

BOARD OF COUNTY COMMISSIONERS, UTAH COUNTY, UTAH
MINUTES OF PUBLIC MEETING
COMMISSION CHAMBERS, ROOM 1400
OF THE UTAH COUNTY ADMINISTRATION BUILDING
September 16, 2014 - 9:00 A.M.

PRESENT: COMMISSIONER GARY J. ANDERSON, CHAIR
COMMISSIONER LARRY A. ELLERTSON, VICE-CHAIR
COMMISSIONER DOUG WITNEY

ALSO PRESENT:

Cort Griffin, Utah County Deputy Attorney
Paul Jones, Utah County Deputy Attorney
Robert J. Moore, Utah County Deputy Attorney
Julie Rollins, Utah County Purchasing Agent
Peter A. Jepps, Utah County Assessor's Office
Keven Ewell, Utah County Assessor's Office
Jim Stevens, Utah County Assessor's Office
Bryce Armstrong, Community Development
Ralph Clegg, Utah County Health Department
Lana Jensen, Utah County Personnel Director
Karen Allen, Utah County Personnel Office
Richard Nielson, Utah County Public Works Director
Don Nay, Utah County Public Works Assoc. Director
Jeff Smith, Utah County Recorder
Andrea Allen, Utah County Recorder's Office
James O. Tracy, Utah County Sheriff
Dalene Higgins, Utah County Sheriff's Office
Mike Forshee, Utah County Sheriff's Office
Wally Perschon, Utah County Sheriff's Office
Peter Quittner, Utah County Sheriff's Office

Richard Nance, Drug&Alcohol Prevention&Treatment
Gary Ratcliffe, Utah County Surveyor
Robert C. Kirk, Utah County Treasurer
Joel Racker, Utah Valley Convention & Visitors Bureau
Charlene Christensen, U.V. Convention & Visitors Bureau
Robert Patterson, Patterson Homes
Craig Call, Anderson Call & Wilkinson Law
Ron Madson, Madson & Madson Law
Mark F. Robinson, Robinson Seiler & Anderson, LC
Thomas W. Seiler, Robinson Seiler & Anderson, LC
Barry Johnson, Utah Wilderness Access Foundation
Bryan Burr, Alpine City Resident
Janine Call, Utah County Resident
Ross Welch, Alpine City Resident
Bill Freeze, -No further information given-
Gil Greer, -No further information given-
Bryan Hofheins, -No further information given-
Paul Reay, -No further information given-
Mike Stansfield, Fairways Media
Renée Huggins-Caron, Clerk/Auditor Admin. Assist.

Commissioner Anderson called the meeting to order at 9:03 A.M. and welcomed those present. The following matters were discussed:

PRAYER/READING/THOUGHT: Larry A. Ellertson, Utah County Commissioner
PLEDGE OF ALLEGIANCE: Doug Witney, Utah County Commissioner

The Board momentarily recessed to assemble as The Board of Equalization of Utah County from 9:05 A.M. to 9:07 A.M. The Utah County Board of Commissioners reconvened at 9:07 A.M., and the commissioners moved forward with the following agenda items.

PUBLIC HEARING

**PUBLIC HEARING TO DISCUSS THE VACATION OF ROADS WITHIN THE BOX ELDER
SOUTH SUBDIVISION IN THE UNINCORPORATED UTAH COUNTY AND NEAR ALPINE
CITY, UTAH (Public Hearing set August 5, 2014)**

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Utah County Deputy Attorney Robert J. Moore came forward to summarize the purpose of today's Public Hearing. The petition for the abandonment of alleged public roads was received by the Utah County Commission on July 18, 2014; the Public Hearing was set August 5, 2014, and notice was provided as required by law. There are approximately 43.9 acres of land belonging to multiple owners, property which was previously approved by the Board of Commissioners for the Box Elder South Subdivision. That approval was appealed to the Board of Adjustment and was upheld; all further appeals have been exhausted. At this point, the subdivision plan has been approved but not yet recorded. The request today is to vacate any and all trails or roads which are allegedly underneath or along the property in the current state. The request does not in any way affect the plat itself, the roads, or any public access easements on the plat. There are 5.336 acres of roads and 6.99 acres dedicated to public access easements to secure access to federal lands. This Public Hearing is to consider vacating all 43.9 acres - the proposed ordinance (Regular Agenda Item No. 16) takes that action.

Ross Welch approached the bench to represent Patterson Construction. He reiterated that the approved plat increases open space and provides more public access than was previously allowed. Mr. Welch deferred to author and former Property Rights Ombudsman Craig Call. Mr. Call stepped forward and stated that he is here to assist the property owner in asking the Commission to confirm what the owner already has the right to do. He clarified that a thoroughfare is created after ten years of uninterrupted use. Once created, there remains a common law balance of interest: the person who owns the land is subject to the right of travel across the property, but not necessarily through a specific corridor. If the public continues to have a way to get from 'point A' to 'point B,' everyone's rights have been preserved.

Commissioner Anderson asked Craig Call whether he agrees with Ross Welch's statement that public space would be increased, and Mr. Call responded "yes; absolutely." He said that not only is the space increased, but also the quality of travel. Commissioner Anderson also pointed out that Barry Johnson, another individual present in the audience, has made the argument that it is important to preserve the manner of access as well as the right of access. Mr. Call stated that would be overreaching. He brought up a case related to the width of a road, noting that it would be radical to think that because a person has previously been able to snowshoe across an area, they must be allowed to continue snowshoeing. In effect the request would be to maintain any area that had been used as open space in all of history as a public park, and there is no legal precedent for such action.

Craig Call went on to note that those opposed to the vacation of the roads in question are citing statute related to highway corridors which are not applicable here, as well as assuming that corridors cannot be altered which is also incorrect. Lastly, Mr. Call pointed out claims have been made that individuals who do not own land next to these properties have somehow created a prescriptive right to recreational use of the land by trespassing. Again, there is no legal precedent. He reiterated that there is no harm to public interest in approving the application and reminded the Board of their oaths to defend and preserve the Constitution of the United States, including property rights.

Barry Johnson came forward as a representative of the Utah Wilderness Access Foundation, and as an Alpine resident. He asked the Board to recognize a long-held doctrine of "*caveat emptor*," the Latin phrase for "buyer beware." Mr. Johnson stated that the owners accepted the use of the land when they purchased the property, having full knowledge of the roads and trails passing through the lots. He noted the mixed messages from the applicant in insisting these are not public roads while simultaneously requesting the commissioners vacate those same public roads. Mr. Johnson explained that the Board has the right to vacate public roads as determined by the county, but whether or not these are public roads is currently under litigation.

Barry Johnson asked the Board to reject the application, outlining their authority to vacate only county roads. He noted the convenience of the term "alleged public roads" for the petitioner, explaining that the Board's authority is suspended until the court ruling has determined the use of the roads. Furthermore, the applicant has not provided evidence as required to vacate public roads. There is no good cause because there is no public opinion that the access is enhanced by development. Mr. Johnson stated the access is generally preferred as it currently stands, and the developer is not offering anything to the county. He reiterated *caveat emptor*.

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Barry Johnson pointed out the petitioner's request to uphold the constitution and property rights, and yet the ordinance does not reference private property rights at any point. The ordinance does ask whether there is material injury to the public, which the Board should dutifully represent. He spoke on the current litigation, and evidence in that case demonstrating a minimum ten years use on the trails in question.

Commissioner Anderson asked Barry Johnson to clarify his argument for manner of use of the trails and roads. Mr. Johnson articulated that extent of use and manner of use defines public road; paving the trails would irreparably alter them by taking away the historic nature of these roads.

Commissioner Ellertson recognized Barry Johnson's argument that the roads in question are for public use, and asked who has the authority if not the Board of Commissioners? Mr. Johnson replied the decision lies with the state court. Commissioner Anderson asked about the impact of the Board decision on the current lawsuit, and Mr. Johnson clarified: if the Board approves the vacation of the roads, it would bring up new issues to the court that supercede defined use. Commissioner Witney asked how the access is being changed if there is no destination point within the private property, and Mr. Johnson repeated that changing the manner of access irreparably alters the landscape.

Barry Johnson summarized that there is a lawsuit involving the court's interpretation of statutes regarding ten years of continuous use. If the Utah Wilderness Access Foundation prevails, the property will be deemed public road. If the ordinance to vacate is approved by the Board, the court may consider it as part of their decision because the legislative body of Utah County would have declared by that action that these are not public roads. Utah County Deputy Attorney Robert J. Moore came forward to clarify roads as determined by the Board, quoting Utah County Code to explain how the commissioners have jurisdiction over county roads.

Ron Madson is serving as counsel for the Utah Wilderness Access Foundation (UWAF). He explained that while getting from one point to another in area is relative, it is not the only concern. Numerous biking trails and other recreational roads criss-cross the property and are governed by prescriptive rights. Mr. Madson echoed the Board has no jurisdiction over prescriptive rights, as that will still be under litigation whether or not the petition to vacate is approved. He suggested the commissioners await the judicial decree before making their decision. Commissioner Witney noted that trails were likely harmed when the Box Elder North Subdivision was approved, and Mr. Madson refuted that mistakes do not need to be repeated.

Tom Seiler represents some of the property owners. He provided copies of statute to the Board, and referenced them to explain requirements for vacation. Mr. Seiler also addressed roads versus public streets, and the dictionary definition of a thoroughfare. Commissioner Anderson inferred Mr. Seiler's statements to mean that the Utah Wilderness Access Foundation is using the wrong statute, and would still be incorrect even if applicable. Mr. Seiler concurred, mentioning current litigation between Utah County and UWAF, established road use, and private property rights.

Utah County Deputy Attorney Robert J. Moore identified the three claims of the lawsuit: illegal closure of a public road, illegal closure of a county road, and prescriptive rights.

Craig Call returned to emphasize that roads are created by use. He expressed that the claims against development are creative and unlikely to prevail, and asked why the process should come to a screeching halt. If the Board does not have the authority to make this decision, why does legislature provide the opportunity in statutes? Mr. Call stated it does not serve public interest to prevent the building of roads or water tanks. He finds it startling that someone would suggest the Board ignore property rights because they are not specified in the statute, questioning whether the same should be said for "due process" which is also not specified. Mr. Call also indicated that there would be no harm in approving the application to vacate roads if the prescriptive rights are upheld by the court.

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Craig Call stated that there is plenty of evidence on record that there would be no material injury to the public interest upon vacating the roads. However, there would be injury if the tax base cannot be developed because all property is locked up and unable to undergo improvement - it would be a severe burden on the public to ignore property rights. Mr. Call addressed *caveat emptor*, noting that property is purchased knowing there is a body of law in place and not just one principle. It is rational for a buyer to acknowledge potential public rights and be willing to work and rearrange plans to allow development for their property. Mr. Call provided a map marked with public access areas, pointing out the fallacy in the idea that the miles upon miles of open space could not be enjoyed because of a change to one small portion.

The Board reviewed the map with Craig Call and clarified public space and access points, and Mr. Call noted that public access rights were preserved with the plat when the Board approved the subdivision.

Alpine resident Bryan Burr shared stories of hiking the trails with family members, and sharing history with future generations. He stated there are some destinations within the area in question; it is not just a thoroughfare for access from 'point A' to 'point B.' Mr. Burr mentioned that a deep ditch will be put in place by the developer to restrain mud and water, so the roads will not be as accessible as presented to the Board. Lastly, Mr. Burr asked how the developer can threaten action against anyone trespassing on their private roads, but then turn around and ask the commissioners to vacate them as public roads.

Ross Welch of Patterson Construction returned to the stand. The discussion of people wanting this property to be a park has been taking place for years. This property was acquired by various owners after years of work and labor to save up money to buy it; anyone could have used the same opportunity to purchase the land for whatever use they desired. Mr. Welch paraphrased a recent opinion piece in *The Daily Herald* by former Utah Lieutenant Governor Greg Bell in which he stated property owners' rights are regularly "diluted, delayed and denied." They want farmland to remain farmland forever, and undeveloped property turned into a park. Mr. Welch quoted, "It is incredibly ironic that in this state which reveres the Constitution, we routinely allow fundamental property rights to be ignored and violated," which is what is happening in this situation.

Ron Madson returned to repeat it is judicious to allow the court process be completed before the Board take any action. He mentioned the Pine Grove Development located North of this area, where a construction company previously made the same promises but there is no more access through that property. Mr. Madson stated the roads and trails around Alpine are systemically being eliminated, and urged the commissioners to show restraint and let the courts define the parameters before making any final decisions.

Bryan Hofheins is an Alpine resident who has some experience working with Craig Call regarding water rights. Years ago, Mr. Hofheins purchased property in Wasatch County; they in turn placed a water requirement in order to develop. Mr. Call was an ombudsman at the time, and rendered a decision in Mr. Hofheins' favor with cooperation from the county. Once that decision was presented to various boards, Mr. Hofheins' application was denied. Mr. Hofheins sued Wasatch County and was successful in having them modify their water rights administration three and a half years later.

Bryan Hofheins expressed there is a purpose for the judicial system to weigh in on these matters. Commissioner Anderson agreed, but pointed out there is also a purpose for the legislative and administrative systems. Commissioner Anderson stated the Board is in no way advising the court one way or another, but does have legislative authority and legislative duty on this application. Mr. Hofheins talked about the importance of the opportunity to let a judge make the decision, stating it is very prudent for the commissioners to not be afraid of potential expenses.

Commissioner Witney commented on the five and a half acres of land that make up his property. He knew what he was getting into at the time, and also knew that his brothers owned the surrounding lots. His brothers have since sold their land and Commissioner Witney is now surrounded by subdivisions. While there are some fishing and hiking trails that are no longer accessible to him, Commissioner Witney understands that it was not his decision to make; he did not have control over his brothers' land.

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Commissioner Witney explained this Board understands the personal rights of Patterson Construction to develop this land. After much discussion, the company agreed stipulations, including public access to trails. They have done everything that was agreed upon. Commissioner Witney stated that private property rights are a constitutional right. While he cannot take certain trails to reach a point, he can still get there. Commissioner Witney expressed concern for some of the comments made today regarding personal property rights.

Commissioner Ellertson asked about non-motorized travel on the grounds in question, and Barry Johnson and Ron Madson responded from the audience. Ross Welch approached the bench to review a map with the Board.

Commissioner Witney made the motion to close the public hearing to discuss the vacation of roads within the Box Elder South Subdivision in the unincorporated Utah County and near Alpine City, Utah as specified on the agenda. The motion was seconded by Commissioner Ellertson and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

CONSENT AGENDA

- 1. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH THE UTAH LAKE COMMISSION FOR LEASE OF OFFICE SPACE IN THE HISTORIC COURTHOUSE**
- 2. APPROVE REQUESTED EXEMPTIONS ON LIST DATED SEPTEMBER 8, 2014, APPLIED FOR BY TAXPAYERS, FOR PAYMENT OF TAXES WHERE THE MARKET VALUE OF EQUIPMENT WAS LESS THAN \$10,000 AS PROVIDED BY THE UTAH STATE LEGISLATURE FOR 2014**
- 3. APPROVE TAX CREDITS AND REFUNDS RECOMMENDED BY THE COUNTY ASSESSOR'S OFFICE IN CANCELLATION AND CORRECTION LETTER NO. 278, DATED SEPTEMBER 8, 2014**
- 4. APPROVE REDUCING THE PENALTY IN THE AMOUNTS LISTED FOR THE ATTACHED PERSONAL PROPERTY ACCOUNTS, HAVING BEEN IDENTIFIED AS MEETING THE QUALIFICATIONS UNDER ORDINANCE NO. 2014-4 AND RESOLUTION NO. 2011-64 OF THE UTAH COUNTY CODE**
- 5. ABATE PERSONAL PROPERTY ACCOUNTS ATTACHED FOR THE YEARS INDICATED, HAVING BEEN IDENTIFIED AS UNCOLLECTIBLE; THERE ARE NO ASSETS AVAILABLE**
- 6. APPROVE TAX CREDITS AND REFUNDS RECOMMENDED BY THE COUNTY TREASURER'S OFFICE IN CANCELLATION LETTER NO. 20314**
- 7. ADOPT A RESOLUTION APPROVING A VOLUNTEER WHO WISHES TO DONATE THEIR SERVICES TO THE UTAH COUNTY HEALTH DEPARTMENT**
- 8. APPROVE THE MINUTES OF THE SEPTEMBER 2, 2014 COMMISSION MEETING**
- 9. APPROVE THE MINUTES OF THE SEPTEMBER 9, 2014 COMMISSION MEETING**

10. RATIFICATION OF WARRANT REGISTER SUMMARY

Register No. 872	September 08, 2014	Check Nos. 198633-198639	Total: \$	12,694.22
Register No. 873	September 09, 2014	Bond Wires:305-305	Total: \$	213,516.25
Register No. 874	September 09, 2014	Purchasing Cards 2910-2910	Total: \$	4.47
Register No. 875	September 09, 2014	Check Nos. 198640-198681	Total: \$	306,962.59
Register No. 876	September 10, 2014	Direct Deposit:20255-20255	Total: \$	572.65
Register No. 877	September 10, 2014	Purchasing Cards 2911-2911	Total: \$	1,278.65
Register No. 878	September 10, 2014	Check Nos. 198682-198684	Total: \$	2,575.00
Register No. 879	September 10, 2014	Purchasing Cards 2912-2912	Total: \$	200.00
Register No. 880	September 10, 2014	Check Nos. 198685-198706	Total: \$	73,029.35
Register No. 881	September 11, 2014	Direct Deposit:20256-20280	Total: \$	3,193.89
Register No. 882	September 11, 2014	Check Nos. 198707-198731	Total: \$	2,756.50
Register No. 883	September 11, 2014	Direct Deposit:20281-20298	Total: \$	6,368.79
Register No. 884	September 11, 2014	Check Nos. 198732-198747	Total: \$	4,553.72
Register No. 885	September 11, 2014	Check Nos. 198748-198750	Total: \$	1,765.00
Register No. 886	September 11, 2014	Direct Deposit:20299-20348	Total: \$	10,371.93
Register No. 887	September 11, 2014	Check Nos. 198751-198760	Total: \$	4,692.00
Register No. 888	September 12, 2014	Direct Deposit:20349-20350	Total: \$	73.40
Register No. 889	September 12, 2014	Check Nos. 198761-198764	Total: \$	1,592.00
			Total: \$	646,200.41

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

1. **APPROVE EMPLOYEE DONATIONS OF LEAVE TIME WITHIN THE UTAH COUNTY SHERIFF'S OFFICE**
4. **RATIFY THE SIGNATURE OF THE COMMISSION CHAIR ON AN AGREEMENT WITH GRANITE SCHOOL DISTRICT TO PURCHASE A HOBART PULPER FOR THE JAIL KITCHEN; EMERGENCY PURCHASE OF \$15,000.00**
5. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MAINTENANCE AGREEMENT WITH CANON SOLUTIONS AMERICA FOR THE IR1023 COPIER, SERIAL NO. TJR28622, LOCATED IN THE SHERIFF'S OFFICE; EXPIRES 8/31/2015**
6. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN ORDER AGREEMENT WITH RICOH FOR THE MPC3000 COPIER, SERIAL NO. L3775100210, LOCATED IN THE ATTORNEY'S OFFICE; EXPIRES 9/16/2015**
7. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN ORDER AGREEMENT WITH RICOH FOR THE MPC3000 COPIER, SERIAL NO. L3765800615, LOCATED IN THE PUBLIC WORKS DEPARTMENT; EXPIRES 8/30/2015**
8. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AMENDMENT NO. 1 TO AGREEMENT NO. 2014-268 WITH ALPINE SCHOOL DISTRICT SPECIAL EDUCATION PROGRAM FOR AN ADDITIONAL SCHOOL NURSE**

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9. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE THIRD ADDENDUM TO AGREEMENT NO. 2012-676 WITH QUEST DIAGNOSTICS TO PERFORM QUANTFERON TUBERCULOSIS TESTING**
14. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE COST-SHARE AGREEMENT WITH THE STATE OF UTAH DEPARTMENT OF NATURAL RESOURCES AND THE U.S.D.A. FOREST SERVICE FOR COSTS ASSOCIATED WITH FIGHTING THE SPRING CANYON FIRE**
15. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE SECOND AMENDMENT TO AGREEMENT NO. 2013-816 WITH THE UTAH VALLEY CONVENTION AND VISITORS BUREAU, INC.**
17. **ACCEPT THE JUSTICE ASSISTANCE GRANT (JAG) AWARD FROM THE STATE OF UTAH COMMISSION ON CRIMINAL AND JUVENILE JUSTICE TO THE UTAH COUNTY ATTORNEY'S OFFICE IN THE AMOUNT OF \$30,782.76**
18. **APPROVE THE NOTICE OF CANCELLATION OF MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH FOR WEDNESDAY, NOVEMBER 12, 2014**

ACTIONS TAKEN

Consent Agenda Item No. 1 was approved and authorized; Nos. 2, 3, 4, 6, 8 and 9 were approved; No. 5 was abated; No. 7 was adopted; and No. 10 was ratified. Regular Agenda Item Nos. 1 and 18 were approved; No. 4 was ratified; Nos. 5, 6, 7, 8, 9 and 15 were approved and authorized; No. 14 was continued to the September 23, 2014 meeting of the Board; and No. 17 was accepted.

AGREEMENT NOS.: 2014-618, 2014-619, 2014-620, 2014-621, 2014-622, 2014-623, 2014-624, 2014-625, 2014-626, 2014-627, 2014-628, 2014-629, 2014-630, 2014-631 and 2014-632
RESOLUTION NO.: 2014-95

REGULAR AGENDA

2. **ADD ONE (1) THREE-QUARTER/0.75 TIME CAREER SERVICE PUBLIC HEALTH NURSE II POSITION TO THE STAFFING PLAN OF THE NURSING DIVISION OF THE UTAH COUNTY HEALTH DEPARTMENT (CLASS CODE 2022, ACCOUNT NUMBER 230-43120)**

Utah County Personnel Director Lana Jensen explained this position is for an additional school nurse; there are approximately twenty of these types of positions in Utah County staffing plans, and none of them are designated as grant-funded. Ms. Jensen said the positions are not tied to a specific fund because they are moved around often; if the funding decreased or stopped, there would have to be a ruff procedure. Commissioner Witney clarified that the funding comes from the school district, and Ms. Jensen explained how the positions would be re-evaluated if needed. Utah County Clerk/Auditor Bryan E. Thompson mentioned this is a mid-year adjustment to the budget.

Commissioner Witney made the motion to approve the addition of one (1) three-quarter/0.75-time Career Service Public Health Nurse II position to the Staffing Plan of the Nursing Division of the Utah County Health Department as identified in Regular Agenda Item No. 2.

The motion was seconded by Commissioner Ellertson and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

APPROVED

3. ADD ONE (1) FULL-TIME CAREER SERVICE FACILITY MAINTENANCE ASSISTANT TO THE STAFFING PLAN OF THE BUILDINGS AND GROUNDS DIVISION OF THE UTAH COUNTY PUBLIC WORKS DEPARTMENT (CLASS CODE 8002, ACCOUNT NUMBER 630-44630)

Utah County Personnel Director Lana Jensen explained that this request for a Facility Maintenance Assistance has come from the Public Works Department; they are seeking an additional employee to work exclusively at the jail, responsible for maintenance and custodial work, tool and equipment inventory, and various accrediting agencies such as ICE (U.S. Department of Homeland Security Immigration and Customs Enforcement). This has been discussed for a few months and Public Works has classified this as an urgent need. Ms. Jensen was not sure if current rent fees for the Sheriff's Office would cover all costs or an increase would be required.

Utah County Public Works Associate Director Don Nay summarized the need for this position to accommodate a request from the Sheriff's Office, which has been in discussion for approximately two years and was presented in last year's budget. He and Commissioner Witney discussed the duties of the new potential employee. Utah County Sheriff James O. Tracy questioned whether their needs could be met with current staff.

Commissioner Witney made the motion to continue Regular Agenda Item No. 3 regarding the addition of one (1) full-time Career Service Facility Maintenance Assistance to the Utah County Public Works Department for two weeks to the September 30, 2014 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Ellertson and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

CONTINUED TO SEPTEMBER 30, 2014

10. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT BETWEEN THE UTAH COUNTY DEPARTMENT OF DRUG AND ALCOHOL PREVENTION AND THE STATE OF UTAH DEPARTMENT OF HUMAN SERVICES FOR THE PURCHASE OF AN ELECTRONIC HEALTH RECORD SYSTEM

Utah County Department of Drug and Alcohol Prevention and Treatment Director Richard Nance clarified for the commissioners that this is an agreement not for the actual purchase of the system, but to receive funding from the state in order to procure the new system.

Commissioner Ellertson made the motion to approve the agreement for the distribution of funds from the State of Utah Department of Humans Services toward the purchase of an electronic health record system as detailed in Regular Agenda Item No. 2. The motion was seconded by Commissioner Witney and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

AGREEMENT NO. 2014-633

11. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A PURCHASE AGREEMENT WITH AMERICAN AIRBOAT CORPORATION *(Continued from the September 9, 2014 Commission meeting)*

Commissioner Witney made the motion to approve and authorize the purchase agreement with American Airboat Corporation as defined in Regular Agenda Item No. 11. The motion was seconded for discussion by Commissioner Ellertson.

Commissioner Ellertson asked about funding, and Wally Perschon of the Utah County Sheriff's Office explained that radios, headsets, mapping equipment, etc. would come from contributions and grants. Utah County Sheriff James O. Tracy confirmed for the Board that this purchase is a high priority.

The motion carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

AGREEMENT NO. 2014-634

12. RATIFY THE SIGNATURE OF THE COMMISSION CHAIR ON AN AGREEMENT WITH ARTISTIC SEALS FOR CONCRETE DYE AND SEAL SERVICES IN THE EMERGENCY SERVICES SHOP

Utah County Clerk/Auditor Bryan E. Thompson noted some initial red flags in this agreement: half of the total payment had been requested before work would begin, and the business license for the company is not currently registered. Since finding this information, Mr. Thompson was able to garner that the work has actually been completed and was funded by a grant of approximately \$8,500 which was approved through the purchasing card in April of this year. The contract has been signed by Artistic Seals, and a twenty-year warranty has been provided for the county, but the paperwork was not brought before the Board until this point. Peter Quittner of the Utah County Sheriff's Office added that while initial bids for the project included three areas, the Sheriff's Office decided to only complete two areas for an estimated total of \$4,900.00.

Commissioner Ellertson made the motion to ratify the agreement with Artistic Seals for concrete dye and seal services as detailed in Regular Agenda Item No. 2. The motion was seconded by Commissioner Witney and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

AGREEMENT NO. 2014-635

13. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH NEXEO STAFFING, LLC FOR WORK TRAINING OPPORTUNITIES FOR THE INMATES AT THE UTAH COUNTY JAIL

Dalene Higgins of the County Sheriff's Office came forward with Utah County Sheriff James O. Tracy to address the transition of contractors for work opportunities at the jail. Utah County Deputy Attorney Cort Griffin stated this is a renewed agreement.

Commissioner Ellertson made the motion to approve an agreement with Nexeo Staffing, LLC for work training opportunities for inmates at the Utah County Jail as specified in Regular Agenda Item No. 13. The motion was seconded by Commissioner Witney and carried with the following vote:

AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None

AGREEMENT NO. 2014-636

- 16. APPROVE (OR DENY) THE PETITION OF ABANDONMENT OF ALLEGED PUBLIC ROADS WHICH EXIST ACROSS THE PENDING BUT NOT RECORDED BOX ELDER SOUTH SUBDIVISION; AND ADOPT AN ORDINANCE VACATING AND ABANDONING ANY AND ALL HIGHWAYS, STREETS, ROADS, TRAILS, BIKE PATHS, PUBLIC ACCESS RIGHTS OF WAY, OR PUBLIC ACCESS EASEMENTS OF ANY KIND WHICH MAY EXIST OR ARE ALLEGED TO EXIST UPON OR ACROSS THE PENDING BUT NOT RECORDED BOX ELDER SOUTH SUBDIVISION IN THE UNINCORPORATED UTAH COUNTY AND NEAR ALPINE CITY, UTAH (BUT NOT VACATING OR ABANDONING THOSE ROADS AND PUBLIC ACCESS EASEMENTS SHOWN ON THE APPROVED PLAT OF THE PENDING BUT NOT RECORDED BOX ELDER SOUTH SUBDIVISION)**

The Board suggested this item be tabled for a vote until after the closed sessions taking place at the end of the agenda.
TABLED FOR FURTHER DISCUSSION

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

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

- 22. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS THE SALE OF REAL PROPERTY**
STRICKEN

- 23. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING TO DISCUSS COMMERCIAL INFORMATION AS DEFINED IN SECTION 59-1-404, U.C.A., AS AMENDED**
STRICKEN

Commissioner Witney made the motion to strike Regular Agenda Item Nos. 22 and 23 for a strategy session to discuss the sale of real property; and to discuss commercial information as defined in Section 59-1-404, U.C.A., as amended. The motion was seconded by Commissioner Ellertson and carried with the following vote:

AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None

- 19. 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**

Commissioner Witney 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 immediately follow the public comment portion of the regular public meeting today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Ellertson and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

SET

20. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS PENDING OR REASONABLY IMMINENT LITIGATION

Commissioner Witney 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 immediately follow the previously scheduled closed meeting today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Ellertson and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

SET

21. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS THE PURCHASE, EXCHANGE, OR LEASE OF REAL PROPERTY

Commissioner Witney 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 to immediately follow the previously scheduled closed meetings today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Ellertson and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

SET

WORK SESSION

NO WORK SESSION ITEMS WERE SUBMITTED

PUBLIC COMMENTS

There were no public comments and the meeting recessed at 10:42 A.M. to go into closed meetings. The public meeting reconvened at 11:47 A.M, and the commissioners returned to previously tabled Regular Agenda Item No. 16 at this point.

REGULAR AGENDA

16. **APPROVE (OR DENY) THE PETITION OF ABANDONMENT OF ALLEGED PUBLIC ROADS WHICH EXIST ACROSS THE PENDING BUT NOT RECORDED BOX ELDER SOUTH SUBDIVISION; AND ADOPT AN ORDINANCE VACATING AND ABANDONING ANY AND ALL HIGHWAYS, STREETS, ROADS, TRAILS, BIKE PATHS, PUBLIC ACCESS RIGHTS OF WAY, OR PUBLIC ACCESS EASEMENTS OF ANY KIND WHICH MAY EXIST OR ARE ALLEGED TO EXIST UPON OR ACROSS THE PENDING BUT NOT RECORDED BOX ELDER SOUTH SUBDIVISION IN THE UNINCORPORATED UTAH COUNTY AND NEAR ALPINE CITY, UTAH (BUT NOT VACATING OR ABANDONING THOSE ROADS AND PUBLIC ACCESS EASEMENTS SHOWN ON THE APPROVED PLAT OF THE PENDING BUT NOT RECORDED BOX ELDER SOUTH SUBDIVISION)**

Commissioner Anderson mentioned for the record that only strictly legal issues were addressed during closed sessions in relation to this item; no deliberation or merit discussions occurred. Commissioner Ellertson summarized that the Box Elder South subdivision was already approved by previous action, and is bordered on all four sides by public lands - either city park or roads, or federal lands. Access to these points would be primarily determined through Alpine City on the parks and roads side, or by the federal government if approaching from the East or West.

Commissioner Witney made the motion to approve the Petition of Abandonment of Alleged Public Roads which exist across the pending but not recorded Box Elder South subdivision, and to adopt the corresponding ordinance as outlined in Regular Agenda Item No. 16. The motion was seconded for discussion by Commissioner Ellertson.

Commissioner Ellertson asked Ross Welch of Patterson Construction to detail the company's intent for development in this area. Mr. Welch clarified that they will record the plat and attempt to make the access points available to the public. There will be a time of disruption during construction; improvements would be completed within a year. Commissioner Witney mentioned a fence, and Mr. Welch explained that it was initially placed to outlined greenbelt purposes. The fence is currently down but may be raised again for safety during construction. The Board discussed plat details with Mr. Welch, and Utah County Deputy Attorney Robert J. Moore reviewed the proposed ordinance which would be attached to the recorded plat.

The motion carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

AGREEMENT NO. 2014-637
ORDINANCE NO. 2014-10

This concluded discussion of all items on the agenda.

Commissioner Witney made the motion to adjourn the September 16, 2014 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Ellertson and carried with the following vote:

**AYE: Gary J. Anderson
Larry A. Ellertson
Doug Witney
NAY: None**

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There being no further business nor public comment, the meeting adjourned at 11:57 A.M. The minutes of the September 16, 2014 Commission Meeting were approved as transcribed on October 28, 2014.

GARY J. ANDERSON, Commission Chair

ATTEST:

BRYAN E. THOMPSON
Utah County Clerk/Auditor

*Regular Agenda Item No. 16:

The commissioners addressed Regular Agenda Item No. 16, regarding the Petition of Abandonment of Alleged Public Roads for the Box Elder South subdivision, following the closed meetings; the item was approved by unanimous vote.

Copies Available on the County Web Site at www.utahcountyonline.org
Recorded by Renée Huggins-Caron, Clerk/Auditor Administrative Assistant