the prior action. Commissioner Graves said, "Could change it to 30 feet..." Dave said only with regard to what has been described as the Giles section.

Commissioner Graves asked, "What I mean as far as acceptance or granting any construction or anything, we are not tackling that with this?" Commissioner Ellertson said, "We are allowing the road to be built." Dave commented this action would allow the road to be built in accordance to an agreement that we put together and have the... Commissioner Graves interrupted saying, "The only question is if this is going to pass because I understand Mr. Bateman would be willing to put the entire right-a-way on his property. However, when you build a road there is an inherent change in the land to which I think if that were going to be something we need to have an accommodation for all existing access points or whatever on that property not be altered or changed in any significant way. So whatever is already there and everybody is using in the area isn't altered." Commissioner Lee said, "I totally agree. I think that road coming down because there is an access point for the Giles to access their property. They should go right along the line, the property line, so there is no nuisance strip in there. The road butts right up against the property line. I agree." Commissioner Ellertson said, "No, the right-a-way." Commissioner Lee said, "The road right-a-way." Dave said we would not allow a nuisance strip to remain the Giles property and Bateman's property along the north side of the Giles' property.

Commissioner Lee said, "So Dave, you are saying that, tell me about the continuance again for finding." Dave said if that was the action he would prepare documents and an agreement so he could get that signed and have everything to be formally approved next week. Commissioner Lee added, "So if I want to make a motion for approval but on conditions that we go through the finding or do we just continue for one week is the question." Dave said he would say his inclination is to approve it, and it that was the

case for two commissioners, he would prepare the documents and then continue the action item for one week.

Commissioner Lee made the motion to continue for one week with the intention to approve subject to drafting the Findings of Fact, Conclusion, and Decision during the February 16, 2016 Commission meeting. The motion was for the sake of moving the item, Commissioner Graves seconded the motion and carried with the following vote:

AYE: Larry A. Ellertson
William C. Lee

NAY: Greg Graves

Commissioner Graves said, "Nay only for the fact that we are just early not for any other fact."

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

- 19. 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, AGENA ITEMS) (ANNOUNCE THE VOTE OF EACH COMMISSIONER)**

STRICKEN

Commissioner Lee made the motion to strike Regular Agenda Item No. 16 to set date, time and location for closed meeting for strategy session to discuss the sale of real property, water rights, or water shares, previously publicly noticed for sale.

- 16. 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 AGENA ITEMS) (ANNOUNCE THE VOTE OF EACH COMMISSIONER)**

Commissioner Lee made the motion to 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 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

- 17. 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 approve and 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

- 18. 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)**

Commissioner Lee made the motion to approve and set a date, time and location for a closed meeting to discuss the purchase, exchange, or lease of real property, water rights, or water shares 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

- 1. PRESENTATION FROM STEVE HENLINE REGARDING VETERAN’S AFFAIRS, UTAH LAKE AND LINCOLN BEACH**

Steve Henline, founder and Executive Director of Hand-In-Outdoor, explained this is a 501(c)3 based out of Spanish Fork that provides activities for children with disabilities and disabled combat veterans. Since this organization began 4 years ago, over 2000 disabled people have boarded their fleet of 5 boats which accommodates wheelchairs. He discussed the history of service to these individuals that began at Utah Lake. He described how they were asked to look at Utah Lake to possibly expand what can be done. In order to do this, they looked at many locations around the lake. One of which was Lincoln Beach State Park. He remarked how he thought this is a great park but thinks it can be a destination on the lake with minimal costs to the county.

Commissioner Lee asked, “Are you going to dredge?” Commissioner Ellertson asked the same question. Richard Nielson explained they met the previous week to discuss this. He said since then he had already met with the Forestry, Fire and State Lands and the Army Corp. of Engineers to look of the possibilities

to dredging. He explained dredging is a much more involved lengthy process that perhaps could be done due to permitting with the courts. Also, he said work would need to be done on the jetties to reinforce the banks. This would be a much less onerous process to get done.

Commissioner Graves asked, “Is that the permit that allows the dredging of Provo Harbor, under that permit you mean?” Richard explained they would have to go through a similar permit process to the that one. Commissioner Ellertson asked, “What permits do we presently have?” Richard replied for the construction operation of the jetties. He said they thought they could do the work under the existing permits for the jetties. They wouldn’t be allowed into the water in the marina but they could start that permit process. Commissioner Ellertson stated, “Richard, one of the things we talked about was looking at that dredging and the concern for the hardpan. What was the response to be able to look at that, to do some core samples?” Richard said he didn’t ask the Corps. that question because some core sample had already been done that showed it is several feet deep.

Commissioner Ellertson asked, “Is it doable?” Richard said it would take blasting to deepen it past the hard pan. Commissioner Ellertson said, “I know we are still doing some work as to what it would take to get it down low enough to get it successfully through the hard pan.” Richard said the lake was now 5 feet below compromise and due to the snow on the mountains, there is hope the lake will be operational this summer. He explained they were looking out beyond the harbor to see where the hard pan extends out to.

Commissioner Ellertson said, “The point here is, we’ve got an offer; they are interested in doing something that would benefit more than just the folks Steve is talking about. Certainly them, but it would be a public accessible improvement that would be made. Are we interested in allowing them to work with them in that regard?” Commissioner Lee asked, “Funding in this, too? What are we talking about?” Steve Henline explained he thought they could come up with the funding. He describing who they thought would be willing to be involved such as the National Guard. He said he thought their history shows they can raise the money to make this happen. He described how he thought this would be called Lincoln Beach Memorial Park for veterans who lost their lives and their families but also other first responders. He said he thought the political climate was favorable to doing this now. Randy Edwards commented the name of the park would be Lincoln Beach Heroes Memorial Park.

PUBLIC COMMENT

There was no public comment.

This concluded the discussion of all scheduled agenda items, and the meeting recessed at 12:13 P.M. to go into closed sessions. The public meeting reconvened at 12:52 P.M.

Commissioner Graves made the motion to adjourn. The motion was seconded by Commissioner Lee and carried with the following vote:

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

UTAH COUNTY BOARD OF COMMISSIONERS

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There being no further business nor public comment, the meeting adjourned at 12:53 P.M. The minutes of the February 9, 2016 Commission Meeting were approved as transcribed on April 26, 2016.

LARRY A. ELLERSTON, Commission Chair

ATTEST:

BRYAN E. THOMPSON
Utah County Clerk/Auditor

Copies available on the Utah County website at www.utahcounty.gov
Recorded by Reneé Huggins-Caron, Clerk/Auditor Administrative Assistant
Transcribed by Vicky Westergard, Tax Administrative Clerk