

BOARD OF COUNTY COMMISSIONERS, UTAH COUNTY, UTAH
MINUTES OF PUBLIC MEETING
COMMISSION CHAMBERS, ROOM 1400
OF THE UTAH COUNTY ADMINISTRATION BUILDING
June 28, 2016 - 9:00 A.M.

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

ALSO PRESENT:

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
Danene Jackson, Clerk/Auditor's Office
Scott C. Hogensen, Chief Deputy Clerk/Auditor
Burt Harvey, Clerk/Auditor's Office - Tax Admin.
Jim Stevens, Assessor's Office
Burt Garfield, Assessor's Office
Peggy Kelsey, Community Development
Ralph Clegg, Health Department Exec. Director
Richard Nance, Drug & Alcohol Prevention & Treatment
Lana Jensen, Utah County Personnel Director
Richard Nielson, Utah County Public Works Director
Kim T. Jackson, Utah County Treasurer
Dana Barney, Utah County Treasurer's Office

Jeff Smith, Utah County Recorder
Andrea Allen, Utah County Recorder's Office
James O. Tracy, Utah County Sheriff
Mike Forshee, Utah County Sheriff's Office
Lt. Mike Brower, Utah County Sheriff's Office
Dalene Higgins, Utah County Sheriff's Office
Gary Ratcliffe, Utah County Surveyor
Rebecca Martell, Children's Justice Center
Jamie Evans, Evans Grader & Paving
Mary Anne Wolz, Evans Grader & Paving
Dave Faux, Provo River Water Users
James Gilbert, Gilbert and Stewart CPAs
Leon Van Sickle, Vancon Inc.
Tim Brinton, -No further information given-
Cody Childs, -No further information given-
Rory Childs, -No further information given-
Trudy Childs, -No further information given-
Bill Fairbanks, -No further information given-
Derek Harbor, -No further information given-
David O. Jeffs, -No further information given-
Mike Stansfield, Fairways Media
Renée Caron, Clerk/Auditor Administrative Assistant

Commissioner Ellertson called the meeting to order at 9:00 A.M. and welcomed those present. The following matters were discussed:

PRAYER/READING/THOUGHT: Mary Anne Wolz, Evans Grader & Paving

PLEDGE OF ALLEGIANCE: Jamie Evans, Evans Grader & Paving

CONSENT AGENDA

(Track A, 02:50)

1. COUNTY COMMISSION TO TAKE ACTION TO SET A PUBLIC HEARING FOR THE PROPOSED KAY AGRICULTURE PROTECTION AREA APPLICATION FOR APPROXIMATELY 111.038 ACRES LOCATED IN THE SANTAQUIN AREA OF UNINCORPORATED UTAH COUNTY, SECTIONS 2 & 3, T10S R1E; PROPOSED DATE: TUESDAY, JULY 12, 2016 AT 9:00 A.M. IN ROOM 1400 OF THE UTAH COUNTY ADMINISTRATION BUILDING AT 100 EAST CENTER STREET, PROVO, UTAH

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2. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE ‘COMPLIANCE AGREEMENT AND BOND FOR OPEN PIT MINING OPERATIONS’ FOR CMC ROCK, LLC FOR AN EXISTING MINING OPERATION, SITE LOCATION OF APPROXIMATELY 7605 S LINCOLN BEACH RD, SECTION 29, T8S, R1E, M&G-1 ZONE, WEST SIDE OF WEST MOUNTAIN AREA OF UNINCORPORATED UTAH COUNTY; SURETY NO. SUR20000618, TOTAL AMOUNT OF \$85,000.00 WITH IRONSHORE INDEMNITY INC, 28 LIBERTY ST 4TH FL, NEW YORK, NY 10005**

The Board requested Consent Agenda Item No. 2 be moved to the Regular Agenda for discussion.

PULLED TO REGULAR

3. **APPROVE THE RELEASE OF BOND FOR OPEN PIT MINING OPERATIONS FOR CMC ROCK, LLC, SURETY BOND NO. 09136825 IN THE TOTAL AMOUNT OF \$85,000.00, AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE RELEASE LETTER FOR SITE LOCATION OF APPROXIMATELY 7605 S LINCOLN BEACH RD, SECTION 29, T8S, R1E, WEST SIDE OF WEST MOUNTAIN AREA OF UNINCORPORATED UTAH COUNTY; SURETY IS FIDELITY AND DEPOSIT OF MARYLAND, 9980 S 300 W #233, SANDY, UT 84070**

The Board requested Consent Agenda Item No. 3 be moved to the Regular Agenda for discussion.

PULLED TO REGULAR

4. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE ‘COMPLIANCE AGREEMENT AND BOND FOR OPEN PIT MINING OPERATIONS’ FOR CMC ROCK, LLC AND WESTLAKE MATERIALS, LLC FOR AN EXISTING MINING OPERATION, SITE LOCATION OF APPROXIMATELY 1169 S SR 68 (REDWOOD RD), SECTION 13 , T7S, R1W AND SECTION 18 T7S R1E, M&G-1 ZONE, SOUTH OF PELICAN POINT AREA OF UNINCORPORATED UTAH COUNTY; SURETY NO. SUR20000617, TOTAL AMOUNT OF \$300,000.00 WITH IRONSHORE INDEMNITY INC, 28 LIBERTY ST 4TH FL, NEW YORK, NY 10005**

The Board requested Consent Agenda Item No. 4 be moved to the Regular Agenda for discussion.

PULLED TO REGULAR

5. **APPROVE THE RELEASE OF THE SURETY BOND FOR OPEN PIT MINING OPERATIONS FOR CMC ROCK, LLC-WESTLAKE MATERIALS, LLC, SURETY BOND NO. 09136827 IN THE TOTAL AMOUNT OF \$300,000.00, AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE RELEASE LETTER FOR SITE LOCATION OF APPROXIMATELY 1169 S SR 68 (REDWOOD RD), SECTION 13, T7S, R1W AND SECTION 18 T7S R1E, SOUTH OF PELICAN POINT AREA OF UNINCORPORATED UTAH COUNTY; SURETY IS FIDELITY AND DEPOSIT OF MARYLAND, 9980 S 300 W #233, SANDY, UT 84070**

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

PULLED TO REGULAR

6. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE AGREEMENT WITH TOP-IT FOR THE PURCHASE OF CAMPER SHELLS AND ACCESSORIES**

The Board requested Consent Agenda Item No. 6 be moved to the Regular Agenda for discussion.

PULLED TO REGULAR

7. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN REVISIONS FOR THE VICTIMS OF CRIME ACT (VOCA) GRANT, THROUGH THE UTAH OFFICE FOR VICTIMS OF CRIME, TO FUND THE UTAH COUNTY CHILDREN’S JUSTICE CENTER PROGRAMS FOR \$288,360.91**

(Track A, 03:55)

Commissioner Ellertson asked whether the match is included in the budget, and Utah County Children’s Justice Center Director Rebecca Martell confirmed with a ‘yes’ from the audience.

8. **APPROVE TAX CREDITS AND REFUNDS RECOMMENDED BY THE COUNTY ASSESSOR’S OFFICE IN CANCELLATION AND CORRECTION LETTER NO. 60342, DATED JUNE 23, 2016**

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9. **APPROVE TAX CREDITS AND REFUNDS RECOMMENDED BY THE COUNTY TREASURER'S OFFICE IN CANCELLATION LETTER NO. 20363, DATED JUNE 22, 2016**
10. **APPROVE REDUCING THE PENALTY IN THE AMOUNTS LISTED FOR THE ATTACHED PERSONAL PROPERTY ACCOUNTS, HAVING BEEN IDENTIFIED AS MEETING THE QUALIFICATIONS UNDER ORDINANCE NO. 2010-4 AND RESOLUTION NO. 2011-64 OF THE UTAH COUNTY CODE**
11. **RATIFICATION OF PAYROLL FOR PAY PERIOD 13**
12. **RATIFICATION OF WARRANT REGISTER SUMMARY**

Consent Agenda Item Nos. 1, and 7 through 12, were approved as written. Commissioner Ellertson recommended the following Regular Agenda items be moved to Consent:

1. **APPROVE THE MINUTES OF THE MAY 17, 2016 COMMISSION MEETING** *(Continued from the May 31, June 7, and June 14, 2016 Commission meetings)*
2. **APPROVE THE MINUTES OF THE MAY 24, 2016 COMMISSION MEETING** *(Continued from the May 31, June 7, and June 14, 2016 Commission meetings)*
4. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE PLAN SPONSOR CERTIFICATION OF HIPAA PRIVACY AND SECURITY PLAN AMENDMENTS FOR UTAH COUNTY GOVERNMENT**
9. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH FREEDOM MAILING SERVICES TO PROVIDE MAIL PROCESSING SERVICES RELATED TO THE ANNUAL MAILING OF THE PROPERTY VALUATION NOTICES**
10. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH THE UTAH DEPARTMENT OF HEALTH FOR FUNDING FOR THE BREAST AND CERVICAL CANCER PROGRAM** *(Continued from the June 21, 2016 Commission meeting)*
11. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AMENDMENT NO. 1 TO AGREEMENT NO. 2015-633 WITH THE STATE OF UTAH DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH FOR PREVENTION SERVICES, AMENDING THE ENDING DATE AND AMOUNT OF THE CONTRACT**
12. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH BRUCE BERGLUND TO LEASE THE PREMISE LOCATED AT 1477 WEST CENTER STREET, SUITE D AND 1479 WEST CENTER STREET, OREM UTAH - PROMISE NORTH TREATMENT FACILITY**
14. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH THE STATE OF UTAH DEPARTMENT OF HUMAN SERVICES, DIVISION OF CHILDREN AND FAMILY SERVICES FOR IN-HOME NON-MEDICAID OUTPATIENT MENTAL HEALTH SERVICES THROUGH THEIR PRIVATE INSURANCE OR OTHER COMMUNITY HEALTH TREATMENT SERVICES**

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15. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH THE STATE OF UTAH DEPARTMENT OF HUMAN SERVICES, DIVISION OF CHILDREN AND FAMILY SERVICES FOR THE DIAGNOSIS AND/OR REHABILITATIVE MENTAL HEALTH SERVICES FOR CLIENTS IN THE CUSTODY OF DHC, DHS/DCFS, OR DHS/DJJS**
17. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A USE AGREEMENT WITH ACTION TARGET TO LEASE THE UTAH COUNTY SHOOTING RANGE FOR A LAW ENFORCEMENT FIREARMS TRAINING COURSE**
18. **APPROVE AND CERTIFY THE ENVIRONMENTAL REVIEW RECORD FOR THE CULINARY WATER IMPROVEMENTS COMMUNITY DEVELOPMENT BLOCK GRANT - PHASE 5**
19. **ADOPT A RESOLUTION CHANGING THE STATUS OF THE POSITION OF DIRECTOR OF PERSONNEL MANAGEMENT FROM A MERIT POSITION TO AN APPOINTED POSITION**

ACTIONS TAKEN

Consent Agenda Item No. 1 was set; Nos. 2 through 6 were tabled for further discussion; No. 7 was approved and authorized; Nos. 8, 9, and 10 were approved; and Nos. 11 and 12 were ratified. Regular Agenda Item Nos. 1 and 2 were approved; Nos. 4, 9, 10, 11, 12, 14, 15, and 17 were approved and authorized; No. 18 was approved and certified; and No. 19 was adopted.

AGREEMENT NOS.: 2016-445, 2016-446, 2016-447, 2016-448, 2016-449, 2016-450, 2016-451, 2016-452, 2016-453, 2016-454, 2016-455, 2016-456 and 2016-457
RESOLUTION NO.: 2016-57

REGULAR AGENDA

The commissioners chose to address Consent Agenda Item Nos. 2 through 5 in tandem, as they are directly related.

(PULLED FROM CONSENT)

2. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE ‘COMPLIANCE AGREEMENT AND BOND FOR OPEN PIT MINING OPERATIONS’ FOR CMC ROCK, LLC FOR AN EXISTING MINING OPERATION, SITE LOCATION OF APPROXIMATELY 7605 S LINCOLN BEACH RD, SECTION 29, T8S, R1E, M&G-1 ZONE, WEST SIDE OF WEST MOUNTAIN AREA OF UNINCORPORATED UTAH COUNTY; SURETY NO. SUR20000618, TOTAL AMOUNT OF \$85,000.00 WITH IRONSHORE INDEMNITY INC, 28 LIBERTY ST 4TH FL, NEW YORK, NY 10005**

AGREEMENT NO. 2016-458

(PULLED FROM CONSENT)

3. **APPROVE THE RELEASE OF BOND FOR OPEN PIT MINING OPERATIONS FOR CMC ROCK, LLC, SURETY BOND NO. 09136825 IN THE TOTAL AMOUNT OF \$85,000.00, AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE RELEASE LETTER FOR SITE LOCATION OF APPROXIMATELY 7605 S LINCOLN BEACH RD, SECTION 29, T8S, R1E, WEST SIDE OF WEST MOUNTAIN AREA OF UNINCORPORATED UTAH COUNTY; SURETY IS FIDELITY AND DEPOSIT OF MARYLAND, 9980 S 300 W #233, SANDY, UT 84070**

AGREEMENT NO. 2016-459

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(PULLED FROM CONSENT)

4. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE ‘COMPLIANCE AGREEMENT AND BOND FOR OPEN PIT MINING OPERATIONS’ FOR CMC ROCK, LLC AND WESTLAKE MATERIALS, LLC FOR AN EXISTING MINING OPERATION, SITE LOCATION OF APPROXIMATELY 1169 S SR 68 (REDWOOD RD), SECTION 13 , T7S, R1W AND SECTION 18 T7S R1E, M&G-1 ZONE, SOUTH OF PELICAN POINT AREA OF UNINCORPORATED UTAH COUNTY; SURETY NO. SUR20000617, TOTAL AMOUNT OF \$300,000.00 WITH IRONSHORE INDEMNITY INC, 28 LIBERTY ST 4TH FL, NEW YORK, NY 10005**

AGREEMENT NO. 2016-460

(PULLED FROM CONSENT)

5. **APPROVE THE RELEASE OF THE SURETY BOND FOR OPEN PIT MINING OPERATIONS FOR CMC ROCK, LLC-WESTLAKE MATERIALS, LLC, SURETY BOND NO. 09136827 IN THE TOTAL AMOUNT OF \$300,000.00, AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE RELEASE LETTER FOR SITE LOCATION OF APPROXIMATELY 1169 S SR 68 (REDWOOD RD), SECTION 13, T7S, R1W AND SECTION 18 T7S R1E, SOUTH OF PELICAN POINT AREA OF UNINCORPORATED UTAH COUNTY; SURETY IS FIDELITY AND DEPOSIT OF MARYLAND, 9980 S 300 W #233, SANDY, UT 84070**

AGREEMENT NO. 2016-461

(Track A, 06:38)

Peggy Kelsey of the Utah County Community Development Office came forward to speak to Consent Agenda Item Nos. 2 through 5. Ms. Kelsey confirmed Commissioner Ellertson’s summary that the applicant is restructuring a bond, and needs to enter into a full new agreement because bonding companies are being changed. Commissioner Ellertson mentioned prior public concerns for traffic control, and noted the limit of 12 trucks per hour within an 8-hour period for a total of 96 trucks per day. Ms. Kelsey clarified those restrictions were put in place as part of a contract with Ames Construction; the terms were ‘grandfathered’ in through the new operator and continued license, so the issues are not being re-evaluated at this time. She noted this is the original traffic study which was put in place before the most recent ordinance, and both of the mining operations are fairly dormant but that could change at any time.

(Track A, 09:46)

Commissioner Lee mentioned his office has received calls from the public regarding speculation that this operation will be moving 75 acres to the north. Peggy Kelsey explained that is a separate company (Kilgore) looking to expand; they are not related to this CMC Rock application. Commissioner Ellertson noted citizen concerns about truck limitations and traffic rules, and Utah County Civil Division Chief Deputy Attorney David Shawcroft commented on enforcement and tracking. Mr. Shawcroft pointed out CMC Rock should be keeping logs and providing that information to the Utah County Public Works Director on a monthly basis. Utah County Public Works Director Richard Nielson confirmed for Commissioner Ellertson all open pit mining operations need to report to the county since the ordinance was enacted. Mr. Nielson explained he contacts the companies if their truck routes deviate from the county agreements, so that they can correct the issue.

(Track A, 12:50)

Commissioner Lee pointed out the pit operator cannot control all of their truck drivers, and asked how balance is found. Richard Nielson explained that haul routes are specified, but job sites are not regulated by the county. Commissioner Ellertson asked whether the route is identified as part of the traffic study, and both Mr. Nielson and Peggy Kelsey responded in the affirmative. Mr. Nielson commented on traffic rules and enforcement through the Utah County Sheriff’s Office. Commissioner Ellertson noted it is important to him to keep the peace within the community.

Commissioner Lee made the motion to approve the compliance agreements and releases of bonds for CMC Rock-Westlake Materials, LLC, as specified in Consent Agenda Item Nos. 2, 3, 4 and 5. The motion was seconded by Commissioner Graves and carried with the following vote:

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

6. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE AGREEMENT WITH TOP-IT FOR THE PURCHASE OF CAMPER SHELLS AND ACCESSORIES
(Track A, 15:49)

Commissioner Ellertson pointed out a comment in the internal county agenda request system which suggested the purchase of camper shells and accessories should be bid out to other companies before an agreement is signed. Utah County Deputy Attorney Carl Hollan explained this is not an exclusive contract, but serves to guarantee discounted rates from Top-It. Mr. Hollan said he spoke with Utah County Purchasing Manager Robert Baxter regarding the procurement rules, summarizing that both Utah County and Top-It are free to do business with others even with this agreement in place. Commissioners Ellertson and Lee reiterated this is not a purchase agreement, but is only for county benefit should the county choose to purchase from this company. Utah County Clerk/Auditor Bryan E. Thompson confirmed he had a similar conversation clarifying those points with Utah County Purchasing Agent Susan Bursett.

Commissioner Graves made the motion to approve the agreement with Top-It for the purchase of camper shells and accessories as detailed in Consent Agenda Item No. 6. The motion was seconded by Commissioner Lee and carried with the following vote:

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

AGREEMENT NO. 2016-462

REGULAR AGENDA

3. APPROVE PROPERTY TAX ACTIONS CONTAINED IN RECOMMENDATION LETTER NO. 2016-15

(Track A, 19:01)

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

Commissioner Lee mentioned getting new information regarding the status of the applicant's business license. Utah County Deputy Attorney Dianne Orcutt noted that since this issue was first brought up several weeks ago, her office has determined the business license is current. The business has filed as having less than \$10,000, but they are operational. Commissioner Ellertson asked whether there was a period of time when the license was not active, and Ms. Orcutt pointed out that a handwritten note included with the application to settle or defer delinquent property tax indicated the business may have closed, but the state does not have any official evidence to that fact. Commissioner Ellertson said he was mostly interested in knowing whether the business was in the same situation for the last two years that they are now, and discussed the presented paperwork with Commissioner Lee.

(Track A, 21:22)

Attorney Dianne Orcutt addressed the personal property value with the commissioners, as well as contractor's licenses versus business licenses. She explained that the applicant is required to file an equipment list annually, but this company's list was last provided in 2008 as part of a state audit. The business is now trying to retroactively submit equipment lists for the years since 2008, where the county has been estimating values based on the 2008 list. The representation is being made that the business has been operating at the 'less than \$10,000' level for the last two or three years, but the county does not generally reverse taxes as a matter of statute once they have been estimated.

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Commissioner Lee noted that from a philosophical point, he has always considered this tax ridiculous and is glad the state has set a \$10,000 limit. That being said, however: he was concerned Utah County has tried to keep open communication with this business owner for nine years, but the taxes have not been paid since 2007. Commissioner Lee said he finds it hard to forgive this tax for this company when other businesses are managing to pay it. His previous hesitation to deny the application was based on the presumption the business was no longer operational, but that is not the case here. Commissioner Lee noted he had planned on speaking directly with the applicant during today's meeting, and Ms. Orcutt responded the applicant had indicated they would be present but does not seem to be here. Ms. Orcutt mentioned the applicant had also contacted the county in 2012 seeking a payment plan for the delinquent taxes, but there was no follow-through. The county finally served the business with 'Intent to Seize and Sell' paperwork last year through the Sheriff's Office, which is why this matter is before the commissioners. Commissioner Graves echoed Commissioner Lee's concern that the applicant inappropriately claimed to have made every effort to close the business.

Commissioner Graves made the motion to approve the Property Tax actions contained in Recommendation Letter No. 2016-15 as outlined in Regular Agenda Item No. 3. The motion was seconded by Commissioner Lee and carried with the following vote:

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

Commissioner Ellertson noted he will gladly speak with the applicant regarding the Board's decision, especially if the applicant is able to provide different information from what the commissioners have received.

[Though initially approved, the Board returned to discussion of Regular Agenda Item No. 3 following Regular Agenda Item No. 5; the commissioners reconsidered this item and ultimately decided to strike it from the agenda.]

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

5. PRESENTATION OF 2015 AUDIT BY GILBERT AND STEWART, CERTIFIED PUBLIC ACCOUNTANTS AND ACCEPTANCE OF AUDIT BY UTAH COUNTY BOARD OF COMMISSIONERS

(Track A, 27:48)

James Gilbert of Gilbert and Stewart, Certified Public Accountants, came forward to present the 2015 Audit for Utah County. He provided a draft of the financial statements to the Board, and summarized the highlights of the document (*a copy of which can be found attached to these minutes*). The Independent Auditor's Report has given the county an "unmodified opinion," or a "clean opinion," which is the highest rating that can be received. Mr. Gilbert commented on the helpfulness of county staff, especially Utah County Clerk/Auditor Bryan E. Thompson and Financial Officer Danene Jackson. Commissioner Lee echoed the compliments, and Commissioner Ellertson thanked Mr. Gilbert for his presentation.

Commissioner Lee made the motion to accept the 2015 Audit by Gilbert and Stewart, Certified Public Accountants as identified in Regular Agenda Item No. 5. The motion was seconded by Commissioner Graves and carried with the following vote:

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

AGREEMENT NO. 2016-463

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The commissioners chose to return to discussion of Regular Agenda Item No. 3 at this time, as the previously mentioned applicant was now present to address the item.

3. APPROVE PROPERTY TAX ACTIONS CONTAINED IN RECOMMENDATION LETTER NO. 2016-15

(Track A, 38:44)

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

Bill Fairbanks came forward on behalf of Carter Construction Company, Inc. to answer Commissioner Ellertson's questions regarding the status of the company in the years 2013, 2014, and 2015. Mr. Fairbanks explained his business keeps getting billed for taxes on personal property that has been sold and is no longer in their possession. He wants to finalize the company without having to pay \$20,000 or \$30,000 in taxes for property they do not even own. Mr. Fairbanks expressed frustration and mentioned his business has been trying to make arrangements with the county for some time, but the people that should have taken care of this issue are no longer with the company and a meeting with county personnel was never properly arranged. When Commissioner Graves asked whether he has receipts and other paperwork documenting property sales, Mr. Fairbanks stated 'yes.' He acknowledged that the taxes, penalties, and interest needs to be paid for the personal property items still owned by the company.

(Track A, 42:30)

Commissioner Lee repeated some of his comments regarding his own philosophical view of personal property taxes (*reference Page 6*) for Mr. Fairbanks' benefit. Commissioner Lee also repeated his concern that this issue has been going on since 2007 and 2008, and asked whether Mr. Fairbanks is willing to meet with county staff to work out the details; Commissioner Lee stated he certainly does not want someone to pay taxes on property they do not own. The commissioners discussed bookkeeping with Mr. Fairbanks. Utah County Civil Division Chief Deputy Attorney David Shawcroft mentioned the county would need to know the progression of ownership on the equipment since taxes follow the property, not the owner. Mr. Fairbanks noted a 'paper trail' may not be available on all of the items since some were sold through auctions or classified listings and not necessarily tracked by his company. Utah County Deputy Attorney Dianne Orcutt added the county would research the equipment dating back to 2009, picking up from the state audit which was completed in 2008.

Commissioner Graves made the motion to reconsider the previous Board decision on Regular Agenda Item No. 3. The motion was seconded by Commissioner Lee and carried with the following vote:

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

REGULAR AGENDA ITEM NO. 3 PULLED FOR RECONSIDERATION

(Track A, 46:10)

The commissioners identified Dana Barney in the Utah County Treasurer's Office as the contact person for Bill Fairbanks to coordinate and facilitate the audit of personal property for Carter Construction Company, Inc. Commissioner Lee expressed concern in handling the matter efficiently and expediently, and Commissioner Graves noted that his motion to strike this item is being made with the understanding that it will be resolved in a month with cooperating communication from Mr. Fairbanks or the Board will have to move forward with their decision.

Commissioner Graves made the motion to strike Regular Agenda Item No. 3. The motion was seconded by Commissioner Lee and carried with the following vote:

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

STRICKEN

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

(Track A, 47:50)

Commissioner Graves suggested tabling Regular Agenda Item Nos. 6, 7, and 8 for later discussion. Utah County Clerk/Auditor – Tax Administration Supervisor added that Regular Agenda Item No. 8 would need to be discussed as part of a closed meeting.

6. **DISCUSS, AND APPROVE OR DENY, A TAX SALE PROTEST FILED BY STEVEN C TURLEY RELATED TO PARCEL SERIAL NO. 35:506:0001** *(Continued from the June 21, 2016 Commission meeting)*

TABLED FOR FURTHER DISCUSSION

7. **DISCUSS, AND APPROVE OR DENY, A TAX SALE PROTEST FILED BY STEVEN C TURLEY RELATED TO PARCEL SERIAL NO. 35:506:0002** *(Continued from the June 21, 2016 Commission meeting)*

TABLED FOR FURTHER DISCUSSION

8. **DISCUSS, AND APPROVE OR DENY, A TAX SALE PROTEST FILED BY STEVEN C TURLEY RELATED TO PARCEL SERIAL NO. 98:110:0151** *(Continued from the June 21, 2016 Commission meeting)*

TABLED FOR FURTHER DISCUSSION

The Board moved on to discussion of the remaining posted agenda items.

13. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE CREDIBLE ORDER FORM: BUSINESS INTELLIGENCE MODULE ADDITION TO THE CREDIBLE ELECTRONIC HEALTH RECORD PROGRAM FOR THE DEPARTMENT OF DRUG AND ALCOHOL PREVENTION AND TREATMENT**

(Track A, 48:48)

Utah County Department of Drug and Alcohol Prevention and Treatment Director Richard Nance came forward. Commissioner Ellertson summarized the payment schedule: a one-time charge of \$52,000, followed by a monthly charge, for five users on the system. He and Mr. Nance discussed an email which had addressed the acquisition of the module. When Commissioner Lee asked Mr. Nance for an explanation of the importance of this module, Mr. Nance responded by guiding him through a mental exercise. Mr. Nance asked Commissioner Lee to close his eyes, and then asked how many seats and people are in the room. Mr. Nance used this example to show how this creates a dashboard for all of the treatment and prevention programs on a daily basis. Ultimately this will help to manage department performance in a way previously unavailable to the county.

Commissioner Graves made the motion to approve the Credible Order Form: Business Intelligence Module Addition to the Credible Electronic Health Record Program as specified in Regular Agenda Item No. 13. The motion was seconded by Commissioner Lee and carried with the following vote:

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

AGREEMENT NO. 2016-464

16. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE COST SHARING AGREEMENT WITH SPANISH FORK CITY FOR A TRAIL ALIGNMENT STUDY ALONG THE SPANISH FORK RIVER FROM I-15 TO UTAH LAKE IN THE AMOUNT OF \$15,166.77

(Track A, 53:08)

Utah County Public Works Director Richard Nielson explained a grant opportunity became available through the State Department of Natural Resources, and Spanish Fork City approached the county for a trail alignment study from Interstate-15 to Utah Lake. The grants were set up to cover twenty-five percent, so in this case Spanish Fork was awarded just under \$10,000 for the \$40,000 project. Spanish Fork City has asked the county to evenly split the remaining costs with their city, making the county payment amount to \$15,166.77. Commissioner Ellertson noted a large portion of the trail is in Utah County rather than Spanish Fork City, and Mr. Nielson confirmed. Commissioner Ellertson asked about funds, and Mr. Nielson noted it is anticipated to come from TRCC monies. Utah County Clerk/Auditor Bryan E. Thompson added the Board should verify this project is included on their list.

Commissioner Lee made the motion to approve the cost sharing agreement with Spanish Fork City for a trail alignment study along the Spanish Fork River as detailed in Regular Agenda Item No. 16. 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. 2016-465

The commissioners chose to address Regular Agenda Item Nos. 20 and 21 in tandem, as they are directly related.

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

RESOLUTION NO. 2016-58

AGREEMENT NO. 2016-466

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

RESOLUTION NO. 2016-59

AGREEMENT NO. 2016-467

(Track A, 55:41)

Commissioner Lee noted these agreements are for reimbursements to the county, as the expenditures have already been made. He is concerned about equity, as Alpine City is contributing \$13,200 while Mapleton pays \$1,000; meanwhile, other incorporated towns do not pay anything. Commissioner Lee explained the county houses the Bookmobile, but 45% of the total users are outside of Mapleton. He would like it on the record as the county enters into agreements with the two cities that further investigating should be done for the sake of equity. Utah County Civil Division Chief Deputy Attorney David Shawcroft and Commissioner Ellertson commented on the other cities and towns that used to participate but have been dropping out of the program. Mr. Shawcroft reminded the Board the state contract for this year has already been signed, but they all agreed to look further into the issue.

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Commissioner Lee made the motion to adopt resolutions executing agreements with Alpine City and Mapleton City, respectively, as defined in Regular Agenda Item Nos. 20 and 21. The motion was seconded by Commissioner Graves and carried with the following vote:

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

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, 58:42)

- 23. 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 items)* (Announce the vote of each commissioner)**

Commissioner Graves made the motion to strike Regular Agenda Item No. 23 to 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. The motion was seconded by Commissioner Lee and carried with the following vote:

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

STRICKEN

- 22. 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, PREVIOUSLY PUBLICLY NOTICED FOR SALE *(Suggested for today's date, at this location, following the completion of the Regular Agenda items)* (Announce the vote of each Commissioner)**

Commissioner Graves made the motion to set a date, time, and location for a closed meeting for a strategy session to discuss the purchase, exchange, or lease of real property, water rights, or water shares previously publicly noticed for sale 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

- 24. 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 items)* (Announce the vote of each Commissioner)**

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

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

SET

25. 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 items)
(Announce the vote of each Commissioner)

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

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

SET

WORK SESSION

NO WORK SESSION ITEMS WERE SUBMITTED

PUBLIC COMMENTS

(Track A, 1:02:20)

Commissioner Lee took a moment of personal privilege to point out members of his family in the audience, mentioning his son's project to observe government processes and thanking his fellow Board members for setting a good example today. Commissioner Lee also commented on living in the greatest county in the world, where citizens are able to elect candidates who represent them and many people have given their lives to protect that right. He encouraged the public to take advantage of the opportunity to vote.

This concluded discussion of most scheduled agenda items, and the meeting recessed at 10:04 A.M. to go into closed sessions. The public meeting reconvened at 10:38 A.M., and the commissioners returned to previously tabled Regular Agenda Item Nos. 6, 7, and 8 for discussion.

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REGULAR AGENDA

(Track B, 00:07)

6. **DISCUSS, AND APPROVE OR DENY, A TAX SALE PROTEST FILED BY STEVEN C TURLEY RELATED TO PARCEL SERIAL NO. 35:506:0001** *(Continued from the June 21, 2016 Commission meeting)*
7. **DISCUSS, AND APPROVE OR DENY, A TAX SALE PROTEST FILED BY STEVEN C TURLEY RELATED TO PARCEL SERIAL NO. 35:506:0002** *(Continued from the June 21, 2016 Commission meeting)*
8. **DISCUSS, AND APPROVE OR DENY, A TAX SALE PROTEST FILED BY STEVEN C TURLEY RELATED TO PARCEL SERIAL NO. 98:110:0151** *(Continued from the June 21, 2016 Commission meeting)*

Commissioner Graves made the motion to pull Regular Agenda Item Nos. 6, 7, and 8 from the table, for discussion. The motion was seconded by Commissioner Lee and carried with the following vote:

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

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

6. **DISCUSS, AND APPROVE OR DENY, A TAX SALE PROTEST FILED BY STEVEN C TURLEY RELATED TO PARCEL SERIAL NO. 35:506:0001** *(Continued from the June 21, 2016 Commission meeting)*

AGREEMENT NO. 2016-468

7. **DISCUSS, AND APPROVE OR DENY, A TAX SALE PROTEST FILED BY STEVEN C TURLEY RELATED TO PARCEL SERIAL NO. 35:506:0002** *(Continued from the June 21, 2016 Commission meeting)*

AGREEMENT NO. 2016-469

(Track B, 02:32)

Burt Harvey, Utah County Clerk/Auditor Tax Administration Supervisor, pointed out the interested parties for the Tax Sale Protests in the audience. He explained Steve Turley is the primary owner of record for the two residential properties identified in Regular Agenda Item Nos. 6 and 7, as well as the owner for the commercial property in Regular Agenda Item No. 8 through his company 'Provo Canyon Mining.' Mr. Harvey noted that Tim Brinton purchased Parcel 35:506:0001 (Item No. 6) through the Tax Sale on May 19, 2016, while Evgueni Zoudilov purchased Parcel 35:506:0002 (Item No. 7) at that same sale. The Utah County Tax Sale is when properties are offered for sale to the highest bidder or whatever method deemed in the best interest of the county and property owner, unless delinquent taxes are paid prior to the time of the sale.

(Track B, 06:17)

Burt Harvey explained the two residential properties were offered for 'undivided interest' sale after he had attempted to notify all recorded interested parties. There were deeds of trust transferring ownership to Heart Mountain Holdings, and while notification was not sent directly to Heart Mountain Holdings, the registered agent for that company is Kylie Turley, who happens to be the wife of Steve Turley. Mr. Harvey is of the opinion that proper notification was served based on that connection, and a notice was also hand-delivered to Mr. Turley in April. The county notified recorded interested parties to the best of its ability as required by law. Mr. Harvey reviewed how notification is sent through first-class and certified mailings before proceeding with the sale; he did not discover the trust deeds and mortgage liens against the properties until after the sale.

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(Track B, 09:35)

Burt Harvey clarified how a partial undivided interest was sold in the case of both properties, as is the typical practice of the county to protect the owner and potential buyer without kicking anyone out of their home. The end result is that the property ends up with two owners: minority and majority interest holders.

(Track B, 11:18)

Steve Turley introduced himself as the owner of record and presented each of the commissioners with a folder of paperwork to support his comments. Utah County Civil Division Chief Deputy Attorney David Shawcroft asked Mr. Turley to provide the Tax Sale buyers in the audience with the same documents, but Mr. Turley did not have extra copies available. He quoted portions of Utah and Utah County Code, explaining *“that while the county attempts to give notice to all property owners and those persons, corporations, partnerships, and entities with a substantial interest in the parcels of property, it does not perform a title search.”* Mr. Turley noted this directly contradicts Mr. Harvey’s comments about performing a title search, wherein Mr. Harvey made the realization that the lienholder was not notified of the impending Tax Sale. Mr. Turley stated he represents himself, Heart Mountain Holdings, Provo Abstract, and Four Seas Investment Company in the challenge against this sale based on due process grounds.

Steve Turley went on to read, *“if at any time it comes to the attention of Utah County that Utah County failed to notify a single necessary party that a parcel of property was included in the annual Real Property Tax Sale, Utah County shall have the option at any time to invalidate the sale for the affected parcels.”* He reviewed the requirements for notice, pointing out that the notice sent by Burt Harvey indicated the Tax Sale would take place on May 21st. Mr. Harvey interrupted to point out that the date on the letter was May 21, 2015, which was the previous year’s Tax Sale. Mr. Turley contested that the official notice was inaccurate because of this date; he was stunned to discover by text message that his property was instead sold during the Tax Sale on May 19, 2016.

(Track B, 17:50)

Commissioner Graves asked Steve Turley what his intentions were surrounding the May 21st notice date, and Mr. Turley responded he had planned to pay in full on May 19th. The taxes were paid on May 20, 2016 by cashier’s check. Mr. Turley pointed out that he received two separate notices with the May 21, 2015 date, which was Utah County’s error. He stated he had the funds available, and was not attempting to escape paying the taxes. Mr. Turley also mentioned filing a GRAMA [Governmental Records Access Management Act] request which revealed that notices were sent to Rock Canyon Bank, and included a letter from Burt Harvey to the lienholder confirming that Mr. Harvey did complete a title search. Mr. Turley protested that his wife was not correctly notified as a separate entity registered agent or interested party, and it would be inappropriate to assume that a notice sent to himself serves as proper notification simply because they are married. He reiterated his points and asked the Board not to validate the sale.

(Track B, 28:26)

Utah County Civil Division Chief Deputy Attorney David Shawcroft asked Steve Turley if Mr. Turley is an owner or agent of Heart Mountain Holdings. Mr. Turley replied “no,” and Mr. Shawcroft stated the county would need written authorization with regard to Mr. Turley’s representation of that entity in order to consider any of his arguments as relates to their position. Mr. Turley responded that the entity thought they had submitted as much by signing the notice to appeal. Mr. Shawcroft clarified the written authorization for representation is separate from the appeal notice.

(Track B, 29:49)

Evgueni Zoudilov, the property buyer referenced in Regular Agenda Item No. 7, came forward. Mr. Zoudilov pointed out that Steve Turley had multiple properties listed as part of the Tax Sale. He asked why Mr. Turley was not protesting the valid sales of Parcel Serial Nos. 20:014:0071 and 20:014:0074 which occurred on the same day. Burt Harvey confirmed Mr. Turley had a total of five properties listed at the Tax Sale, and Mr. Turley responded that he was able to contact the buyer directly and handle the issue privately, so a protest is not needed in those cases.

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(Track B, 32:02)

Tim Brinton, the property buyer referenced in Regular Agenda Item No. 6, came forward. He explained that after winning the bid during the Tax Sale, he knocked on the door of the property expecting to find a tenant. Mr. Brinton stated Kylie Turley opened the door and introduced herself as being married to the owner, and their following conversation indicated that both she and her husband were aware of and therefore had been notified about the Tax Sale. Mr. Brinton said he does not understand why an owner would allow their property to go to the Tax Sale, suggesting perhaps Steve Turley was attempting to get preferential interest in the property against lienholders or had other ulterior motives. Mr. Brinton noted that Mr. Turley contacted him and offered a small amount over the paid back taxes in order to reclaim the ten percent undivided interest in the property which Mr. Brinton had purchased, but that did not seem fair to Mr. Brinton and has led to this protest being filed.

(Track B, 34:30)

Utah County Clerk/Auditor Bryan E. Thompson added for the record that he spoke with Steve Turley following the Tax Sale, and recognizes there was an oversight in notifying one of the lienholders as well as the error on the notice. Burt Harvey further clarified that while some of the letters had the wrong date, the official notices and certified mail all specified May 19, 2016 at 10:00 A.M. for the Tax Sale. Mr. Harvey pointed out that all members of the Tax Sale Committee had assumed Mr. Turley would pay the delinquent taxes before the sale occurred, and the members were generally surprised when that did not happen. Mr. Harvey and Mr. Thompson discussed with Commissioner Lee the error in dates on the different notices and how they were manually corrected.

(Track B, 37:54)

Utah County Deputy Attorney Paul Jones joined the conversation, noting the property owners would have received multiple notices with the correct Tax Sale date. The personal deliveries by Bryan Thompson and Burt Harvey are above and beyond the requirements to meet due process. The commissioners asked about the timeline for sending notices, and Mr. Harvey explained the first notices were sent March 15, 2016 and reviewed the process. Mr. Jones addressed the standard for posting notices, and ultimately recommended overturning the sales of Property Serial Nos. 35:506:0001 and 35:506:0002 as detailed in Regular Agenda Item Nos. 6 and 7.

Commissioner Lee made the motion to approve the Tax Sale Protests filed by Steven C Turley related to Parcel Serial Nos. 35:506:0001 and 35:506:0002 as outlined in Regular Agenda Item Nos. 6 and 7, respectively. The motion was seconded by Commissioner Graves and carried with the following vote:

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

The Board called for a brief recess at 11:21 A.M. and reconvened again at 11:36 A.M. to address Regular Agenda Item No. 8.

REGULAR AGENDA

(Track C, 00:03)

8. DISCUSS, AND APPROVE OR DENY, A TAX SALE PROTEST FILED BY STEVEN C TURLEY RELATED TO PARCEL SERIAL NO. 98:110:0151 (Continued from the June 21, 2016 Commission meeting)

Burt Harvey, Utah County Clerk/Auditor Tax Administration Supervisor, noted this is a centrally-assessed parcel owned by Provo Canyon Mining Company; Steven Turley is an owner of that company. Mr. Harvey stated the county provided notice of the Tax Sale by first class and certified mail to the address of record provided by the Utah State Tax Commission. He noted a postcard was not returned, but Mr. Harvey confirmed delivery through the postal service tracking system. Mr. Harvey explained how there were additional complications because not all details are

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provided for centrally-assessed properties, and this parcel also happens to be a gravel pit wherein most of these types of properties are mining claims. Mr. Harvey reviewed his research process, mentioning that commercial information is generally protected and therefore he missed notifying one of the trust deed holders of the Tax Sale: Four Seas Investment Company. Commissioner Ellertson summarized Mr. Harvey's comments, with comments about assessment and collection authority from Commissioner Graves.

(Track C, 05:12)

Steven Turley came forward and spoke of the Four Seas Investment Company, which consists of four brothers with the last name 'Close,' and their ownership of the property since the 1940's. Mr. Turley talked about property taxes compared to mining royalties, and how his contracts with the lessees designate the lessees as responsible parties for payment of the centrally-assessed mining taxes. Mr. Turley stated he thought the mining royalties had been paid. He also mentioned receiving a notice that the Tax Sale would take place on the 21st [of May], and writing a check to the County Treasurer's Office on May 20, 2016.

(Track C, 07:43)

Utah County Civil Division Chief Deputy Attorney David Shawcroft noted for the record that the county does not currently have written authorization from Four Seas Investment Company for Steven Turley to serve as their representative. Mr. Turley stated he would present that authorization today. Mr. Turley also referred to the documents that he had provided to each commissioner earlier in the meeting to show there were no notifications to the lienholder, nor the trustee. Four Seas was not notified; neither was the Provo River Water Users Association and Central Utah Water Conservancy District, as potentially interested parties. He pointed out that both Nevada and Utah addresses were recorded for Four Seas, and therefore should have been simple to find for noticing purposes. Mr. Turley referenced a letter from a representative of Four Seas wherein they declare they did not receive notification of the upcoming Tax Sale.

(Track C, 12:38)

Steven Turley went on to speak about how Provo Abstract is the trustee of this property, conveyed as the owner, and they also did not receive notification about the Tax Sale. Mr. Turley used these points to ask the county to invalidate the sale, stating it would not cause undue harm upon anyone; he wants the bidders to receive their money back as quickly as possible. Mr. Turley stated he knows the commissioners take their positions seriously, and expressed hope that they can find a balance between protecting property rights and collecting taxes. Mr. Turley said he has no ulterior motives, and reminded the Board that payment in the form of a check is already sitting in the Treasurer's Office. He mentioned a gold standard of due process in Utah County and re-visited the issue of written authorization for representation with David Shawcroft.

(Track C, 18:08)

Commissioner Ellertson and Steven Turley reviewed the trust deed and involved companies for this parcel. Commissioner Lee mentioned the trust deed was conveyed on September 1, 2007, and asked whether any action has taken place since that time to supersede this document; Mr. Turley responded "no."

(Track C, 19:27)

Jamie Evans, the winning bidder for this property during the 2016 Tax Sale, came forward and provided each of the commissioners with a folder of paperwork to support his comments (*a copy of which can be found attached to these minutes*). He pointed out this problem would not have occurred if the property taxes of \$878 had simply been paid when due, in November 2011. Mr. Evans outlined the involved parties: Provo Mining Company with Steve Turley, Four Seas Investment Company which consists of the 'Close' family, and Provo Abstract.

Jamie Evans talked about legal descriptions and centrally-assessed taxes, noting that every property owner and taxpayer is aware of two very important dates – April 15th [presumably when payment of federal taxes are due] and November 30th [Utah County property taxes are due]. Mr. Evans referred to tracking information which showed that Provo Mining Company received official notice of the Tax Sale by mail on April 11, 2016. Official notice was also given on April 12, 2016. Mr. Evans also noted the notice printed in the newspaper, and the hand-delivered courtesy notice.

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(Track C, 23:30)

Jamie Evans went on to mention communications with Curtis Williams [Utah State Tax Commission Tax Appraisal Specialist], who also provided Mr. Evans with Notice of Assessment reports which had been sent to Provo Canyon Mining Company annually from 2008 through 2016. State records indicate the 1480 South State Street address for the company is correct. Mr. Evans noted Steve Turley approached him twenty minutes after the Tax Sale and asked Mr. Evans not to submit the \$420,000 payment to the county. Mr. Evans followed through on his commitment to the county to make payment, and confirmed within the following two hours through Provo Abstract that Mr. Turley had been notified of the sale at least two weeks prior, though Mr. Turley presents an affidavit today stating Provo Abstract was not notified. Commissioner Graves pointed out there is a very big difference between being notified by word of mouth, versus being given legal notice. Mr. Evans stated he did not have evidence that Provo Abstract was legally notified.

(Track C, 27:00)

Jamie Evans also pointed out that in the 1,632 days since November 30, 2011, approximately thirty notices would have been delivered in the last five years stating taxes are overdue. He maintained all of the individuals involved are knowledgeable and astute real estate investors, including Steve Turley and the Close family. Mr. Evans talked about centrally-assessed forms, and the value of this property being set at \$74,572, or \$3,000 an acre. He contended the trust deed is not affected by the ratification of sale; in fact, the sale would strengthen the deed because the asset is now in cash and the promissory note would be paid by himself as the buyer to the Close family, which is still owed \$250,000. Mr. Evans summarized how only \$5,000 of the \$420,000 payment is designated for the county, leaving \$415,000 to be collected upon for the trust deed. He reiterated Mr. Turley did receive notification of the lienholders on the tax notices, and the Close family will be reimbursed for their interest. Mr. Evans read a portion of the trust deed which directed Mr. Turley to pay delinquent taxes by November 20, 2011, explaining it is in the best interest of all parties to ratify the sale because the county will have the taxes paid, the Close family will have their balance paid in full, and Mr. Turley will have the option to receive any remaining funds after all debts are fulfilled. Mr. Evans also talked about accountability and setting examples.

(Track C, 35:49)

David Jeffs came forward as the representative for Jamie Evans. He clarified that the notice with the incorrect date for the Tax Sale was actually for a residential property, not this mining claim, and that argument is therefore unrelated. Mr. Jeffs also rebutted Steven Turley's earlier comments concerning lack of notification to the Provo River Water Users Association since their interest only lies within the easements, which are exempt from tax foreclosure processes. He corrected Mr. Evans' statements about the trust deed held by Four Seas Investment Company, stating the Tax Sale would remove the deed from the property but Four Seas would have a recourse to make a claim on the proceeds.

(Track C, 37:40)

David Jeffs noted the Board must decide whether or not there has been a violation of due process, which has two significant elements – something must be wrong with the notice or procedure, and harm or injury must occur. Mr. Jeffs contended there was no violation as related to Provo Canyon Mining Company, and though Four Seas may have not been noticed of the Tax Sale, there is no likelihood of harm to Four Seas because of the \$420,000 lying in wait to pay succeeding claims. Mr. Jeffs also pointed out that Four Seas did not bother to send representation for this issue today and must not deem it worthy or important because they have instead allowed the individual who owes them money [Steven Turley] to assert their claim.

(Track C, 41:26)

David Jeffs mentioned Steven Turley is incorrect in assuming that a trust deed to Provo Abstract serves as a transfer of title, and explained how the courts have determined true ownership; Provo Abstract only holds the deed in trust for the beneficiary, Four Seas Investment Company. In effect, Utah County recognizes Provo Canyon Mining Company as the owner and sent the notice to that company, and the representative messed up by not showing up – statute dictates it was Mr. Turley's responsibility to respond to the notice. Mr. Jeffs reminded the Board Mr. Turley could have paid the taxes at any time before the sale and chose not to do so, and is now suffering the consequence.

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(Track C, 44:10)

Utah County Deputy Attorney Paul Jones confirmed that the notice received by Steven Turley with the incorrect date for the Tax Sale was only in reference to residential properties, not this commercial lot under discussion in Regular Agenda Item No. 8. Mr. Jones also mentioned it being an anomaly that notification of the Tax Sale was provided to a trustee. He, Commissioner Graves, and Utah County Clerk/Auditor Tax Administration Supervisor Burt Harvey discussed interest and notices of default. Mr. Jones talked about notice requirements, and noted the prior statement of \$415,000 in unclaimed property extinguishing Four Seas Investment Company's interest being a novel concept. Mr. Jones gave his legal opinion that while due process was served through Provo Mining Company, the county has failed to technically comply with notice standards in not contacting Four Seas Investment Company regarding the Tax Sale; he recommended overturning the sale for lack of due process to Four Seas.

(Track C, 49:35)

When Commissioner Graves asked about overturning the sale, Paul Jones reiterated the reason being Four Seas Investment Company has an interest in the property and did not receive notification of the Tax Sale. They discussed sale proceeds and protest filings with Utah County Civil Division Chief Deputy Attorney David Shawcroft and Commissioner Lee. Burt Harvey mentioned being contacted by Mr. Close [of Four Seas Investment Company], who had questions about making claims on the funds. Utah County Clerk/Auditor Bryan E. Thompson acknowledged the notification oversight from his office.

(Track C, 52:43)

Jamie Evans asked for the record to include the fact that the Close family [Four Seas Investment Company] was notified of the meeting taking place today, and his belief that they should have been there. Commissioner Graves asked whether the Board could consider the claimant's reasons in filing a petition when making their decision, and David Shawcroft responded no – only if the petition were to be withdrawn.

Commissioner Lee made the motion to approve the Tax Sale Protest filed by Steven C Turley related to Parcel Serial No. 98:110:0151 as detailed in Regular Agenda Item No. 8. The motion was seconded by Commissioner Graves and carried with the following vote:

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

NAY: None

ABSTAIN: Greg Graves

The open meeting recessed a third time at 12:32 P.M. to go back into closed sessions. The public meeting reconvened again at 1:23 P.M.

Commissioner Graves made the motion to adjourn the June 28, 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

There being no further business nor public comment, the meeting adjourned at 1:23 P.M. The minutes of the June 28, 2016 Commission meeting were approved as transcribed on August 30, 2016.

LARRY A. ELLERTSON, Commission Chair

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ATTEST:

BRYAN E. THOMPSON
Utah County Clerk/Auditor

***Regular Agenda Item No. 3:**

Though initially approved, the Board returned to discussion of Regular Agenda Item No. 3 following Regular Agenda Item No. 5; the commissioners reconsidered the item and ultimately decided to strike it from the agenda by unanimous vote. The motion to strike was made with the understanding that the issue would be re-addressed in approximately one month in another format.