

BOARD OF COUNTY COMMISSIONERS, UTAH COUNTY, UTAH
MINUTES OF PUBLIC MEETING
COMMISSION CHAMBERS, ROOM 1400
OF THE UTAH COUNTY ADMINISTRATION BUILDING
May 24, 2016 - 9:00 A.M.

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

ALSO PRESENT:

Jeffrey Buhman, Utah County Attorney
David Shawcroft, Chief Deputy Attorney
Robert J. Moore, Utah County Deputy Attorney
Dianne Orcutt, Utah County Deputy Attorney
Paul Jones, Utah County Deputy Attorney
Carl Hollan, Utah County Deputy Attorney
Michelle Araujo, Commission Office
Lisa K. Nielson, Commission Office
Brian Voeks, Commission Office
Bryan E. Thompson, County Clerk/Auditor
Burt Garfield, Assessor's Office
Bryce Armstrong, Community Development
Brandon Larsen, Community Development
Ralph Clegg, Health Department Exec. Director
Abbey Dighans, Utah County Health Department
Linnea Fletcher, Utah County Health Department
Bryce C. Larsen, Utah County Health Department
Kari Schmidt, Utah County Health Department
Lana Jensen, Utah County Personnel Director

Richard Nielson, Utah County Public Works Director
Jeff Smith, Utah County Recorder
James O. Tracy, Utah County Sheriff
Mike Brower, Utah County Sheriff's Office
Dalene Higgins, Utah County Sheriff's Office
Gary Ratcliffe, Utah County Surveyor
Kim T. Jackson, Utah County Treasurer
Jeanne Bowen, Utah County Treasurer's Office
Juergen Korbanka, Wasatch Mental Health Services
Todd Phillips, Wasatch Mental Health Services SSD
Chad Poulsen, LEI Engineering
Paul Warner, America's Freedom Festival
Parley Hall, Utah County Resident
Jeff Hansen, Payson Resident
Barbara Petty, Utah County Resident
Heather Williamson, Saratoga Springs Resident
Wayne Harris, -No further information given-
Lee Davidson, *The Salt Lake Tribune*
Mike Stansfield, Fairways Media
Renée Caron, Clerk/Auditor Administrative Assistant

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

PRAYER/READING/THOUGHT: Larry A. Ellertson, Utah County Commission Chair

PLEDGE OF ALLEGIANCE: Lieutenant Mike Brower, Utah County Sheriff's Office

CONSENT AGENDA

(Track A, 02:43)

1. **RATIFY THE COMMISSION CHAIR'S SIGNATURE ON THE STATE OF UTAH 2016 PAUL COVERDELL FORENSIC SCIENCE IMPROVEMENT GRANT APPLICATION**
2. **CONSENT TO THE TERMINATION OF COUNTY AGREEMENT NO. 2009-169, AS REQUESTED BY DYNAMIC TOWING, IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT**
3. **APPROVE THE BRAD BYLUND SUBDIVISION, PLAT "B," BEING AN AMENDMENT AND PARTIAL VACATION OF LOT 2, BRAD BYLUND SUBDIVISION, PLAT "A," SUBJECT TO THE CONDITIONS IN THE STAFF REPORT**

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4. APPROVE THE EQUESTRIAN VIEW SUBDIVISION, PLAT “A” AMENDED, SUBJECT TO THE CONDITIONS IN THE STAFF REPORT
5. DECLARE A NON-FUNCTIONAL GPS RECEIVER AS SURPLUS SO THAT IT CAN BE UTILIZED AS A TRADE-IN FOR A NEW TRIMBLE R10 ROVER\RECEIVER
6. APPROVE REQUESTED EXEMPTIONS ON LIST DATED MAY 17, 2016, APPLIED FOR BY TAXPAYERS, FOR PAYMENT OF TAXES WHERE THE MARKET VALUE OF EQUIPMENT WAS LESS THAN \$10,300 AS PROVIDED BY THE UTAH STATE LEGISLATURE FOR 2016
7. APPROVE TAX CREDITS AND REFUNDS RECOMMENDED BY THE COUNTY ASSESSOR’S OFFICE IN CANCELLATION AND CORRECTION LETTER NO. 288, DATED MAY 17, 2016
8. ABATE PERSONAL PROPERTY ACCOUNTS ATTACHED FOR THE YEARS INDICATED, HAVING BEEN IDENTIFIED AS UNCOLLECTIBLE; THERE ARE NO ASSETS AVAILABLE
9. APPROVE TAX CREDITS AND REFUNDS RECOMMENDED BY THE COUNTY TREASURER’S OFFICE IN CANCELLATION LETTER NO. 20360, DATED MAY 18, 2016
10. ADOPT A RESOLUTION APPROVING VOLUNTEERS WHO WISH TO DONATE THEIR SERVICES TO UTAH COUNTY

The Board requested Consent Agenda Item No. 10 be stricken from the agenda.
STRICKEN

11. APPROVE PROPERTY TAX ACTIONS CONTAINED IN RECOMMENDATION LETTER NO. 2016-11

The Board requested Consent Agenda Item No. 11 be moved to the Regular Agenda for discussion.
PULLED TO REGULAR

12. RATIFICATION OF WARRANT REGISTER SUMMARY

Consent Agenda Item Nos. 1 through 10, and 12, were approved as written. Commissioner Ellertson recommended the following Regular Agenda items be moved to Consent:

3. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AMENDMENT TO AGREEMENT NO. 2014-852 REGARDING PRICING WITH QUEST DIAGNOSTICS
4. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AMENDMENT NO. 2 TO AGREEMENT NO. 2015-504 WITH THE UTAH DEPARTMENT OF HEALTH TO INCREASE FUNDING FOR TOBACCO: OPERATION VAPEFRONT
5. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH NEBO SCHOOL DISTRICT TO PROVIDE SCHOOL NURSES
8. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE PAVEMENT PAINTING AGREEMENT WITH DONE RITE LINES

ACTIONS TAKEN

Consent Agenda Item Nos. 1 and 12 were ratified; Nos. 2, 3, 4, 6, 7, and 9 were approved; No. 5 was declared as surplus; No. 8 was abated; No. 10 was stricken from the agenda; and No. 11 was tabled for further discussion. Regular Agenda Item Nos. 3, 4, 5 and 8 were approved and authorized.

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AGREEMENT NOS.: 2016-360, 2016-361, 2016-362, 2016-363, 2016-364, 2016-365, 2016-366, 2016-367, 2016-368, 2016-369, 2016-370, 2016-371 and 2016-372

REGULAR AGENDA

(PULLED FROM CONSENT)

11. APPROVE PROPERTY TAX ACTIONS CONTAINED IN RECOMMENDATION LETTER NO. 2016-11

(Track A, 05:15)

Utah County Deputy Attorney Dianne Orcutt confirmed for Commissioner Ellertson that all notices were sent to the address on record for Greenbelt Account No. 135-2015 belonging to Wright Family Properties, and that Parcel Serial No. 09:033:0002 registered to JR Rents attention: Jill Christensen is no longer under greenbelt status. Ms. Orcutt also noted JR Rents is requesting a refund since the property was purchased with outstanding taxes owed, but the Attorney’s Office is recommending a denial of that refund request since those issues should have been settled between the seller and the buyer during the purchase of the property – it is not a county issue.

Commissioner Ellertson mentioned the owners of Personal Property Account No. 49276: Horizon Heating & A/C Inc. attention: Brent Larson has contested the value estimated by the county is two to three times more than it should be. When Dianne Orcutt noted the statutorily set deadline to contest value has past, Commissioner Ellertson pointed out he thinks it is unfair to hold that against the taxpayer. Ms. Orcutt countered that account holder has contested the value in the past and was also involved in the annual Delinquent Tax Sale, and Commissioner Ellertson thanked Ms. Orcutt for the information.

Commissioner Lee made the motion to approve the Property Tax actions contained in Recommendation Letter No. 2016-11 as detailed in Consent Agenda Item No. 11. The motion was seconded by Commissioner Graves and carried with the following vote:

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

NAY: None

AGREEMENT NOS. 2016-373, 2016-374, 2016-374(A), 2016-375, 2016-375(A), 2016-376, and 2016-376(A)

REGULAR AGENDA

1. DESIGNATE PAST DUE ACCOUNTS RECEIVABLE AS UNCOLLECTIBLE, AND APPROVE AND AUTHORIZE THE AMOUNTS TO BE WRITTEN OFF

(Track A, 11:13)

Commissioner Lee asked Utah County Clerk/Auditor Bryan E. Thompson to address why these accounts are uncollectible. Mr. Thompson explained that when the decision was made to use Everbridge for a county-wide system, all cities were to participate. An automatic billing was sent out to the cities, but a couple of them already had existing individual contracts with Everbridge that would overlap some of the time covered through the county contract. Alpine City and Cedar Hills will be joining the county system once their current agreements have terminated, since those two cities have already paid Everbridge directly for services received. Commissioner Lee asked, “So we’ll be able to collect these in the future, is what you’re saying?,” and Mr. Thompson replied “yes.” Commissioner Lee said, “So in this case, we paid this?,” and Commissioner Ellertson replied “yes.” Commissioner Graves summarized Mr. Thompson’s comments, and Mr. Thompson confirmed the information. Mr. Thompson also noted that even without payment from the two cities with concurrent contracts through Everbridge, the county is still saving money over the previous system used. Commissioner Lee added, “If, though, we realize that the prior time we were paying out of grant funding.... There’s a little bit of difference there.” Mr. Thompson confirmed.

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Commissioner Graves made the motion to designate the past due Accounts Receivable as uncollectible, approving and authorizing the amounts to be written off as specified in Regular Agenda Item No. 1. 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. 2016-377

2. APPROVE (OR DENY) VOORHEES SUBDIVISION, PLAT “A,” SUBJECT TO THE CONDITIONS IN THE STAFF REPORT

(Track A, 14:04)

At Commissioner Ellertson’s request, Brandon Larsen of the Utah County Community Development Office spoke about the reduction of the required fire break for this subdivision. Mr. Larsen noted that requirements call for 1.5 acres of irrigation water per one acre of land for the lot, but the applicants have requested an exception. Exceptions can be granted if each building has a 30-foot wide irrigated band of landscaping around it, and if a 100-foot wide fuel break then surrounds that irrigated band. County ordinances also allow for a reduction of the width for the fuel break.

Brandon Larsen went on to note the applicant has been working towards a resolution with Utah County Fire Marshal Jack Snow, and Fire Marshal Snow has submitted a letter indicating he approves of the reduced fuel break. Commissioner Ellertson asked about the growth and fuel load around the 100-foot area, and Mr. Larsen confirmed that it is quite sparse. Commissioner Ellertson asked, “How do we guarantee that would be maintained going forward?” Mr. Larsen acknowledged the applicant does not control the adjacent land, and Commissioner Graves pointed out any other property owner would hopefully realize the importance of protecting their home. Commissioner Lee noted there were massive fires in Sanpete County years ago that consumed many houses, saying “a lot of it came because they didn’t plan properly for the fire breaks – so there is concern.” Mr. Larsen pointed out this particular lot would still be required to have the 30-foot wide irrigation band, and that cannot be varied.

Commissioner Ellertson asked what would occur if the Board denies this action today. Brandon Larsen replied the applicant would not build there because there is not enough space. Mr. Larsen noted the applicant is a private property owner, not a developer. Utah County Fire Marshal Jack Snow came forward to explain that while he would not usually grant permission for the reduction of the 100-foot wide fuel break, in this circumstance the terrain allows for easy access in case of an emergency; the property is adjacent to a major maintained highway, and there is a wildland fire department within five miles. Fire Marshal Snow approached the bench to show pictures of the area to the commissioners, and Mr. Larsen noted the property owner will be required to install a fire suppression system since the home is part of the Urban Wildland Interface.

Commissioner Graves made the motion to approve the Voorhees Subdivision, Plat “A,” subject to the conditions in the Staff Report as discussed in Regular Agenda Item No. 2. 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. 2016-378

6. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN APPLICATION WITH PROVO CITY FOR THE UTAH COUNTY GOVERNMENT EMPLOYEE 5K RUN/WALK TO TAKE PLACE ON AUGUST 13, 2016

(Track A, 21:32)

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Commissioner Ellertson jokingly asked Utah County Health Department Executive Director Ralph Clegg whether he is required to participate in the 5K Run. Mr. Clegg answered no, and mentioned that like most government applications, Provo City has made the process more complicated. Commissioner Ellertson also jokingly asked Mr. Clegg to remind the Board that the city does not waive fees for the county the next time they are asking for a favor, even though the county generally waives fees for the city.

Commissioner Lee made the motion to approve the application with Provo City for the Utah County Government Employee 5K Run/Walk to take place on August 13, 2016 as outlined in Regular Agenda Item No. 6. The motion was seconded by Commissioner Graves and carried with the following vote:

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

AGREEMENT NO. 2016-379

7. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AMENDMENT TO AGREEMENT NO. 2016-179 WITH AMERICA’S FREEDOM FESTIVAL, INC.

(Track A, 23:18)

Utah County Civil Division Chief Deputy Attorney David Shawcroft asked the Board to continue this item to their next meeting.

Commissioner Graves made the motion to continue Regular Agenda Item No. 7 regarding an amendment to Agreement No. 2016-179 with America’s Freedom Festival for one week to the May 31, 2016 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Lee and carried with the following vote:

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

CONTINUED TO MAY 31, 2016

9. ADOPT A RESOLUTION ENCOURAGING THE UTAH TRANSIT AUTHORITY TO OPEN ITS SUBCOMMITTEE MEETINGS TO THE PUBLIC

(Track A, 23:50)

Commissioner Ellertson mentioned a newspaper report regarding the Utah Transit Authority (UTA) that has come under scrutiny by the public. Commissioner Lee explained this is a simple resolution encouraging UTA to keep their meetings open. Commissioner Ellertson noted it may be premature to adopt a resolution before UTA has clarified their position, because they may not in fact be closing their meetings to the public. Commissioner Lee replied that the Mountainland Association of Governments (MAG) Metropolitan Planning Organization (MPO) has begun drafting paperwork similar to this resolution he is proposing. Commissioner Lee stated it would be good practice for the commissioners to encourage transparency by UTA, a group which will be spending almost forty million dollars of funds from Utah County. As stakeholders, Commissioner Lee expressed, “It is important that the public have a voice.” Commissioner Ellertson said it is his understanding that the meetings are open, and Commissioner Lee argued that UTA has said they will be closing the subcommittee meetings.

Commissioner Graves stated his concern: “If they’re still working on it, are we going to need to come back and amend this resolution?” Commissioner Lee replied, “No – a resolution is not binding. I saw a direct quote from [UTA Board] Chairman [H. David] Burton in which he said, you know, we’re going to close these meetings because when the press comes in there, they screw it up.” Commissioner Lee replied to Commissioner Graves’ question that if the UTA Board changes their direction, an amended resolution would not be needed; “we just clap our hands and say well done.” Commissioner Graves asked Utah County Civil Division Chief Deputy Attorney David Shawcroft

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whether he had reviewed the proposed resolution, and Mr. Shawcroft responded in the affirmative. Commissioner Lee mentioned Mr. Shawcroft helped to write the resolution.

Barbara Petty, Vice Chair of Legislative District 60, added public comment. She stated UTA's lack of general lack of accountability is outrageous, calling their mismanagement of tax dollars dishonest. Ms. Petty mentioned a 2014 audit that showed UTA is poorly managing public funds, and her concern that UTA is now trying to keep things from that same public. She read statements from Utah House Representatives Jake Anderegg, Brad Daw, and Kay Christofferson, all in support of Commissioner Lee's proposed resolution:

“Jake Anderegg said – we spoke this morning, he and I – he’s very much concerned with UTA’s actions and policy which in his opinion violates the Open Meetings Act. Brad Daw said that he is a big fan of openness and transparency, and always likes to have that on the record. Kay Christofferson texted me this message; he said: ‘Regarding UTA, I appreciate the new position to make binding decisions at the Board level. I’m not sure why that would make it desirable to close meetings to the public. Therefore I would recommend keeping committee meetings open to the public for monitoring and input.’ We feel like these are appropriate and speak in support of Commissioner Lee’s resolution. Thank you.”

When Commissioner Graves asked whether the UTA subcommittee meetings had been open to the public prior to this article in the newspaper, Commissioner Lee replied, “That is an interesting question.” Commissioner Lee explained that he has read and heard accounts of a Salt Lake Tribune reporter attempting to attend what they thought would be a subcommittee meeting and being told one was not in session, but when that same reporter tried to contact members of the UTA Board, they were told by the secretaries of those board members, “They’re at a meeting with UTA.” Commissioner Lee said this causes speculation.

Commissioner Graves addressed the last two sentences of the proposed resolution, reading “...the Utah Transit Authority Board of Trustees has determined to close certain Utah Transit Authority subcommittee meetings to the public.... The Board of County Commissioners... hereby encourages the Utah Transit Authority Board of Trustees to open its subcommittee meetings to the public.” He asked if the resolution is directed to all UTA meetings, or only the ones that are currently under consideration to be closed, since the overall goal is transparency in every aspect. Commissioner Ellertson clarified that it may be semantics, but the subcommittee meetings do not generally include a quorum of the Board. This means they are not required to be open to the public, though past practice has been to allow public attendance.

Commissioner Ellertson reiterated the subcommittee sessions are not Board meetings where official action takes place, but instead where they work on various issues and then make recommendations to the UTA Board. Commissioner Lee said that while he appreciates and respects that, he has been around government long enough to know that subcommittee meetings are usually “where the heavy lifting gets done, and where the ideas are generated, and where the thought processes go.” Commissioner Lee noted he would hate for the subcommittee meetings to be closed and allow potential for “wink wink or nod nod” discussions wherein decisions are not officially made, but issues end up being “rubber-stamped” because there were no opportunities for public input. Commissioner Lee repeated this is only a simple resolution to encourage openness and transparency. Commissioner Lee noted he is not suggesting the Board go as far as Salt Lake County, which has suggested withholding funding. Commissioner Graves agreed again that transparency is the overall goal, and Commissioner Ellertson duly noted that the subcommittee makes recommendations to the UTA Board after coming to a consensus of opinions without hiding anything.

Saratoga Springs resident Heather Williamson came forward to add public comment. Ms. Williamson stated it is in UTA's best interest to restore public trust, and it is concerning to her that subcommittee meetings have been open in the past and will now be closed. As elected officials of the people of Utah County, the commissioners have a vested interest in UTA spending millions of local tax dollars. Ms. Williamson asked the Board to set a good example in adopting this resolution, which would help to show people that UTA can be trusted.

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Commissioner Ellertson mentioned it was a surprise to him that UTA would consider closing their meetings; he said, “I know I shook my head when I heard it.” Commissioner Ellertson went on to note that UTA might be using a different format than subcommittees in the future, and concurred that the commissioners could move forward in adopting this resolution. Commissioner Lee brought up a suggestion by Commissioner Graves to add a sentence about the Fair and Open Meetings Act to the resolution, Commissioner Ellertson pointed out the act would not require UTA to open all and every single meeting to the public – that would be excessive.

Commissioner Graves made the motion to adopt the resolution encouraging the Utah Transit Authority to open its subcommittee meetings to the public as defined in Regular Agenda Item No. 9. The motion was seconded by Commissioner Lee and carried with the following vote:

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

RESOLUTION NO. 2016-39

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

(Track A, 37:10)

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

STRICKEN

- 11. 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 PUBLICALLY NOTICED FOR SALE** *(Suggested for today’s date, at this location, following the completion of the Regular Agenda and Work Session Agenda items) (Announce the vote of each Commissioner)*

STRICKEN

Commissioner Lee made the motion to strike Regular Agenda Item Nos. 10 and 11 to set a dates, times, and locations for closed meetings for strategy sessions to discuss the purchase, exchange, or lease of real property, water rights, or water shares; and the sale of real property, water rights, or water shares, previously publically noticed for sale. The motion was seconded by Commissioner Graves and carried with the following vote:

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

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

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

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

SET

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

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

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

SET

WORK SESSION

NO WORK SESSION ITEMS WERE SUBMITTED

PUBLIC COMMENTS

There were no public comments and the meeting recessed at 9:49 A.M. to go into closed meetings. The public meeting reconvened at 10:53 A.M.
(Track B, 00:01)

Commissioner Graves made the motion to adjourn the May 24, 2016 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Lee and carried with the following vote:

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

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There being no further business nor public comment, the meeting adjourned at 10:53 A.M. The minutes of the May 24, 2016 Commission meeting were approved as transcribed on June 28, 2016.

LARRY A. ELLERTSON, Commission Chair

ATTEST:

BRYAN E. THOMPSON
Utah County Clerk/Auditor