

Source Protection for Drinking Water Sources

What Planners and Officials Should Know

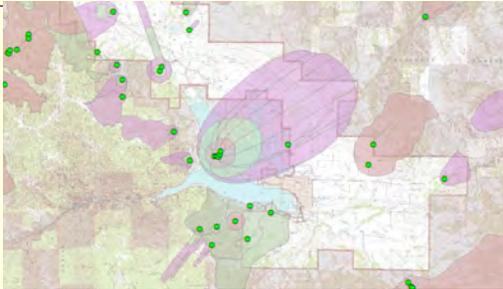
Overview of Source Protection in Utah

- Department of Environmental Quality/Division of Drinking Water: R309-600 and 605
- Apply to public water systems
- Require source protection plans for all sources

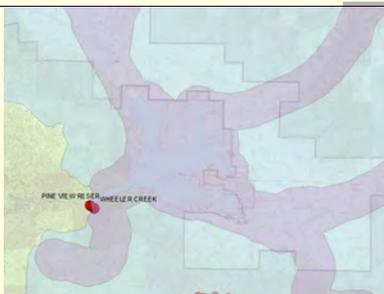
Source Protection Plans

- Delineation of protection zones, usually using aquifer data (watershed for surface sources)
- Identification and inventory of potential contamination sources
- Plan to minimize risk of accidental contamination from the potential contamination sources
- Require land use agreements for new wells and springs

Ogden Valley SP Zones-Groundwater



Ogden Valley SP Zones: Surface Water



GIS Data for source protection zones

- All data is now digitized for all drinking water sources
- Has not been made openly public to date, but can be requested
- Have secure web site to enable planners and other officials to view GIS coverage for drinking water source protection zones and to create maps: <http://mapserv.utah.gov/DEQ/>; must request login to view drinking water data

Resources for Planners

- Source Water Collaborative: 18 member organization, including American Planners Association
- The Source Water Collaborative (SWC) combines the strengths and tools of a diverse set of member organizations to act now, and protect drinking water sources for generations to come.
- www.protectdrinkingwater.com

Postcard



Back



Conclusion

- Use planners tool developed by APA representative to protect drinking water
- Request and use GIS data to assist in local planning
- Visit Source Water Collaborative website for more resources and ideas
- Call the Division of Drinking Water for assistance: 801-536-4200
- Kate Johnson, katej@utah.gov
- Mark Jensen, mjensen@utah.gov
- Jim Martin, jhmartin@utah.gov



*Don B Sargent, Director
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MEMORANDUM

DATE: December 29, 2011
TO: Summit County Council (SCC)
FROM: Don Sargent, Community Development Director 
RE: Building Permit Application Procedures

At the request of the County Manager this item has been scheduled on your work session agenda for review, discussion and input. Staff will be prepared to address the building permit process and fee structure. Attached as Exhibit A, is an overview of the application procedures.

The department continues to evaluate and refine development review processes and procedures for increased efficiency and effectiveness. One of the goals of the department for 2012 related to this effort is to accomplish the following objectives:

- Explore new approaches and processes consistent with changing trends, technology and demands.
- Establish on-line payment option for development review fees.
- Set target dates for planning and building plan review.
- Uphold 10-day building plan review turn-around and next day inspection performance standard.

As you are aware, we are also in the process of implementing the GovPartner permit review and tracking software system which will provide increased efficiency in the building permit review process. The system will be on-line Tuesday, January 4th for applicants to start using.

I look forward to the opportunity to review and discuss our review processes with you.

Building Permit Application Procedures Overview

The process for making an application for a building permit (logging in plans) has been fairly consistent for more than 15 years. Historically, an applicant makes application for a building permit by filling out and submitting an application, 2 copies of the construction plans along with 3 copies of the site plan and a non-refundable application fee.

Building permit filling instructions are provided on the county's website for convenience reference. Not all of the items needed to obtain a building permit are required at the time of application. Items such as clearance letters or approval forms from the Water Company, Reclamation District, Fire departments, etc. can be provided after the application is made but prior to permit issuance.

Reviews are conducted by the Engineering, Planning, and Building Departments. Any deficiencies noted during the review are then listed on each departments review and correction list and sent by fax, email, or US mail to the applicant. The applicant then makes appointments with the respective departments to go over any corrections requested. At those meetings the applicant is able to discuss how each department's codes affect their specific plans.

Once the applicant's plans have been brought into compliance with county requirements and clearances have been obtained from service providers such as water, sewer, and fire, the building permit will be issued. Please note that the application fee is credited towards the price of the permit.

If the applicant is unable or unwilling to bring plans into compliance with county codes, the project file is closed. The application fee will be retained by the county to defray the costs incurred to conduct the plan review.

Please note that up until this year, the application review time-frame for house plans ran between 3 and 4 weeks. With the implementation of expedited review coordination that review time is now less than ten days 90% of the time.

As mention above, detailed instructions on how to make an application for a permit can be found on the county's website. Community Development has placed this information on the website in an effort to get this information into as many hands as possible. Lastly, we routinely take telephone calls from potential applicants to discuss what is required in order to make application for a building permit. The link to the website detailing how to file an application is: http://www.summitcounty.org/building/downloads/Building_Permit_Checklist.pdf.

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Memo

Date: January 4, 2012
To: County Council
From: Kevin Callahan, Public Works Director
Subject: Discussion of Summit County Winter Operations Plan

Background

The management of snow and ice removal from County roads is a core service that Summit County delivers to our residents. Public Works provides winter road maintenance to over 250 miles of paved roads with a plow staff of 18 equipment operators. Public demands for winter maintenance services have been increasing for the last several years. As a result, we have added new winter maintenance activities that either increase our efficiency or provide new services. These recent programs include the following:

- The development and maintenance of an in-house salt brine system;
- The installation of brine tanks and spray systems on all county plow trucks;
- The proactive pre-treatment of roads with salt brine in advance of a storm with ice potential;
- The pre-wetting of salt as it's spread to reduce waste and increase its melting action;
- The clearing of public sidewalks in Kimball Junction area with a tool-cat with plow and blower;
- The active enforcement of County winter maintenance ordinances;
- The adoption of a snow emergency ordinance for tow enforcement during major storms;

The impact of these programs has been to increase staff efficiency, reduce road snow hazards, cut materials costs and provide better public service. As a result, the overall public satisfaction with county plow services is high. In the recent citizen survey, over 50% of surveyed residents rated the road department's effectiveness in winter maintenance as either above average or excellent.

However, the Public Works Department does continue to experience some problem areas where further improvements can be made. In an attempt to clarify public expectations and reduce these problems, staff has prepared its first formal Winter Operations Plan. The purposes of this Plan are to:

- Establish clear maintenance protocols for County winter road operations;
- Set clear goals for elected officials, the public, utilities and private plow operators on county rules, public works duties their specific responsibilities.
- Minimize hazardous road conditions with effective methods of snow and ice control.
- Reduce economic losses to the community caused by workers and business enterprises not being able to get to their jobs, businesses, or make/receive deliveries.
- Work with the police and fire departments, state agencies and others to facilitate a coordinated emergency response during major winter storms.
- Restore safe traveling conditions on roadways and sidewalks for the convenience of the general public as soon as possible after each storm or occurrence.
- Minimize the impact on the environment when using ice control chemicals.

Key Components of Winter Operations Plan

The plan defines the scope of responsibilities of County Public Works, utility providers, private snow plow operators and the general public, formalizes the priority of snow removal for public streets and sidewalks and identifies typical problems encountered during snow removal operations. It establishes communication protocols to inform the public, emergency procedures, and accident reporting.

Current County Snow Ordinance Provisions

Summit County Ordinance 346 was adopted in 1999 and provides for a delineation of responsibilities for the public, utilities and plow operators regarding snow removal activities. This report summarizes those responsibilities, on-going issues with their enforcement and proposed actions to address concerns.

Snow Removal Priorities

With a small staff to maintain 250+ miles of roadway, the County had to establish a formal priority of street maintenance in order to meet the most pressing needs first. Ordinance 346 established these priorities as;

1. Major county roads (arterials and collectors) and school bus routes. *These are normally cleared before 7 AM in order for the school buses to operate safely.*
2. Main County roads
3. Minor county roads and cul-de-sacs
4. Other county roads

The Winter Maintenance Plan clarifies and expands on these priorities by including sidewalks within the Kimball Junction commercial district as the lowest priority. It also establishes level of service standards that indicate the best and minimum level of service that the County can provide based on its resources, weather conditions and other factors.

Public Utility Responsibilities

Ordinance 346 provides for specific responsibilities for utilities regarding their assistance for snow removal activities. These include the following specific duties:

- Provision of markers for utilities such as fire hydrants, electrical and communication boxes and other utilities. All utilities are required to provide markers for their utilities prior to the beginning of the snow season. *Public Works staff sends out a notice to utilities prior to the snow season reminding them of this responsibility. We also survey areas prior to the first major snow to ensure compliance.*
- Water companies are required to maintain accessibility to fire hydrants during the course of the winter by removing snow over and around the hydrants to maintain safe access.
- Utility companies are required to maintain their markers throughout the winter and cannot remove them until the conclusion of the snow season (April 15th)

SUMMIT COUNTY ORDINANCE NO. 346

**AN ORDINANCE CONCERNING THE REMOVAL OF SNOW FROM
PUBLIC STREETS, AND PRIVATE STREETS AND FACILITIES
PROVIDING PENALTIES FOR VIOLATION**

WHEREAS, it is in the best interest of Summit County and the health, safety and general welfare of its citizens to adopt this Ordinance in order to provide consistency of snow removal services, and minimize property damage;

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
SUMMIT COUNTY, STATE OF UTAH, AS FOLLOWS:**

Section 1. Snow Removal Priorities for Public Streets

Snow removal, at the option of Summit County, may be provided for public streets within Summit County on a priority basis as follows:

- 1) Major County roads and school bus routes
- 2) Main County roads
- 3) Minor County roads and cul-de-sacs
- 4) Other County roads

Summit County snow removal services in new subdivisions will begin only after official acceptance of the roads by the County.

Summit County reserves the right to not provide snow removal services to any road.

Section 2. Private Streets - Duty to Remove Snow

Summit County has no responsibility to provide snow removal services to private roads.

Section 3. Seasonal limitations on Parking

There shall be no on street parking between November 15th and April 15th of the following year. Vehicles or other obstacle which hamper snow removal operations, will be towed or removed at the owners expense. The County shall not assume any liability for damage to vehicles parked on the street in violation of this ordinance. Damage to snow removal equipment resulting from contact with vehicles parked on the street shall be the responsibility of the vehicle owner.

General Public Responsibilities

Ordinance 346 also establishes key responsibilities for homeowners and their agents regarding snow removal. These responsibilities include the following obligations and the county staff's efforts to inform and enforce these obligations:

- Homeowners are required to either store their accumulated snow on their own property or on a neighboring property with that owner's permission.
- Property owners and their agents are not permitted to store any snow within the traveled portion of the road if it impedes the safe movement of traffic. *Staff began issue warnings and citations of this provision last year. We are now experiencing a very high level of conformance with this policy. Only a few of the citations issued needed to go to the Administrative Law Judge for final resolution.*
- The ordinance notes that the first 10-15' of properties abutting the roadway are a part of the road right-of-way. This area is reserved for a snow storage easement. Landscape and other improvements placed in this area are done so at the homeowner's own risk. *Typically each winter and spring staff receives a number of complaints about damage to landscaping, mailboxes and other improvements. This is an area where better public education is needed. This year staff is sending out notices to homeowner associations subdivisions where we have had the most problems. The County by ordinance is not responsible for damage to any improvements in this area.*
- The ordinance prohibits on-street parking of vehicles on county roads from November 15th until April 15th of the following year. Ordinance 346 was enhanced by new provision for the declaration of a snow emergency (more than 4' of snow within a four hour period). This provision allows for the immediate towing of illegally parked vehicles which interfere with snow removal operations. *In the event of a snow emergency, we post a notice on the County website and provide a recorded message to the local radio station.*

Snow Removal Operations

As noted in the introduction, the Summit County Winter Operations Plan has a number of distinct and complementary purposes. Since Summit County Public Works must conduct its snow removal operations in a severe winter climate, it is important that we do so as effectively as possible. In the past few years, we have experienced winter storm events which have lasted over 12 hours in duration. Given the extent of our service area and our staffing limitations, we need a plan to be as effective as possible.

In addition to establishing the priority of roads to be plowed, procedures for pre-storm action, actions during a storm and clean up, the plan puts forward the following action elements which will maximize the effectiveness of county snow plow operations:

Provision of Essential Information to the Public

The public's active cooperation during major snow storms is essential to County snow removal activities. In the event of a major storm, the County will provide information to the public by the following means:

- The notice of snow emergency will be posted on the County's main webpage providing the public with specific steps to be taken during the course of the storm.
- Staff will provide recorded messages to the local radio and television stations to alert their listeners of the snow emergency.
- Public Works Staff will send out a notice of snow emergency to key homeowner's associations for direct notice to the homeowners within that association.
- Public Works staff will notify by email the County Manager, County Emergency Manager and Dispatch of the declaration of a snow emergency for internal notification.
- In the event of road closures or road obstructions due to storms, staff will notify Information Systems for the immediate posting of specific road problems.

Response Protocols

During the winter, road staff is available for snow removal maintenance from 4 AM through 11 PM the same day. On days when any level of snowfall is expected, plow operators will be dispatched at 4 AM. Staff will not respond to service requests between the hours of 11 PM to 4 AM unless emergency life safety conditions exist. Generally staff will work an 8-12 hour shift as needed. During a declared snow emergency staff may work beyond the 12 hour shift, if needed, to maintain safe road conditions.

Staff will provide snow removal based on the established priority of the roadways. Generally, the highest priority roads will be cleared prior to morning peak traffic hours (7-9 AM). Neighborhood roads will be cleared during the course of the storm although some dead end and cul-de-sac roads may only receive an initial pass though if the storm continues throughout the day.

Depending on weather conditions anti-icing salt brine may be applied to road surfaces in advance of the storm or sprayed on salt as it is spread from the rear of plow trucks during the storm. County staff will coordinate with state plow operators regarding problem areas and road detours if needed. Public Works staff will work closely with the County Sheriff in the event of detours or road closures.

Staff will work to minimize the towing of parked vehicles if the owners can be readily contacted. However, vehicles which impede snow plow operations will be towed at the owner's expense. Staff will provide notification at the conclusion of the snow emergency to all of the above notified parties.

The plan contains proposed procedures for activating the Emergency Operations Center in the event of a sustained winter storm.

Attachments:

Winter Operations Plan

Ordinance 346

Ordinance 885-A

Notice to Utilities on Markers

Notice to Homeowners Associations on Property Owner Snow Removal Responsibilities

Notice to Homeowners on Snow Markers

SUMMIT COUNTY WINTER OPERATIONS PLAN

Prepared by Summit County Public Works Department

November 2011

**Winter Operations Plan
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Summit County Public Works Winter Operations Plan

Purposes of the Plan

The purposes of the Summit County Winter Operations Plan are to:

- Establish clear maintenance protocols for County winter road operations;
- Set clear goals for elected officials, the public, utilities and private plow operators on county rules, public works duties their specific responsibilities;
- Minimize hazardous road conditions for motorists with effective methods of snow and ice control;
- Reduce economic losses to the community caused by workers and business enterprises not being able to get to their jobs, businesses, or make/receive deliveries;
- Work effectively with the police and fire departments, state agencies and others to facilitate a coordinated emergency response during major winter storms;
- Restore safe traveling conditions on roadways and sidewalks for the convenience of the general public as soon as possible after each storm or occurrence; and
- Minimize the potential impact on the environment when using ice control chemicals.

Summit County Winter Maintenance Authority and Operational Scope of Responsibility

The Summit County Public Works Department is designated as the responsible agency to provide for snow and ice control on county roads. County Ordinance 346 provides the legal guidance to the public, utilities and the Public Works Department for snow maintenance and removal activities. The County Public Works Director and Public Works Superintendent are the key personnel responsible for the implementation of the county's Winter Operations Plan. These officials assign individual staff to their specific snow maintenance routes and responsibilities.

The Summit County Public Works Department currently provides winter road maintenance services to approximately 250 miles of paved county roads. In addition, the Department provides snow and ice maintenance services to public roads within some sections of cities within the county by agreement. Summit County also provides snow and ice control to portions of public sidewalks within the Kimball Junction business district.

Summit County does not provide snow and ice control operations to any private roads within the County or to public roads within Service Area 3 (Silver Creek Estates). Summit County does provide limited winter maintenance services to select unpaved county roads, but provides no maintenance services to private roads, driveways or state roads within the county. Summit County does not provide snow and ice control on sidewalks with residential subdivisions or on regional recreation trails except where they directly abut county roads. Summit County does contract with the Snyderville Basin Recreation District for winter trail maintenance on certain selected trail segments within the Snyderville Basin.

Summit County Winter Road Maintenance Priorities

Snow and ice control measures are directed to achieving and maintaining relatively safe traffic movement on public roads based on their priority within a reasonable period of time. Factors such as school routes, volumes of traffic, key connections were used to establish the following priority ranking of streets. Snow clearing efforts are first concentrated on the main thoroughfares and school bus routes that carry most of the traffic. These are typically cleared before early morning traffic begins. Staff then concentrates on main county roads before residential and other lower volume streets and cul-de-sacs are serviced. Finally once roads are cleared, staff will clear sidewalks within the commercial area of Kimball Junction.

Summit County at its option establishes the priority for snow removal on public rights-of-ways in the following order:

1. Major County roads and school bus routes
2. Main County roads
3. Minor County roads including short dead end roads, cu-l de-sacs etc
4. Other County roads and public roads within local cities
5. Sidewalks within the Kimball Junction commercial district.

Summit County reserves the right to not provide snow removal services to any public road and has no responsibility for snow removal from private streets or property.

Winter Maintenance Monitoring and Communication Systems

The Summit County Public Works Department conducts on-going monitoring of winter weather and potential storm conditions. The Public Works Director and Public Works Superintendent monitor developing weather conditions by the following means:

- Monitoring of anticipated weather conditions via National Weather Service storm warnings;
- Monitoring of detailed forecasted weather conditions via contact with State road sheds;
- Monitoring of state road conditions via the UDOT Commuter Link camera systems;
- Road condition reports from Sheriff's patrol deputies via Dispatch during their patrols;
- Road condition reports from citizens who call in to Dispatch;

Based on known or anticipated conditions, the Public Works Superintendent will either notify staff to report for work at 4 AM on the day of an anticipated storm or call them out the morning of an unanticipated storm for a 4 AM start.

Employee Training for Winter Road Operations

Summit County provides refresher training on winter road operations on an annual basis in the form of training videos, in-person speakers, and refresher quizzes etc. All personnel involved in winter road operations will be required to participate in this training. The training may involve

topics such as equipment preparation and maintenance, snow plow procedures for ice and snow -control, safety procedures during storms, reporting procedures for violations of county code including parking, snow moved into the public right-of-way and procedures for handling conflicts with the public on snow removal procedures.

Winter Accident Reporting Procedures

Public Works road employees who are involved in an accident with vehicles, utilities or private property will follow the procedures for notification and response.

Vehicular Accidents

If a county vehicle is involved in an accident or it or another vehicle is otherwise damaged, the driver shall notify County Dispatch and their supervisor immediately. The driver shall complete the County's Accident Report Form and provide the original to the County Risk Manager and provide copies the same day to the Public Works Director and Public Works Superintendent.

The driver should take actions to minimize further risk to traffic by warning other motorists by use of flares, flashers and other devices. The vehicle should only be moved after the sheriff's investigation has been completed.

If the accident involves significant damage to either vehicle or property, the employee shall comply with the drug testing provisions of the County's personnel policies. However, if neither vehicle is damaged to the point of needing towing, the Public Works Superintendent will not require the employee to be drug tested.

If the collision involves a vehicle parked on a county road in violation of the Ordinance 346 the collision should still be reported to the Public Works Superintendent. While the County is not liable for damages to the vehicle, any damage to the county's snow removal equipment would be the responsibility of the owner of the parked vehicle.

Utility Structure Collisions

If a county vehicle is involved with a collision with a utility box, fire hydrant or other utility structure, the driver shall immediately notify the Public Works Superintendent of the collision. The driver should also note if the utility structure was properly marked by taking photographs of the utility structure. The Public Works Superintendent or their designee shall then notify the utility and the Public Works Director of the collision.

Collisions with Private Improvements

If a county vehicle is involved with a collision with private improvements within the County's road right-of-way, the county is not responsible to the damage to such structures. However, if

the obstruction damages county snow plow equipment, the property owner will be held responsible. Therefore, drivers should report such collisions to the Public Works Superintendent.

Winter Road Chemical Use

Summit County utilizes a deicer salt from Redmond Minerals that requires a smaller volume of salt to melt snow and road ice. The County also produces its own brine solution from this salt which is used in road salting applications. The County pre-wets the salt as it is dropped from the rear hopper of the plow truck. This procedure reduces the amount of salt used and increases its effectiveness for the following reasons:

- Pre-wetting the salt accelerates its ice/snow melting capabilities so less salt is used;
- Pre-wetting the salt reduces road bounce and salt loss by about 30%
- Pre-wetting the salt provides better road traction which reduces slipperiness.

Winter Road Maintenance Level of Service Standards

Hours of Winter Road Maintenance Service

It is the public's expectation that we will keep all county roads sufficiently passable for vehicular traffic during the wintertime. However, the County does not have sufficient staff to provide clearance of snow from County roads 24 hours a day. Except in extreme emergencies, the County road department **does not** plow County roads between the hours of 11 PM until 4 AM the following morning. Exceptions to this schedule would be at the request of the fire department or ambulance in response to an early morning emergency call.

While Summit County road staff generally conducts snow clearing operations on eight-hour shifts, staff may work shifts of up to 12 continuous hours in a shift during on-going storms. In the event of the declaration of a snow emergency, staff may work longer hours on an as-needed basis. In the event of short staffing, the Public Works Superintendent may take the route assignment for a missing employee. In the event of the need for additional personnel, the Public Works Director may request assistance from other County departments with personnel having Commercial Driver's Licenses and experience with snow plowing.

Under County personnel policy, overtime hours are calculated as those hours in excess of 40 hours worked during the regular work week.

Major Road Level of Service Standards

The best level of service for major roads (arterials, collectors and school routes) is reached when the roads are relatively free of snow and ice from curb to curb. Reaching this objective takes time which is affected by the following variables:

- meteorological conditions (the intensity and duration of the snowstorm);
- availability of staff and equipment: (if short staffed it takes longer to clear roads);
- traffic volumes and conflicting uses on the roadway; (parked cars, other obstructions)
- the types and amounts of materials applied to the roadway;
- the width of the street, number of turn lanes and the presence of roundabouts and medians;

The minimum level of service standard for major roads is to clear the through lanes and left-turn lanes at intersections and median break down to a packed snow condition. Exclusive right turn lanes and joint center turn lanes may be left unplowed during main operations. This level of service would be achieved during server and long duration storms.

Residential Road Level of Service Standards

The best level of service standard for residential streets would be to have reasonable clearance of travel lanes by 10 AM on the day of a storm. Certain roads with steep topography, limited snow storage and shady conditions may not achieve this standard within that timeframe.

The minimum level of service for minor residential streets is to provide a passable lane on the street within 24 hours of the end of the storm.

The snow from residential roads is generally pushed backed from the edge of shoulder to the snow storage easement area (typically 10-15' from edge of pavement) within one to two days of the initial clearing of the road. This process is needed to create additional snow storage as the winter season progresses.

Sidewalks in the commercial areas of Kimball Junction will generally be cleared within 48 hours of the completion of a storm cycle

Storm Management Procedures

Pre-Storm Road Management Procedures

When adequate and detailed weather information is available in advance of a major storm, the pre-treatment of selected roadways with salt brine spray will be implemented. This treatment reduces the potential for ice formation on the road. Staff will also make note of potential problems in advance of the storm such as parked cars on the roadway, limited snow storage and other challenges.

Storm Road Management Procedures

Typically during storms, county road staff both use plows to push snow off the road and to deposit salt treated with brine spray from the rear of the same trucks. These complementary actions clear the road surface and reduce the potential for future snow to stick to the road. Roads are cleared on the priority basis noted in this plan.

Post Storm Road Maintenance Procedures

Once county road staffs have completed the initial clearing of the road during and after the storm, a secondary effort is made with loaders, plows and graders to push the snow banks from the immediate road edge into the snow storage area within the public road right-of-way. This procedure creates more room for the storage of snow from subsequent storms. During this phase, staff may also conduct more detailed clearing operations of cul-de-sacs and narrow road segments moving snow out of the road to designated snow storage areas. Even in high snow areas with limited snow storage, the County does not conduct snow hauling operations to remove snow from roads.

It should be noted that despite the best advanced planning and dedicated execution winter maintenance operations may be substantially curtailed or possibly temporarily halted by the following:

- unusually severe storm conditions (heavy snow, ice storms, high winds);
- unforeseen problems with materials or equipment (equipment breakage, very cold temperatures affect brine production);
- Staffing problems (staff out due to illness, extended storms will limit allowable work hours).

Snow Plow Driver Regulations

In the course of their snow plow operations, county road department staff are required to comply with the following county, state and federal vehicle regulations.

- **Speed limits.** Snow plow drivers shall comply with the posted speed limits on the routes they are plowing. In residential neighborhoods this means complying with the 25 MPH limit. On arterials or frontage roads it may mean a 35-40 MPH limit.
- **Plow Direction.** There may be times in which plows need to push snow from the opposite lane on steep hillside roads or in other conditions. Snow plow drivers shall exercise additional caution and travel at lower than posted speed limits in such situations where the visibility for on-coming traffic may be limited.
- **Cell Phone Use.** County regulations prohibit the use of cells phones while operating a county vehicle. This rule is even more critical for snow plow drivers. If the driver needs to make or receive a call when operating, they must wait until the vehicle is not operating on the roadway.
- **Caution for Pedestrians.** Plow operators must remain aware of the potential for pedestrians on the roadway edge as they are plowing. If pedestrians are present, drivers must slow down to prevent injury from thrown snow to pedestrians.

Public Notification of Emergency Road Conditions

In the event that the road division becomes aware of specific emergency winter road conditions that may be hazardous, the Public Works Department shall implement as necessary any or all of the following notification procedures:

1. Post notice of the emergency problem as a crawl on the County's main web page
2. Send a text message or specific message to KPCW radio to let them know of the road problem

3. Send a notice to Dispatch to notify them when we have problems with clearing a road
4. Send a notice to Allied Waste about specific emergency conditions exist on a road on their route
5. Send out a notice to affected school districts if there is a potential to affect the school bus route
6. If needed, send out a reverse 911 message to neighborhoods where the roads are unsafe for travel.
7. Send out an email blast to homeowners who have signed up for a notification service of a road problem in their area.

Public Notification of County Snow Ordinance Requirements

On an annual basis, Summit County Public Works shall provide public notice of the County's snow removal requirements. This notification will take multiple forms.

- The department will mail out written notification to homeowner's association, private snow plow operators and utility companies regarding their responsibilities under the ordinance.
- The department will place an announcement in a local newspaper of the county's snow ordinance provisions prior to the beginning of the snow season.
- Notification of the snow ordinance requirements will be posted on the County's main webpage.
- Initial violations of the ordinance's provisions will be treated with the issuance of a warning. Subsequent violations will be subject to the issuance of an administrative citation which will result in a fine but may be appealed to the Administrative Law Judge.

Public Notification of Snow Emergencies

The public's active cooperation during major snow storms is essential to County snow removal activities. In the event of a major storm (4" within 4 hours), the County Public Works Director or their designee will declare a snow emergency. County Public Works will then provide information to the public regarding the emergency by the following means:

- The notice of snow emergency will be posted on the County's main webpage providing the public with specific steps to be taken during the course of the storm.
- Staff will provide recorded messages to the local radio and television stations to alert their listeners of the snow emergency.
- Public Works Staff will send out a notice of snow emergency to key homeowner's associations for direct notice to the homeowners within that association.
- Public Works staff will notify by email the County Manager, County Emergency Manager and Dispatch of the declaration of a snow emergency for internal notification.
- In the event of road closures or road obstructions (fallen trees or other obstacles) due to storms, staff will notify Information Systems for the immediate posting of specific road problems.

Utility Company Winter Maintenance Responsibilities

Fire Hydrants

Every water company has the responsibility to flag and remove accumulated snow and windrows from over and around fire hydrants. Hydrants should be uncovered a distance of not less than three feet on all sides so that hydrants are accessible for emergency use. Hydrants should be uncovered within 72 hours of the time they are buried by a plowed windrow of snow at the time they become buried from drifts. Summit County has no responsibility to uncover hydrants.

Utility Markings

All fire hydrants and utility structures are required to be marked by the owner of those utilities with a pole or other sign that extends well above the normally anticipated depth of accumulated snow (6 foot minimum) and windrows at that location so that the locations of the hydrant and utility structure can be readily determined even during periods when it is covered, Summit County shall not be responsible for damage to utilities which are not marked in conformance with county ordinance.

Uncover Hydrants

Every water company shall be required to uncover and remove accumulated snow and windrows of snow from over and around fire hydrants not less than 3' from the hydrant within 72 hours of the time they are buried.

Responsibilities of the General Public

Summit County has adopted several ordinances governing the responsibilities of the public and private snow plow operators in regards to snow clearing operations. Ordinance 346 provides for several areas of action which creates specific legal obligations on the public, property owners and snow plow operators.

Obstructions within the County Snow Storage Area

County Ordinance 346 specifies that property owners who install improvements with the public snow storage easement do so at their own risk. Summit County is not responsible for damage to improvements such as landscaping, mailboxes, sprinklers etc. Summit County staff will make reasonable efforts to minimize damage to private property during its snow moving operation but will not be responsible for damages to structures or landscaping placed within the snow storage area.

Snow Windrows in Driveways

Summit County is not responsible for the removal of snow placed by in driveways by County snow plow operations. Snow windrows in driveways are the responsibility of the property owner to manage.

On-Street Parking Prohibitions

On-street parking is prohibited on all county roads from November 15th of each year to April 15th of the following year. Vehicles or other obstacles which hamper snow removal operations will be towed or removed at the owner's expense. The County shall not assume any liability for damage to vehicles parked on the street in violation of that requirement. Damage to snow removal equipment resulting from contact with vehicles on the street shall be the responsibility of the vehicle owner.

Snow Storage Required On-Site

All snow cleared from driveways and the interior of properties must be stored on the premises or on another property with the permission of the owner of the property where the snow is stored. Snow stored in the public right-of-way which impedes the reasonable flow of traffic on the street is prohibited. Violations of these requirements will be subject to warning and citation.

Snow Placed in the Public Right-of-Way

No one has the right to place snow accumulated on private property within the public right-of-way in a manner that impedes the safe travel of vehicles. Violations of these requirements will be subject to warning and citation.

Administrative Citations

Property owners and their agents who violate the public responsibility provisions of Ordinance 346 will be subject to either a verbal or written warning. In the event of repeat violations of Ordinance 346, an administrative citation will be issued. The citations will be progressive with an increasing level of fine for those who are habitual violators. Citations can be appealed to the County's Administrative Law Judge.

Major Winter Storm Emergencies

Summit County is susceptible to major winter storms where we are forecasted to receive 4" or more within a four hour time period. In anticipation of such events, the County has adopted procedures for the declaration of a snow emergency (Ordinance 685-A). In cases where the duration of the storm is expected to exceed four hours, it will be extremely difficult for the Public Works department to meet even their minimal snow clearance level of service standards. At such times, The Public Works Director may decide to activate the Emergency Operations Center to sustain a coordinated response to hazards to residents, visitors, motorists and other vulnerable populations. Large scale loss of life or property does not normally occur as a result of a major winter storm; however,

- Response to basic emergency calls for service may become critical due to delayed responses caused by the storm.

- Persons caught out in the storm and stranded motorists may be in extreme danger.
- Loss of utilities can create a critical situation in a short period of time for a large number of people.
- The demand for emergency services poses the greatest difficulty, along with locating and rescuing stranded motorists.
- Roof collapse or other structural damage is possible.

The citizens of Summit County have high expectations for the delivery of basic services during a major winter storm. The secondary effects of a major winter storm (power failures, transportation disruption, emergency medical care) must be planned for in preparation for these events.

Concept of Operations

An effective response by local government to a major winter storm requires the coordination of a key set of partners. The specific responsibilities of each of these partners to these storms can be negatively affected by a variety of factors:

- The day and time of the week of the storm event (winter day ski resort outload, weekday evening commute, end of school day etc.)
- How much advanced warning of the timing and severity of the storm has been provided by the National Weather Service.
- The availability of staff and equipment to respond to the storm.
- The existence or absence of electrical power for communications, traffic signals etc.

In the event of a major forecasted storm, the following factors shall be evaluated:

1. The Emergency Operations Center (EOC) should be activated before it is actually needed (1-2 hours in advance of the storm).
2. Activation may be requested by the County Manager, Public Works Director or their designee, the County Sheriff or their designee, The Fire Chief of a local Fire Agency or the County's Emergency Manager.
3. Situations that may require the activation of the EOC include, but are not limited to:
 - Responses to routine calls for service are being significantly impacted;
 - The potential for a large number of stranded motorists needing assistance;
 - Events requiring the coordinated response of multiple agencies;
 - The need to rescue and transport persons to sheltered locations;
 - The loss of property or the threat to life;
 - Closed transportation routes requiring detours, restricted access or forced stoppages;
 - Events requiring multiple operational periods (more than 12 hours);
 - Events requiring an extended recovery period;
 - Events requiring policy decisions or the allocation of significant resources.

If activated, the EOC will function as the Command Post and Coordination Center during the storm.

Responsibilities

Pursuant to the County Emergency Operations Plan, the Public Works Department is responsible for the following activities:

1. Monitoring on-going weather forecasts and conditions and communicating this information to other EOC participants.
2. Implementing and coordinating the efforts of Public Works staff to meet the goals of this Winter Operations Plan.
3. Maintaining communications with the County Manager's office and other necessary county departments to advise on the status of the storms, and the effectiveness of efforts to address on-going concerns from the storm.
4. Acting as a liaison to the Utah Department of Transportation and Park City Public Works if needed.
5. Assisting the County Sheriff to determine the need and impact of road closures. Barricading closed roads as necessary.
6. Assisting the Sheriff's department by clearing priority routes needed for emergency response call for service.
7. Maintaining communications with Dispatch of the current conditions and response plans to address on-going problems.

SUMMIT COUNTY ORDINANCE NO. 346

**AN ORDINANCE CONCERNING THE REMOVAL OF SNOW FROM
PUBLIC STREETS, AND PRIVATE STREETS AND FACILITIES
PROVIDING PENALTIES FOR VIOLATION**

WHEREAS, it is in the best interest of Summit County and the health, safety and general welfare of its citizens to adopt this Ordinance in order to provide consistency of snow removal services, and minimize property damage;

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
SUMMIT COUNTY, STATE OF UTAH, AS FOLLOWS:**

Section 1. Snow Removal Priorities for Public Streets

Snow removal, at the option of Summit County, may be provided for public streets within Summit County on a priority basis as follows:

- 1) Major County roads and school bus routes
- 2) Main County roads
- 3) Minor County roads and cul-de-sacs
- 4) Other County roads

Summit County snow removal services in new subdivisions will begin only after official acceptance of the roads by the County.

Summit County reserves the right to not provide snow removal services to any road.

Section 2. Private Streets - Duty to Remove Snow

Summit County has no responsibility to provide snow removal services to private roads.

Section 3. Seasonal limitations on Parking

There shall be no on street parking between November 15th and April 15th of the following year. Vehicles or other obstacle which hamper snow removal operations, will be towed or removed at the owners expense. The County shall not assume any liability for damage to vehicles parked on the street in violation of this ordinance. Damage to snow removal equipment resulting from contact with vehicles parked on the street shall be the responsibility of the vehicle owner.

Section 4. Snow Storage on Site

It is the duty of all property owners, condominium owners associates, property owners association, corporations and partnerships to make arrangements for the storage of accumulated snow, either on their own premises, or on the premises of another with the permission of the other. All property owners, condominium owners associates, property owners association, corporations and partnerships, and their employees, agents and contracts shall confine the accumulated snow to their premises or another with the other's permission.

Section 5. Unlawful to Deposit Snow in Public Way

It shall be unlawful for any person to deposit, haul, push, blow or otherwise deposit snow accumulated on private property within the traveled portion of any public street in a manner that impedes the reasonable flow of traffic on that street. The traveled way shall be defined as the width of the paved or graveled surface plus ten additional feet on each side of the surface.

Section 6. Impairment of Traffic

In determining whether snow deposited on the County Road from private property is such that it impedes the reasonable flow of traffic, the County shall look at whether a driver of ordinary skill and experience in snowy climates, driving a typical passenger car with tires reasonably suited for winter road conditions could pass over the area in question without having to leave the normal lane of travel, getting stuck in the deposited snow, or risking damage to his vehicle.

Section 7. Fire hydrants to be Uncovered

Every Water Company shall uncover and remove accumulated snow and windrows of snow from over and around fire hydrants. The hydrants should be uncovered for a distance of not less than three feet on all sides so the hydrants are accessible for emergency use. Hydrants should be uncovered within 72 hours of the time they are buried by a plowed windrow of snow or from the time they become buried from drifts.

Section 8. Hydrant and Utility Structure Locations to be Marked

All fire hydrants and utility structures shall be marked by the owner of hydrant or utility structures with a pole or other sign that extends well above the normally anticipated depth of accumulated snow (6 foot minimum) and windrows at that location so the locations of the hydrant and utility structures can be readily determined even during periods when it is covered.

Section 9. Unlawful to Remove Markers

It shall be unlawful to remove or destroy the hydrant or utility structure markers on either public or private road systems, except that they may be removed in the Spring for storage until the following Fall when they are again necessary. Hydrant or utility markers shall be continuously in place from November 15th to April 15th the following year.

Section 10. Improvements Installed at Owner's Risk

The County right-of-way for most roads in the County are wider than the paved area to allow space for utility services and snow storage. Property owners may install sprinklers, mailboxes, lights, plants, plant shrubs, or install other above-grade landscaping in these areas, but do so at their own risk.

Section 11. Damage to Improvements

The County shall not assume any liability for damage to improvements or landscaping in the County right-of-way which results from normal snow removal activity. Any damages caused by the placement of structures, improvements or landscaping to County equipment or that of others shall be the responsibility of the property owner.

Section 12. Flagging Improvements

Owners of improvements within the right-of-way shall flag the location of improvements, and to the extent it is reasonable to do so, County snow removal efforts will try to avoid flagged areas. This shall not be construed as a waiver or abandonment of the right-of-way or an acceptance of liability for damage to encroachments that are hidden with snow.

Section 13. Penalties

Any person who violates the provisions of this Ordinance is guilty of a Class "C" misdemeanor. Each day continuing violation occurs shall be deemed a separate offense.

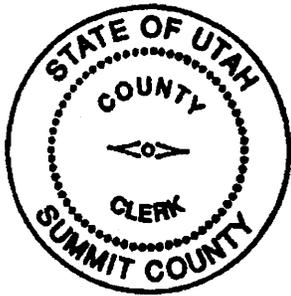
Section 14. Severability

Should any section, paragraph, sentence, clause, or phase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

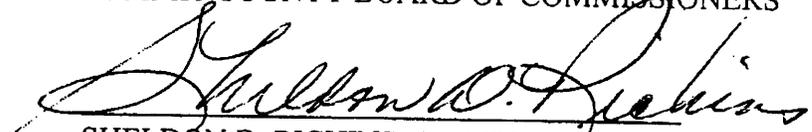
Section 15. Effective Date

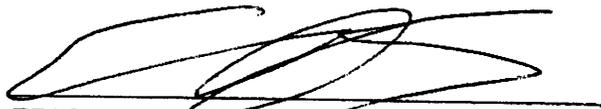
This Ordinance shall become effective after publication of such in accordance with applicable State Law.

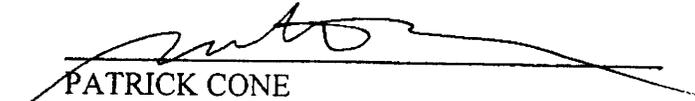
PASSED AND ADOPTED by the Board of County Commissioners of Summit County,
Utah, this 8 day of February, 1999.



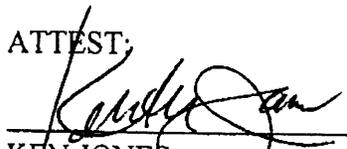
SUMMIT COUNTY BOARD OF COMMISSIONERS


SHELDON D. RICHINS, CHAIRMAN

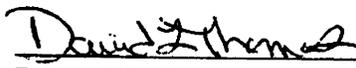

ERIC D. SCHIFFERLI


PATRICK CONE

ATTEST:


KEN JONES
Summit County Clerk

APPROVED AS TO FORM:


DAVID L. THOMAS
Deputy Summit County Attorney

COMMISSIONERS VOTED:

RICHINS Aye
(AYE OR NAY)

SCHIFFERLI Aye
(AYE OR NAY)

CONE Aye
(AYE OR NAY)

AMENDED ORDINANCE NO. 685-A

AN ORDINANCE AMENDING SUMMIT COUNTY ORDINANCE 685 ADDING PROVISIONS FOR THE DECLARATION OF A SNOW EMERGENCY

WHEREAS, in February 1999, the Summit County Board of Commissioners adopted Ordinance 346 establishing provisions for the management of snow plowing operations; and

WHEREAS, population and housing growth in Summit County has added to the burden of clearing streets after major snow storms; and

WHEREAS, Summit County has determined the need to add a provision for the declaration of a snow emergency to allow the removal of vehicles from County roadways when they impede the operation of County snow clearing operations.

NOW, THEREFORE be it resolved by the Board of County Commissioners of Summit County, Utah as follows:

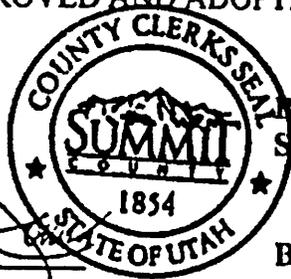
1. That Ordinance 685 of County Ordinances be amended to include the following sections, which read as follows:

Section 16 SNOW REMOVAL EMERGENCY

1. Declaration of Snow Emergency: The Public Works Administrator or designee shall have the authority to declare a snow emergency within Summit County, State of Utah. Said snow emergency may be declared in the event that four inches of snow or more have accumulated in any four hour time frame. The snow emergency shall remain in effect until either a cancellation announcement is made or the street is substantially cleared of snow and ice for the length of the entire street.
2. Notice of Snow Emergency: Notice of the declaration of snow emergency shall be made by announcement or advertisement over radio, television, or via the Summit County website.
3. As necessary, in order to maintain a free flow of traffic during declared snow emergencies, it shall be unlawful to park any vehicle on any publicly maintained street in the County during a declared snow emergency. A person shall remove any vehicle parked on the street within three hours after the snow emergency is declared before enforcement of the ordinance begins. After enforcement of this ordinance begins, any vehicle parked on any publicly maintained shall be deemed illegally parked, and may be subject to impound. Summit County Sheriff's Department shall make reasonable efforts to notify the owner of the vehicle prior to impound.
4. Pursuant to Summit County's Noise Disturbances Ordinance (Ordinance 316-A), Section 5-3-11(C), any noises associated with the emergency removal of snow within Summit County shall be deemed exempt from Ordinance 316-A.

PASSED, APPROVED AND ADOPTED this 20th day of February 2008

ATTEST:



BOARD OF COUNTY COMMISSIONERS
SUMMIT COUNTY, STATE OF UTAH

Kendall
County Clerk

By: K.E. Woolstenhulme
Chairman

APPROVED AS TO FORM

Commissioner Woolstenhulme voted: Aye

Commissioner Elliott voted: Aye

Commissioner Richer voted: Aye

Helen Strachan
Deputy County Attorney



Summit County is sending out a reminder that all utility companies need to mark all utilities before the snow falls. If utilities are not marked, Summit County will not assume responsibility for damages that are incurred by our snow plows.

8-1-2: MARKING OF UTILITY BOXES REQUIRED:

Within one hundred eighty (180) days after the effective date hereof, all utility companies that install utility boxes in the rights of way of any county road in the unincorporated area of the county, shall mark the location of said utility boxes by causing a black flag to be suspended at least eight feet (8') above the top of each utility box. (Ord. 710, 12-17-2008, eff. 1-1-2009)

8-1-3: FLAG SIZE AND MAINTENANCE:

- A. The flags required by this chapter shall be not smaller than one foot (1') square. Each flag shall be fastened to a pole that is attached to the utility box.
- B. Each utility company is responsible for maintaining said flags and poles in good condition, and replacing every flag and/or pole that is lost, removed, stolen, or becomes unserviceable. (Ord. 710, 12-17-2008, eff. 1-1-2009)

8-1-4: PENALTY:

Any utility company violating the provisions of this chapter shall be guilty of a class B misdemeanor, and shall, upon conviction, be subject to penalty as provided in section 1-4-1 of this code. (Ord. 710, 12-17-2008, eff. 1-1-2009)

If you have any questions please contact Summit County Public Works at 435-615-3970 or 435-336-3970.



Summit County to Enforce Snow Removal Code Violations

Summit County will be actively enforcing Section 7-3 of the Summit County Code due to the growing problems caused by snow from private property being deposited in public right of ways.

Section 7-3-4 states that a property owner shall confine the accumulated snow to their premises or to another with permission.

Section 7-3-5 states that it is unlawful for any person to deposit, haul, blow, push, or otherwise deposit accumulated snow within the traveled roadway. The traveled way shall be defined as the width of the paved or graveled surface plus ten additional feet on either side of the surface.

Snow removal fines will be collected by the Public Works Department and appeals will be heard by the County's Administrative Law Judge. Snow removal citations will be treated as civil violations. However, if the fines are not paid in the prescribed amount of time, and appeals are not requested, the Administrative Law Judge may issue an order to criminalize the violation under the County Ordinance and transfer the violation to the jurisdiction of the Summit County Justice Court. In such cases, snow removal violations would be deemed Class C Misdemeanor.

Summit County will begin issuing citations immediately on violations; warnings may be issued depending on the severity of the violation.

A citation can be issued without a warning, if a previous warning or citation was issued in the 2010-2011 snow season to a snow removal company or address.

Property owners can be held responsible for the actions of any person or company contracted for snow removal.

If you have any questions please contact Summit County Public Works 435-336-3970 or 435-615-3970.



11/28/2011

Summit County Public Works is sending this addendum to the information that was provided regarding Summit County's snow removal procedures.

Some County residents often place snow markers at the edge of their property line to mark their property boundary. Please be aware that County Ordinance 346 states that the County has a snow storage easement that typically extends 10 – 15 ft of the edge of the road pavement. That space is needed to store snow cleared from the roads and any improvements or landscaping placed within this easement is done so at the owner's risk.

Please be aware that if snow markers are placed in this 10 -15 ft easement area, they may be damaged or broken, and snow will continue to be placed in this area, regardless of snow markers. We would also like to make residents aware of the potential cost for repairs to private or county vehicles if damage is sustained.

Please feel free to mark your property, but please be aware that this will not deter County snow plow operators from placing snow on property. If marking property please use break away materials so no damage or injury is sustained to private or county property.

We would appreciate you making your neighbors aware of this challenge that we face and ask for their cooperation. Thank you for your help in this matter,

Kevin Callahan
Public Works Director

Annette Singleton

Subject: FW: roll back

-----Original Message-----

From: Randy Butters [<mailto:randy.butters@gmail.com>]

Sent: Wednesday, November 16, 2011 10:34 PM

To: Annette Singleton

Subject: Re: roll back

Annette,

Following are some of the issues concerning the property taxes on KES2 & KES3.

The property was subdivided into seven lots in 2000 and the lots excluding 2 & 3 were sold. The roll back taxes were paid at that time.

Lots 2 & 3 remained as farmland and were taxed as farmland. These two lots are presently not build able in that there is no access to them.

We were never informed that the lots did not qualify for farmland totally approx. 4.25 acre. The values were placed as if they were build able lots, but it didn't matter because the tax would have changed only a few dollars annually. If we had been notified at the time they were to taken from the farmland category we would have had it revalued to decrease its tax base. There is a design to supply access to these lots in the future, at that point the tax base would increase. Presently the land is used as farmland as it has been in the past 50 yrs. Hopefully this is enough info for you to get started. Let me know if you anything further.
Randy

To The Council:

November 23, 2011

Re: Randy Butters Greenbelt Appeal

On 10-1-01, we recorded an application for the FAA assessment program signed by Mr. Butters for parcel #FT-1.

On 3-28-02 this parcel was subdivided into 7 lots called the Kirkham Estates Subdivision, except for .41 acres which remained as FT-1. Rollbacks for the individual lots were assessed as the lots were sold over the next year.

On 1-23-03, Mr. Butters recorded a second application for greenbelt on the remaining lots 2, 3 and 4.

There was a rollback assessed on 3-4-04 for the remainder of FT-1 since the remaining acreage was .41 acres and did not qualify because of non-use for Greenbelt. Because the rollback went unpaid, the rollback taxes were attached to the property on 9-27-04. The rollback taxes for this lot went unpaid until 2-16-09.

On 3-28-05 a request for rollback was made by the closing agent, Bethany of Equity Title which was paid by Summit Escrow on behalf of the buyer.

At this time, the acreage of the remaining two lots fell below the required 5 acre minimum and Mr. Butters failed to inform the County that they no longer qualified. The parcels remained on Greenbelt until 2-10-11 when a quit claim deed was recorded from Mr. Butters to Mrs. Kirkham for the 2 remaining parcels (lot 3 and 3). A rollback was billed because of the change in ownership as per usual procedure and because the 2 lots combined was less than the 5 acre minimum.

The properties were liened for the rollback taxes on 9-1-11 and attached to the property tax bill on 10-18-11.

The contention is that it was the County's responsibility to keep track of when the lots fell below the 5 acre minimum.

Referencing Sec 59-2-506(2-a) of the Utah code annotated, it indicates that the land owner must notify the County when the land is withdrawn from agricultural or FAA use within 120 days of change.

It further states in the certification on the FAA application that "...I understand that I must notify the County Assessor's office of any change in use of the land to any non qualifying use and that a 100% penalty of the computed rollback tax due will be imposed on failure to notify the Assessor within 180 days after change in use...". The penalty portion of this statement has changed to a lesser amount.

The two lots in question have received the lower tax benefits for the past 5 years and a rollback is due.

Market values on FAA property are open to BOE appeals every year, and for the past five years the owners have failed to take advantage of this opportunity knowing that when a rollback is calculated it will be based on the difference between what was paid on greenbelt (which was less than \$5 per year per lot) and what would have been paid on market value (approximately \$1,000 per lot.) Since no appeal was filed on market value the rollbacks were computed on these historic values.

Steve Martin, Assessor

To the Council

December 21, 2011

The following are errors and omissions that have accumulated during the downtime imposed by the CCI software program initiation.

#NGC-52, The Intrust Group, a vacant lot in Promontory where an override value prevented the new assessment from activating. The value should have been \$60,300. The new tax amount should be \$654.80 for 2011

WA-17-12, Karl Naegle, a vacant lot in Wilderness acres that was split from a larger improved lot. The imps were on both lots and needed to be removed from this lot. New tax amount should be \$267.05 for 2011

SU-C-36-am, Washington Bennet, a small break off of an adjoining lot in Summit Park, used as a drive way, unbuildable, was given a lot value and should have been valued as overage. The new tax amount is \$4.51 for 2011

HE-B-281-B, Ignazio Jimenez, Improved residential lot in Highland Estates, perfected his application for primary residency for 2011 after BOE and should be primary for 2011. New taxes should be \$2,627.20 for 2011

Belv-2-5, Lefkowitz, a condominium in the Bellevue subdivision that was missing a "1" at the front of its value and was brought to our attention and a value was agreed upon resulting in an increase in taxes. The new tax, adjusted for the Park City area Muni fund, is \$9,118 additional having paid the incorrect 2011 bill.

Hearth-11, David Camarata, a single family home near Aerie Subdivision perfected his request for a primary residence exemption after BOE. The property should be granted the exemption for 2011. The new taxes should be \$7,770.95

PI-f-8-am, Stewart William, a vacant lot up Tollgate Canyon assessed for 4.17 acres but having only 3 acres corrected value to reflect 3 acres. New taxes should be \$1021.94 for 2011

POV-95, Gregory Hadfield, ½ of a duplex in Prospector Village were the legal description for this half was provided for a mortgage for the adjoining parcel and subsequently foreclosed on causing an erroneous name change on Mr Hadfields Unit taking him off the Primary status. He should be a primary for 2011 and the correct tax amount should be \$1730.62 as a primary for 2011

MINUTES

SUMMIT COUNTY
BOARD OF COUNTY COUNCIL
WEDNESDAY, NOVEMBER 16, 2011
SHELDON RICHINS BUILDING
PARK CITY, UTAH

PRESENT:

Chris Robinson, *Council Chair*
David Ure, *Council Vice-Chair*
Sally Elliott, *Council Member*
John Hanrahan, *Council Member*
Claudia McMullin, *Council Member*

Robert Jasper, *Manager*
Anita Lewis, *Assistant Manager*
Dave Thomas, *Deputy Attorney*
Annette Singleton, *Office Manager*
Karen McLaws, *Secretary*

CLOSED SESSION

Council Member Hanrahan made a motion to convene in closed session for the purpose of discussing litigation. The motion was seconded by Council Member Elliott and passed unanimously, 5 to 0.

The Summit County Council met in closed session from 12:50 p.m. to 1:15 p.m. to discuss litigation. Those in attendance were:

Chris Robinson, *Council Chair*
David Ure, *Council Vice-Chair*
Sally Elliott, *Council Member*
John Hanrahan, *Council Member*
Claudia McMullin, *Council Member*

Robert Jasper, *Manager*
Anita Lewis, *Assistant Manager*
Dave Thomas, *Deputy Attorney*

Council Member Elliott made a motion to dismiss from closed session to discuss litigation and to convene in closed session to discuss personnel. The motion was seconded by Council Member Hanrahan and passed unanimously, 5 to 0.

The Summit County Council met in closed session from 1:15 p.m. to 1:25 p.m. to discuss personnel. Those in attendance were:

Chris Robinson, *Council Chair*
David Ure, *Council Vice-Chair*
Sally Elliott, *Council Member*
John Hanrahan, *Council Member*
Claudia McMullin, *Council Member*

Robert Jasper, *Manager*
Anita Lewis, *Assistant Manager*
Dave Thomas, *Deputy Attorney*

Council Member Elliott made a motion to dismiss from closed session and to convene in work session. The motion was seconded by Council Member Ure and passed unanimously, 5 to 0.

WORK SESSION

- **Council Mail Review**

The Council Members discussed December meeting dates and determined that they would cancel the December 21 and December 28 meetings unless something urgent arises.

Chair Robinson reported that the Council has received a request from Peter Metcalf to discuss ideas regarding the Solitude to Canyons connection. County Manager Bob Jasper commented that this appears to be premature, because it depends on what the Federal Government decides to do. It would then come to the County Council as a land use item, where the Council acts in a quasi-judicial capacity, and they should remain unbiased. After further discussion of the issues and parties involved, the Council Members agreed to hold a work session and invite everyone involved after the first of the year. Council Member Hanrahan requested that they not hear the same information from multiple parties. Chair Robinson offered to work with Administrative Office Manager Annette Singleton to set a time on the agenda. Deputy County Attorney Dave Thomas explained that, as long as this does not involve any action within the jurisdictional boundaries of Summit County, there is no problem with holding a work session. If there will be action within Summit County, the County Council will be the appellate authority, which causes some concern. He believed they need to know where the proposed connection would actually be located. If the County Council comments, and something is proposed within the County, the Planning Department grants a permit, and someone appeals, those involved in the discussion may have to recuse themselves from hearing the appeal.

CONVENE AS THE BOARD OF EQUALIZATION

Council Member Elliott made a motion to convene as the Summit County Board of Equalization. The motion was seconded by Council Member Ure and passed unanimously, 5 to 0.

The meeting of the Summit County Board of Equalization was called to order at 1:53 p.m.

CONSIDERATION OF APPROVAL OF 2011 STIPULATIONS

Board Member Elliott made a motion to approve the 2011 stipulations as presented in the packet. The motion was seconded by Board Member McMullin and passed unanimously, 5 to 0.

DISMISS AS THE BOARD OF EQUALIZATION AND RECONVENE AS THE SUMMIT COUNTY COUNCIL

Board Member Elliott made a motion to dismiss as the Summit County Board of Equalization and to reconvene as the Summit County Council. The motion was seconded by Board Member McMullin and passed unanimously, 5 to 0.

The meeting of the Summit County Board of Equalization adjourned at 4:54 p.m.

WORK SESSION (Continued)

• **Presentation of budget and discussion of revenues and fund balances**

Mr. Jasper reviewed his budget letter and explained that it includes a chart showing spending in the operating budget. He noted that spending was way up in 2008 and went up again in 2009, but starting in 2008, revenues started to drop significantly, which caused the General Fund to become overextended. He thanked the Council and the voters for allowing the County to tap into the rainy day fund to cover the years when they over spent. He stated that the County intends to live within its means in the coming years. Some changes were made to the budget structure, and the budget committee has recommended that a building inspector and a planner be cut from the budget. He agreed with cutting a planning technician but disagreed with cutting a building inspector. He recommended cutting the position of director and one animal control officer in the Animal Control Department, which will result in a reduction of services, and reducing the County historical director from full time to half time. He explained that the budget will allow some room for the Council to make adjustments. The Auditor's Office will do another review of this year's and next year's revenues in the next several days. The budget committee and Auditor agreed that the County should cut the ambulance subsidy, which he believed could be done while maintaining a reasonable service level. Mr. Jasper noted that the budget committee did not leave enough money in the curbside recycling budget to continue the same level of service in the second half of 2012, which is timed to the waste management contract that expires mid-year. The solid waste task force has recommended an expansion of recycling, and because the County may have three solid bidders for the new contract, there is hope that the County can expand curbside recycling. However, they will not know what those bids will be before adopting the 2012 budget. He commented that they have focused on the General Fund, but there are other taxes in the County that are restricted to certain purposes and have no impact on the County's general operations. He requested that the County Council set a policy regarding who should pay for neighborhood roads. Although Service Area 6 was set up to take care of neighborhood roads, the County has been doing it at the expense of other taxpayers in the County, and the budget committee has recommended that they not do it this year. He believed people should pay for the services they receive. The Council Members discussed the County's obligation to help fund the Lower Village Road.

Commissioner Elliott commented that she believes those who receive services should bear the cost of paying for them, and she would support that policy direction. She also stated that she was pleased to see that the County is accruing funds toward its obligations.

Council Member McMullin asked what argument could be made for payment of municipal services out of the General Fund. Mr. Jasper replied that some people will say it is not fair to tax them, and the County should tax someone else. He stated that he is proposing they go back to what Service Area 6 was originally set up to do. When there was plenty of money, the County kept moving money from the General Fund to subsidize services rather than increasing taxes, but they no longer have the money in the budget to do that.

Chair Robinson verified with Mr. Jasper that he is suggesting a 21.2% increase for municipal services and a 16.4% increase for Service Area 6. Mr. Jasper stated that when he met with the County Engineer and Public Works and considering their long-range plans, they were disappointed that he did not recommend a larger increase. However, the County has a better chance if they are bringing in revenues every year to start catching up on capital projects. He promised they would not longer overspend in the General Fund, and they are not only raising taxes in this area but are cutting in many areas of the General Fund budget.

Council Member Hanrahan stated that he wants to get away from the concept that only saving \$5,000 or \$10,000 somewhere in the budget is not a big deal. He stated that he wants accurate, precise information, or he cannot make a good decision.

Matt Leavitt with the County Auditor's Office reviewed the revenue projections contained in the Manager's budget message. He noted the difference between the committee and Auditor's recommendation and the Manager's recommendation, which includes a \$660,000 property tax increase.

Chair Robinson noted that in 2010, the County had \$25.1 million in tax revenues. The 2012 budget estimates \$28.4 million, an increase of \$3.3 million. He asked what has changed that would lead them to believe there will be \$3 million more in revenue. Mr. Leavitt replied that amount includes the \$660,000 property tax increase, part of it would be due to growth, and part of it is due to how they have to budget for property taxes. If they do not budget high, the County cannot collect the taxes. Therefore, they have to move up property tax estimates in order to collect the taxes if they receive more than anticipated. Chair Robinson explained that they hear every year that they need to inflate revenue so they can collect the taxes, and then they end up being short at the end of the year, which has burned them for the past several years. Mr. Leavitt explained that the County sets the revenues based on previous years plus some growth. They could adjust that downward if they think they will not get those revenues, but that would decrease the tax rate, and once the tax rate decreases, the only way to get it back up is to go through truth in taxation. Using the County's method of overstating revenues prevents them from having to go through the truth in taxation process, but that can result in what has happened with the budget the last few years. Mr. Jasper explained that this is not an exact science, particularly in a time of turbulence like the economy is experiencing now. To avoid having to have truth in taxation hearings, the State allows the County to estimate revenues higher to avoid having to drop assessed values, knowing they will probably not get that much revenue. He believed it would probably be in the County's best interests to do that.

Council Member Hanrahan commented that an alternative would be to use this system but to have a better sense of what revenues the County will actually receive and decrease expenses accordingly. The County has been inflating revenue projections and then balancing the budget, knowing that it is unlikely they will receive the amount of revenue budgeted. Mr. Leavitt noted that the County is not likely to spend everything they budget, either. Council Member Hanrahan stated that expenditures have decreased in the last few years, but not by enough.

Chair Robinson questioned other revenue items in the proposed budget that show an increase and asked if they are spending the revenue before they have it or if they will wait until they have it to spend it. He stated that he was tired of having this same discussion every year where they get overly optimistic and bank on higher numbers, and then they do not come through. Mr. Jasper explained that most of this information comes from the elected Auditor, and if the Council has

concerns about it, he will ask the Auditor to address them. Chair Robinson stated that he is not comfortable with increasing revenues over 2010, because every time they have done that, they have come up short. Unless there is concrete evidence that actual figures for 2011 will be significantly better than 2010, he believed they should stick with the 2010 actual figures. If property taxes need to be set higher, he recommended they increase the surplus so the money will not be budgeted to be spent. Mr. Leavitt explained that this is the Auditor's best guess using historical data to project the future. Chair Robinson stated that he is skeptical of that best guess, because for the last three years it has not worked. He asked for input from the other Council Members regarding projected revenues.

Council Member Ure agreed that they would probably not want to lower property taxes, but that does not mean they have to spend everything. Allowing for that in a budget surplus might be the best way to do it without having to go through truth in taxation. Council Member Hanrahan suggested that before they make a decision, he would like to see the Auditor's actual and estimated figures for 2011 next week.

Mr. Jasper noted that many entities start the budgeting process with figures from some time back, and right before adopting the budget, they re-look at the revenues. He stated that they would try to answer some of the Council's questions at the next meeting and noted that there is some room in the budget to make adjustments if they believe revenues are overstated.

Council Member McMullin commented that they cannot really say they are cutting deeper if they give themselves more revenue and the revenue projections are wrong. She believed they should stay where they were in 2011, at a minimum.

Mr. Jasper reported that all the departments will come to the Council to make a presentation, and hopefully they will discuss their services. He hoped the Council would give feedback to let the departments know whether the services they think are important are the same ones the Council thinks are important.

- **Presentation of Summit County Service Area No. 3 (Silver Creek) annual report**

Marv Maxell, chairman of Service Area 3, explained that they are an independently elected board that does not come under the jurisdiction of the County Council. He recalled that Council Member Hanrahan came to one of their board meetings when the Council was first elected, and they were pleased, because they did not feel they had any communication with the County. Suddenly they started to see the County doing something for the Service Area, and they need the County's help in a number of ways. At the time the subdivision was proposed in 1965, the County did not have the resources to take care of the subdivision, and Ken Woolstenhulme, who served on the County Commission at the time, pleaded with the developer to develop the roads to County standards. The developer indicated that he did not have the money to do that, but he offered the water shares for the lots. The County had to set up a mechanism to manage the water shares, so they set up a service area to develop and maintain a water system in Silver Creek Estates, and the water shares were given to the service area to manage. Mr. Maxell stated that when he first moved into Silver Creek Estates, the roads were plowed on a volunteer basis when someone could get around to it, and the Service Area decided to assess the lots to pay for plowing the roads. About 15 years ago, he talked the board into eliminating the assessment and going to a property tax-based budget to generate more money for roads. They have a road budget based on property taxes and a water budget based on income from the water system. He

explained that a goal for the water system is to develop a water fee schedule that is appropriate to the needs of the water system. He reviewed the 2011 and 2012 proposed budgets

Chair Robinson asked why the Service Area is projecting a revenue increase of 41% for 2012. Mr. Maxell replied that is based on property valuations and properties with new construction. Because they are not built out, new properties are built on all the time. Chair Robinson asked if the projected property tax revenues from the Assessor's Office have been accurate in the past. Mr. Maxell replied that they are generally accurate. He stated that people were pleased to see their property values go up because of the sale value, but they were not happy about having to pay more taxes.

Mr. Maxell stated that, as they develop their community and their roads, they will need help from the County, particularly with regard to signage. He explained that they will have four new board members this year. Council Member Hanrahan thanked Mr. Maxell for his service to Service Area 3 and the County.

- **Presentation of South Summit Fire Protection District annual report**

Kent Leavitt, Chair of the South Summit Fire Protection District, reported that they just had an election but do not know the results yet, because their election did not get on the ballot. Mailers have been sent out, and they are due back November 21. Their board consists of three commissioners, and at least one commissioner will remain on the board. He introduced Marla Harris, secretary for the District, and presented their profit and loss statement for the past year. He stated that they started working on a development code in 2005, and it was implemented in 2008. They have tried to keep up with growth in the past, but currently there is not much development in the South Summit area. He stated that they plan to build a new station in Kamas, as their current station was built in 1952, and it is small and has maintenance problems. He believed they would need additional equipment in the future to keep up with growth, and the current station is not adequate. He stated that they have been working closely with the County's Planning and Zoning Department.

Mr. Jasper stated that he has not fully grasped how the ambulance and EMS services function in the South Summit Fire District. Mr. Leavitt replied that EMS and the Fire District are completely different entities. Mr. Jasper stated that he believed the County is subsidizing the EMS service.

- **Presentation of Park City Fire Special Service District annual report**

Diane Walker, Chair of the Park City Fire Special Service District Administrative Control Board, reported that they have a state-of-the-art fire district and that the Insurance Standards Office grades the District a 2, which is the second highest grade a fire department can achieve. That means that, when insurance companies insure properties within the District, they charge a lower premium. Their goal is to keep that rating while tightly controlling costs. Last year they put together a team of employees to look for cost cuts, and they recommended \$240,000 per year in cost savings in reduction of their own benefits. Since the employees found the savings, they are more willing to make the sacrifice. She recalled that they had the task of replacing their fire chief last year, and the board and two firefighters spent five months looking for a new chief. They did not spend money on facilitators and did a good job of finding a new fire chief.

Fire Chief Paul Hewitt reviewed a typical September month showing that Fire District personnel spent 169 hours, or 17% of their time in training, for special operations, 667 hours, or 65% of their training time, in fire training, and 185 hours, or 18%, in EMS training. He reviewed the Fire District's strategic plan and explained that their first initiative is communication and involvement in the Park City community. He noted that they have always been highly involved in community events. The second initiative is to maintain fiscal accountability through transparency and planning and explained that they are meeting that initiative through a cross-staffing model that is very efficient. He reviewed the other initiatives, objectives, and goals in the strategic plan.

Assistant Chief Scott Adams discussed fire prevention measures, including Fire Prevention Week in October, during which the Fire District participated in the Home Depot Safety Fair. They also work with the schools and are successful with their chipping program. The firefighters go out to businesses and schools in the community to be sure their fire protection systems are properly serviced and operational and provide safety tips to business owners.

Assistant Chief Frank Heumann explained that he will retire in February, but he will continue to live in the community. He expressed appreciation for the County Council providing authority for the capital improvements bond, which saved the Fire District well over \$1 million for the Burns Fire Station project.

Chief Hewitt reported that the Fire District operates at a minimum staffing level, and they are very creative in their staffing solutions. They are about to open a new fire station with no increase in staffing expense.

Assistant Chief Bob Zanetti explained that their staffing is unique. Their clientele demands a quick response, so they have strategically planned the locations of their fire stations to be able to respond within 6 minutes in an emergency. The ambulance is an unknown factor. In the shoulder season, they are usually well staffed. During Christmas and Saturdays in March it is sometimes touch and go, and the hospital has helped significantly with turn around times. However, they still do quite a few runs to Salt Lake.

Chief Hewitt reported that the Fire District budget is balanced, and there are no excesses in the budget. The District's financial officer reviewed the budget. Chair Robinson asked what assumptions the Fire District made for property tax revenues. Chief Hewitt replied that they have kept tax revenues consistent with 2011.

REGULAR MEETING

Chair Robinson called the regular meeting to order at 4:00 p.m.

- **Pledge of Allegiance**

ADVICE AND CONSENT OF COUNTY MANAGER TO APPOINT MEMBER TO THE SUMMIT COUNTY LIBRARY BOARD OF DIRECTORS

Council Member Elliott made a motion to consent to the appointment of Mickey Adams Grimes to fill an unexpired term on the Library Board with the term to expire February 28, 2015. The motion was seconded by Council Member Hanrahan and passed unanimously, 5 to 0.

ADVICE AND CONSENT OF COUNTY MANAGER TO APPOINT MEMBERS TO THE SUMMIT COUNTY BOARD OF HEALTH

Council Member Elliott made a motion to consent to the appointment of Jonelle Fitzgerald to fill an unexpired term on the Summit County Board of Health, with the term to expire December 31, 2012, and to consent to the appointment of Herbert Joe to fill an unexpired term on the Summit County Board of Health, with the term to expire December 31, 2011, and to reappoint Herbert Joe to a three-year term to expire December 31, 2014. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.

MANAGER'S COMMENTS

Mr. Jasper stated that he has been busy working on the budget and had no other comments.

COUNCIL COMMENTS

Council Member Elliott reported that she attended the Recycle Utah annual meeting where their annual awards were presented. She reported that the Peace House and Habitat for Humanity boards met Monday night, and both are in increasingly healthy economic circumstances. She provided copies of their agendas and financial reports.

Council Member Hanrahan recognized the success of the Live PC/Give PC campaign that occurred last Friday and raised over \$370,000 for various charities in the area. He also recognized Veteran's Day the previous Friday and thanked the veterans and active military in Summit County for their service.

Council Member Ure commented that he attended the South Summit School District veterans' assembly, and it was a high point of his year. He commended the schools for doing such a good job of recognizing the veterans.

CONTINUED DISCUSSION AND POSSIBLE APPROVAL OF AMENDMENTS TO COUNTY CODE TITLE 3 CHAPTER 4, LARGE PUBLIC ASSEMBLIES/SPECIAL EVENTS, THROUGH ADOPTION OF AN ORDINANCE; KIMBER GABRYSZAK

County Planner Kimber Gabryszak recalled that the public hearing on this item was held on September 28, 2011, and she reviewed changes made after the public hearing and issues discussed at the public hearing.

Council Member McMullin asked about the statement in the definition of Special Event regarding 300 people at a location not typically experiencing such an assembly. Planner Gabryszak recommended that language be deleted, because it is now covered under exemptions.

Council Member Hanrahan suggested that Special Event, Minor include a range of participants from 300 to 1,000.

Chair Robinson suggested that they remove the language regarding telephones connected to outside lines. With regard to the section about disposing of solid waste material, he did not see a reference to recycling and suggested that the word recycling be included.

Planner Gabryszak noted that the language regarding plans to provide for medical facilities, including the location and construction of a medical structure, should be modified to read plans to provide medical support, because there would be no structure.

Council Member Elliott made a motion to approve the amendments to the Summit County Code Title 3, Chapter 4, Large Public Assemblies/Special Events, with the changes discussed this evening, through adoption of Ordinance #193-B. The motion was seconded by Council Member Hanrahan and passed by a vote of 4 to 1, with Council Members Elliott, Hanrahan, McMullin, and Robinson voting in favor of the motion and Council Member Ure voting against the motion.

Council Member Ure stated that he did not vote in favor of the motion because he wanted to see the amendments made before voting to approve them.

Council Member Elliott offered to work with Planner Gabryszak on the capitalization and punctuation in the amendments.

CONSIDERATION AND POSSIBLE APPROVAL OF AMENDMENTS TO SUMMIT COUNTY CODE TITLE 2, CHAPTER 23, SNYDERVILLE BASIN WATER RECLAMATION DISTRICT, BY ADOPTION OF ORDINANCE #749-B; DAVE THOMAS

Deputy County Attorney Dave Thomas recalled that the County Council previously made extensive changes to Title 2 regarding commissions and boards to make the boards similar in nature. Three of the districts are independent and have elected boards, but they were included with the other boards in the Code. The Snyderville Basin Water Reclamation District and Service Area 3 have come back to the County and explained that is how they operate. The language regarding these independent districts has been amended to remove language that is duplicative or does not apply to independent districts. For the Water Reclamation District, the provisions regarding whether the County Council could decide to change from an elected board to an appointed board were removed, because the statute was confusing. Much of the language regarding indemnification was removed, because it is not needed.

Mr. Jasper expressed concern that the statute says the County could require that the independent districts make an annual report. Based on the proposed language, the independent districts would never have to visit the County Council for any reason, unless they want to. He believed they need to meet and coordinate. Mr. Thomas explained that there is a gray area in the statute regarding whether the Council can require these districts to report to them. He stated that the special districts would have a problem with including a requirement that they report to the County.

Council Member Ure made a motion to approve the amendments to Summit County Code Title 2, Chapter 23, Snyderville Basin Water Reclamation District, by adoption of Ordinance #749-B. The motion was seconded by Council Member Elliott and passed unanimously, 5 to 0.

DISCUSSION REGARDING CONSERVATION EASEMENT ON THE KOLEMAN/MISS BILLIE'S OPEN SPACE; ASHLEY KOEHLER

Sustainability Coordinator Ashley Koehler provided background information regarding the acquisition of the parcel and reported that in December 2010 the Basin Open Space Advisory Committee (BOSAC) recommended that the County Manager approve funding and an agreement with Summit Land Conservancy to finalize the baseline study and conservation easement. BOSAC has forwarded a recommendation to the County Manager and County Council that it be approved. She noted that a conservation easement is under the County Manager's jurisdiction, but it is provided to the County Council for advice and consent.

Mr. Jasper recalled that when he first came to the County, the land conservancy entities had active, voting members on BOSAC. He was uncomfortable with people the County might hire as staff being voting members, so that is no longer the case, and the way BOSAC does business has changed somewhat.

Chair Robinson asked if money has been set aside to pay Summit Land Conservancy to monitor this annually. Ms. Koehler replied that there was a one-time fee of approximately \$25,000 to do a baseline study, a conservation easement, and stewardship for ongoing monitoring and enforcement. Chair Robinson stated that he does not normally like to represent and warrant that he has good and marketable title, and he would prefer that the grantee investigate the title if they have concerns. He suggested that the language on page 7 be changed to state that to the best of the owner's knowledge, the owner represents and warrants. He stated that he would not want the County to obtain an insurance policy and name Summit Land Conservancy as an additional insured. Mr. Jasper noted that would require the County to purchase separate insurance. Chair Robinson noted that this easement is written for the grantor to be a private third party, not a public entity. Mr. Jasper stated that he believed the County could just deed restrict the property and be done with it. This conservation easement is Summit Land Conservancy's contract and how they want to do it. Chair Robinson discussed further concerns he has with the conservation easement and changes he believed should be made.

Mr. Jasper explained that the conservation easement was brought to him as a done deal, with BOSAC having made the recommendation and the Council having agreed to it. He raised issues about why they are doing this, but since it had already been approved, he was just implementing it. He maintained that this is not really a conservation easement, where a private property owner still maintains the land and gets a tax advantage, and the conservation group makes sure the owner does not build on it or do anything that is outside the terms of the conservation easement. The County bought this property as open space, it owns the land, there is no other use on it, and the County is responsible for anything that happens on the land. In a conservation easement, someone else owns the land. He did not believe this works for the County. Chair Robinson noted that, because the County owns the property, if they were to use a deed restriction, the County simply be putting a deed restriction on its own land, which means nothing, because they could decide to come back and lift the deed restriction. If a developer wants to restrict a piece of property, a deed restriction is not sufficient for the County, and the County would require a

conservation easement on the property. He believed the same policy should apply to the County as that which applies to private citizens.

Mr. Jasper suggested that they hold a work session on this issue, because the County owns a lot of land that is to be preserved as open space, and they have no real plan for how to manage that land. He suggested bringing in some experts to figure out what to do, because he was uncomfortable that the County does not have a plan.

Council Member Elliott requested that the parcel be referred to as Miss Billie's. She also recognized Ashley Koehler for receiving an award from Recycle Utah as the Governmental Recycler of the Year and thanked her for all she has done for the County's sustainability efforts.

PUBLIC INPUT

Chair Robinson opened the public input.

There was no public input.

Chair Robinson closed the public input.

DISCUSSION AND REVIEW OF SUGGESTIONS REGARDING WASTE COLLECTION ANALYSIS; ISSA HAMUD

Mr. Jasper explained that the changes they have recommended will be significant compared to what they are now doing, and the County may receive some negative feedback regarding the proposed changes.

Chair Robinson suggested that they discuss each recommendation made at the last meeting and try to reach a consensus. The first recommendation was to consider increasing the landfill tipping fee. The Council Members agreed with that recommendation. Council Member Ure noted that they will be raising a lot of fees and asked if they will lower any mill levies on the property taxes. If they do not lower mill levies, he would not be in favor of many of the recommendations. Chair Robinson suggested that they talk about a philosophy first. One philosophy would be that solid waste and the landfill should be paid for by the people who use them. If that is true, they need to align the collection of fees to the people using the services. If a private citizen can bring waste to the landfill for a lesser tipping fee than it costs to either replace the landfill or reclaim it, the tipping fee should be raised, but that does not mean they should give someone else a tax decrease. Council Member Ure commented that a lot of the numbers do not match, and he was not certain that they have sufficient information to know what they should charge. Chair Robinson explained that they are considering whether to increase tipping fees, and the consultant and Staff will study the fees and come back with a proposal

With regard to eliminating landfill fee reimbursements, Chair Robinson asked who is reimbursed. Cliff Bonquist explained that they currently reimburse the hauler, and he was not certain how that came about. He was not sure if it was a matter of keeping track of the waste that came in, but right now it is a pass-through cost the County would like to eliminate. Mr. Jasper commented that the bids from the trash haulers will likely depend on how much they pay in landfill fees, and doing this would allow them to cost out and deal with the landfill.

The next recommendation is to release the garbage collection RFP as soon as possible. Chair Robinson suggested that they release the RFP as soon as it is ready, and the question is when the County needs the results back. He did not believe they would have results prior to the 2012 budget discussions. He noted that Council Member Elliott requested that the RFP ask for a bid for garbage collection and recycling combined and separately. Consultant Issa Hamud explained that they will request garbage collection, garbage collection and recycling, recycling alone, and as part of the garbage collection, they will ask for a bid for 65-gallon containers and 90-gallon containers. At the end there may be one contract for everything or two separate contracts, depending on the bids. He stated that they would also include that the County will own the material collected so the County would get the revenue from selling the recycling materials. Chair Robinson requested that the Council have an opportunity to look at the RFP before it is sent out. He noted that the RFP would also include weekly and bi-weekly pick up, front load collection services for remote areas, and drop sites. He did not want to make the decision now about whether the can would be provided free without seeing the full cost accounting. Mr. Hamud assured him that they would make that decision after they receive the bids. Mr. Jasper noted that there is some question as to who owns the current containers. Mr. Hamud recommended that the County take the position that they own all the containers, and if not, they will reimburse for those containers. Otherwise, other bidders could be at a disadvantage by having to provide containers and trying to recover those costs in the next 10 years. Mr. Blonquist noted that the County will also need to purchase the 65-gallon containers. Mr. Jasper explained that the County will also have to determine how to finance that.

With regard to implementing a pay-as-you-throw program, Chair Robinson agreed, but he believed the determination about whether the customer pays for a second can needs to be put on hold until they have an enterprise fund and accounting discussion. Mr. Hamud recalled that he recommended the enterprise fund be limited to landfill and recycling costs only.

Chair Robinson reviewed the remainder of the recommendations and commented that he believed the Council agreed with them. Council Member Hanrahan stated that he does not get a good sense of what they are asking for in the recycling bid. He was unsure whether it would be for those who currently participate in the recycling program or whether they plan to expand it into other subdivisions. Mr. Hamud replied that the bid request would include the current program size, with additional potential, but subject to the Council's approval. Council Member Hanrahan commented that they could not expand it to all homes, because it would not be cost effective. Mr. Hamud stated that they will need to count the areas where they want to potentially expand and give bidders that information so they know what they are bidding.

The next recommendation was to monitor front-load and multi-family refuse pickup services, audit all accounts, and reduce the container size, which Chair Robinson believed they should do. Mr. Blonquist explained that they need to define what they consider to be a commercial business in the County's waste collection policy. Council Member Elliott suggested that they work with Recycle Utah and the lodging community to help define commercial and multi-family housing.

The next item was establishment of a solid waste enterprise fund, and Chair Robinson asked why they would not want to combine the landfill and solid waste collection as an enterprise fund. Mr. Hamud explained that these two entities are not currently funded by taxes. Even though the County is funding recycling, it was only implemented as a trial program and was not included in the tax system. It is intended to fund itself, even though the County is under charging, and the County may be indirectly subsidizing it. It would be easy to calculate the landfill and recycling

costs and charge based on those costs. He would leave trash collection out of the enterprise fund, because that service is currently paid for by taxes. The goal would be to also charge for collection in the future. Currently people do not even know what they pay for garbage collection, and as they start to charge for cans separately, and people see escalating costs over time, they will start to pay attention to how much garbage they throw away. Chair Robinson asked if the Council would like to limit the analysis of an enterprise fund to just landfill and recycling costs or the entire trash collection process. Mr. Jasper noted that higher end homes currently pay more for trash collection than smaller homes, because taxes are based on the value of the home. If they go to a fee, that will shift costs from higher end homes to lower income homes. Council Member Hanrahan stated that they need to be philosophically consistent in their policy direction. He recalled that they recently talked about increasing taxes in Service Area 6 to shift the costs to the people who get the benefit of the services. He believed that philosophy is admirable, and they need to be consistent and do that in this case as well. Chair Robinson concurred. Council Member Ure expressed concern that, if fees become too high, people will start to dump things along the side of the road. Mr. Jasper commented that the more common model is for the public entity to franchise with the trash hauler, who does the billing, and none of it would run through the County's books. Mr. Hamud stated that he has seen it done that way, but they would need a good customer service program to account for who is and is not billed, to get a report from the trash hauler every month for verification, and to have authority to connect or disconnect people from the service. An alternative would be for the County or cities to bill for services or bill with the taxes once a year. If a customer does not pay, the County would have to pay the hauler in any event. Mr. Blonquist commented that this has been viewed as a service in the past, and now they want to change it to a business. In people's minds, they may believe they are paying for the service through their taxes, and if the County chooses an enterprise fund, there will still be both a tax and a fee for services, which could cause a significant repercussion. Council Member Hanrahan suggested reducing the general property tax mill levy by the same amount that would be collected by the enterprise fund. Mr. Blonquist explained that they will be encouraging recycling, and diversion from the landfill will take money away from the enterprise fund. He suggested that they take a more in-depth look at this before deciding to put the entire waste collection system in an enterprise fund. Council Member Hanrahan stated that the Council is simply asking for that information to be included as part of the analysis. They are not leaning one way or another, because they do not yet have enough information to do that. Chair Robinson summarized that they could prepare the RFP, include in the RFP what it would cost for the trash hauler to send monthly billings, and then decide what to do about an enterprise fund in the next six months prior to issuing the actual contract.

ACKNOWLEDGMENT OF LEE WHITING FOR LEADERSHIP CIVILITY AWARD

Gene Moser, former County Commissioner, recognized Chuck Klingenstein for an award given by the American Planning Association. He noted that Mr. Klingenstein is a Planning Commissioner and stated that he believes community planning is the most important function local government performs, because those decisions have long-lasting effects. He stated that one thing that has not changed since he served on the County Commission is that people are willing to step up and serve to keep the community livable and as great as it is. Mr. Klingenstein thanked the County Council for the honor and recognition of his award.

Michelle Morris, a member of Leadership Class 17 and a member of the Summit County Library Board, explained that the leadership class this year decided to do a civility project. They came up with nine tools of civility, and this summer they asked for nominations to put a face to civility. Dan Compton, Director of the Summit County Library, nominated Lee Whiting, Outreach Services Librarian, and Mr. Whiting was overwhelmingly chosen for this award. Ms. Morris stated that Mr. Whiting brings people together, shows respect to all his customers, and brings the types of books they like to read. Mr. Whiting thanked the County Council, Library Board, and Library Director for their continuing support of the library's important mission in the community. He stated that he has thoroughly enjoyed this job and that it has been a significant chapter in his life.

Council Member Ure was excused from the remainder of the meeting.

DISCUSSION AND REVIEW OF SUGGESTIONS REGARDING WASTE COLLECTION ANALYSIS; ISSA HAMUD – (Continued)

Mr. Hamud explained that the full cost accounting program included in the packet was intended to give the Council an idea of how an enterprise fund program would work. They could also have true cost accounting without an enterprise fund, and it should be easy to make a decision if they have all the facts. He noted that sometimes the County might allow someone to dump in the landfill for free, but that needs to be accounted for, because it is a cost to the landfill. If the landfill does green waste recycling at no charge, that is directly associated with program costs. He explained that full cost accounting accounts for everything, every step of the way. Chair Robinson verified with Mr. Hamud that his firm could help the County set up a full cost accounting program. He also verified with Mr. Hamud that he would be able to help them determine whether the County might want to provide garbage collection in house. Mr. Hamud explained that the current contract expires in July, and it will take time to prepare a County collection program. He suggested that they award the contract to the lowest bidder and include a provision in the contract that they will review it in three years. That would give the County three years to make a decision based on facts and set up a program without being pressed for time.

Mr. Jasper recalled that the County had only one bidder the last time they awarded the trash collection contract, which means there was no competition. He believed they would have multiple bidders this year, and the bids may be more competitive. He believed they would get better bids with a longer contract, and he did not believe they need to have County employees do the job, because they should have competitive bids. Chair Robinson stated that the RFP should be written in such a way that the County reserves the right to accept any and all bids or no bids. Mr. Hamud agreed and explained that the County could reserve the right to reevaluate the program in two years. They would not have to terminate the contract if they feel comfortable with the services being provided. Council Member Elliott stated that she would still like enough information to consider the possibility of the County providing services in case they do not get bids they like.

Mr. Hamud reported that they hope to meet with potential contractors next week and have a draft RFP available mid-December.

PUBLIC HEARING AND POSSIBLE ADOPTION OF ORDINANCE #456-A, AN AMENDMENT TO ORDINANCE #456, AN ORDINANCE PROHIBITING THE PARKING AND/OR STORAGE OF JUNK, UNUSED, OR ABANDONED VEHICLES OR PARTS THEREOF WITHIN THE SNYDERVILLE BASIN AREA OF SUMMIT COUNTY

County Enforcement Officer Leslie Rushton presented the staff report and explained that Staff is proposing minor amendments to Ordinance 456. It has been Staff's experience that enforcement of the current ordinance has sometimes been impractical, and the proposed amendments would allow homeowners to screen junk vehicles through landscaping, fencing, and berming in a manner that adjoining neighbors and the general public would not be able to view the junk. The amendment states that one junk vehicle is allowed if it is screened by being in a garage or barn, or it can be screened by berming or fencing.

Council Member Hanrahan asked for clarification of the definition of adjoining residents. Ms. Rushton replied that it applies to the adjoining neighbor. If she were to get a call and could see the vehicle from the adjoining neighbor's property, she would enforce on it. Council Member Hanrahan asked if she would enforce if she were able to see the vehicle from a neighbor's property that is several lots away. Ms. Rushton replied that she would. Council Member Hanrahan suggested that the language be changed to state "surrounding residences."

Chair Robinson opened the public hearing.

There was no public comment.

Chair Robinson closed the public hearing.

Council Member Elliott made a motion to adopt Ordinance 456-A as amended. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0. Council Member Ure was not present for the vote.

The County Council meeting adjourned at 6:55 p.m.

Council Chair, Chris Robinson

County Clerk, Kent Jones

MINUTES

SUMMIT COUNTY
BOARD OF COUNTY COUNCIL
MONDAY, NOVEMBER 21, 2011
SUMMIT COUNTY COURTHOUSE
COALVILLE, UTAH

PRESENT:

Chris Robinson, Council Chair
David Ure, Council Vice-Chair
Sally Elliott, Council Member
John Hanrahan, Council Member
Claudia McMullin, Council Member

Robert Jasper, Manager
Anita Lewis, Assistant Manager
Kent Jones, Clerk

Chair Robinson called the Council to order at 12:45pm.

OFFICIAL CANVASS OF THE 2011 GENERAL ELECTION

Kent Jones, County Clerk, and Ryan Cowley, Chief Deputy Clerk, presented election materials from the 2011 General Election to be reviewed and approved by the Board of Canvass. Provisional and absentee ballots that were qualified will now be added to the unofficial election night results. After review, the following report was declared as Official Results by the motion of Board Member Elliott with Board Member Hanrahan seconding. The motion passed unanimously, 5 to 0.

CLOSED SESSION - LITIGATION

Council Member McMullin made a motion to convene in closed session to discuss litigation issues. The motion was seconded by Council Member Elliott and passed unanimously, 5 to 0.

The Summit County Council met in closed session from 1:00 p.m. to 1:30 p.m. to discuss litigation. Those in attendance were:

Chris Robinson, Council Chair
David Ure, Council Vice-Chair
Sally Elliott, Council Member
John Hanrahan, Council Member
Claudia McMullin, Council Member

Robert Jasper, Manager
Anita Lewis, Assistant Manager
Don Sargent, Community Development

Council Member Hanrahan made a motion to dismiss from closed session. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.

BUDGET PRESENTATIONS

The Council heard budget presentations from various department heads including Administration, Auditor, Clerk, Treasurer, Recorder, Attorney, Assessor, and Precinct Court. Requests will be discussed further with the Auditor and Manager. No action was taken.

ANNUAL MEETING WITH LEADERSHIP GROUP

The Council met with members of the 2011 Park City Leadership Group to answer questions and provide information regarding operations of County Government and responsibilities of the County Council. The discussion was followed by a dinner held at Denise's Home Plate.

All other business being completed, the Council dismissed at 6:00 p.m.

Chris Robinson, Council Chair

Kent Jones, County Clerk

MINUTES

SUMMIT COUNTY
BOARD OF COUNTY COUNCIL
WEDNESDAY, NOVEMBER 30, 2011
COUNCIL CHAMBERS
COALVILLE, UTAH

PRESENT:

Chris Robinson, Council Chair
David Ure, Council Vice Chair
Sally Elliott, Council Member
John Hanrahan, Council Member
Claudia McMullin, Council Member

Robert Jasper, Manager
Anita Lewis, Assistant Manager
Dave Thomas, Deputy Attorney
Kent Jones, Clerk
Annette Singleton, Office Manager
Karen McLaws, Secretary

In the absence of Chair Chris Robinson, Vice Chair David Ure assumed the chair.

CLOSED SESSION

Council Member Hanrahan made a motion to convene in closed session for the purpose of discussing litigation. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0. Council Member Robinson was not present.

The Summit County Council met in closed session from 11:25 a.m. to 11:40 a.m. to discuss litigation. Those in attendance were:

David Ure, Council Vice Chair
Sally Elliott, Council Member
John Hanrahan, Council Member
Claudia McMullin, Council Member

Robert Jasper, Manager
Anita Lewis, Assistant Manager

Council Member Hanrahan made a motion to dismiss from closed session to discuss litigation and to convene in closed session to discuss personnel. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0. Council Member Robinson was not present.

The Summit County Council met in closed session from 11:40 a.m. to 12:00 noon to discuss personnel. Those in attendance were:

David Ure, Council Vice Chair
Sally Elliott, Council Member
John Hanrahan, Council Member
Claudia McMullin, Council Member

Robert Jasper, Manager
Anita Lewis, Assistant Manager

Council Member Elliott made a motion to dismiss from closed session and to convene in work session. The motion was seconded by Council Member Hanrahan and passed unanimously, 4 to 0. Council Member Robinson was not present.

Vice Chair Ure called the work session to order at 12:05 p.m.

WORK SESSION

- **Council Mail Review**

The Council Members reviewed the schedule of upcoming meetings and agenda items.

- **Presentation of Senior Issues Strategic Plan; Anita Lewis**

Assistant Manager Anita Lewis introduced Rhoda Stauffer, housing specialist with Park City Municipal Corporation, and Bill Pidwell, M.D., with the Park City Clinic, who have worked with the senior advisory group. She reviewed the staff report and recalled that in 2009 concerns were expressed about gaps in the senior program, and she and Ms. Stauffer conducted a survey regarding those concerns. The survey identified six major issues, including information dissemination, program participation, aging in place, housing, transportation, and staffing. She explained that they would like to focus on the goal of information dissemination in 2012 and reviewed the strategies proposed to help with information dissemination. She requested that the County Council adopt the strategic plan so the advisory group will know that the Council supports it.

Ms. Stauffer commented that the plan came from the working group, which includes representatives from all the senior centers, and she believed it was a well-rounded strategic plan.

Dr. Pidwell agreed that they have good representation and explained that they focused on the major issues and how to address them in a reasonable and timely manner. They are starting with something that will have very little financial implication, and they will depend on the media to help disseminate information. Over time, the financial implications may change as they address senior housing, transportation, etc.

County Manager Bob Jasper stated that he supports the strategic plan but expressed concern that the clerical staff now handles the seniors' needs, which takes away from other duties. If he had a choice, he would hire someone to work with the senior program aside from the clerical staff. Council Member Elliott suggested that the Council make it a priority next year to consider hiring someone to work with volunteer and senior services. Ms. Lewis explained that an individual has volunteered to work with the seniors on a volunteer basis for now, and over time as the seniors get to know this person, they may be able to work that out. Ms. Stauffer noted that one of the goals is to fully staff the program, and they recognize that will not happen immediately, but they will continue to pursue that goal.

Council Member Hanrahan asked what component of senior services is mandated by law and what component is voluntary. Ms. Lewis explained that Federal funding comes to the County for Meals on Wheels and congregate feeding, which is the basic service the County is responsible for providing. Over time, other services have been added because of requests from the seniors and healthy living lifestyles the County thought would be helpful for them.

Ms. Stauffer explained that members of the working group are also interested in participating more fully in the program on a volunteer basis to help achieve the goals.

Vice Chair Ure commented that he is not opposed to providing additional services, so long as there is money to provide those services. He asked if approving the strategic plan would require that the County fund the other goals in the plan. Ms. Lewis stated that she did not believe adopting the plan would obligate the Council to future funding. They just want to get the plan in place so they have a direction and goals to work toward.

Council Member Hanrahan asked about fees or donations to help fund senior programs. Ms. Lewis explained that when the seniors go on outings, they pay for the cost of the activity.

Mr. Jasper noticed that there is a senior center in Coalville and one in Kamas, and he believed the cities should also participate financially. Ms. Lewis explained that the committee will make appointments to attend the City Council meetings and present the strategic plan there.

- **Continued discussion regarding conservation easement on the Koleman/Miss Billies' open space; Ashley Koehler**

Sustainability Coordinator Ashley Koehler reviewed comments from the last work session that the County Council asked Summit Land Conservancy to address. Regarding the indemnification clause, she explained that the County holds a general liability policy on all County-owned open space, but it has not been the County's practice to indemnify other entities.

Greg Peters with Summit Land Conservancy explained that they would agree to exclude the entire road easement from the conservation easement. He explained that they may need to commission a second survey to determine the exact acreage after exclusion of the road easement, which he believed would be a cost incurred by the County. With regard to the state of title, he explained that when Summit Land Conservancy acquires a conservation easement, it would be subservient to any mortgages or liens that exist on the property, and they want to be sure the title is clean and still marketable by the County. Council Member McMullin explained that insuring that the title is clean is different from the County warranting that the title is clean. Mr. Peters stated that they want to be sure that the County is aware that the title is clean, and the Summit Land Conservancy Board was concerned that the County was not willing to guarantee that the title is marketable. Council Member Elliott noted that, if it is in the easement in perpetuity, it does not matter whether the title is marketable or not. Vice Chair Ure stated that the County is giving this easement to Summit Land Conservancy, yet they want the County to incur more expenses, and he questioned why they need Summit Land Conservancy for this easement. Mr. Peters stated that Summit Land Conservancy would incur the cost of the additional title report, and their policy is clear that they will not take easements unless they can guarantee that the title on the property is clear. Vice Chair Ure suggested that the County maintain and control the open space itself. Council Member McMullin stated that Summit Land Conservancy can get

another title report at their own expense if they want, but that is different from asking the County to guarantee that it is marketable title.

Mr. Peters referred to a change in the language that the owner represents to the best of their knowledge there is no litigation and stated that Summit Land Conservancy has no problem with that language change. He would have to take the removal of Section 11 on indemnification back to the Board and asked if the Council has suggestions for altering that language. Through their standards and practices, Summit Land Conservancy has to insure that some indemnification language is included. Mr. Jasper explained that, typically, a conservation easement is for a landowner who is going to continue to use his property. In this case, it is a government entity that has purchase the property for open space, and they are being held to the same standards as a rancher or farmer. This is not a typical conservation easement like they would have with a rancher or farmer, and it needs to be treated differently. Mr. Peters stated that they hold other municipal easements, which all include this indemnification language. He explained that the intent is to protect Summit Land Conservancy from being named in a lawsuit if someone uses the property and is injured. Council Member Elliott suggested deleting Section 11 and including the language that the County agrees to maintain general liability insurance on the property. Council Member McMullin explained that it should be an insurance provision stating that the County agrees to maintain general liability insurance. Mr. Peters stated that they would need to be named in the general liability insurance policy.

Mr. Peters stated that they have no problem with the amendments to the assignment language and stated that Exhibit B-1 will be updated. He also confirmed that the easement will exclude the road and parking area. Council Member Hanrahan confirmed with Mr. Peters that this agreement would not preclude additional trails. Mr. Peters explained that they will reference the Recreation District's master trails plan in an exhibit so it will be understood that it is to be adhered to for recreational uses in the future, and if it changes in the future, it will be reflected in the exhibit.

REGULAR SESSION

Vice Chair Ure called the regular meeting to order at 1:50 p.m.

- **Pledge of Allegiance**

PROPOSED PROPERTY TAX PRIMARY RESIDENCY EXCEPTION – JANA BIGELOW

Ashley Rowser with the County Assessor's Office stated that the Assessor recommends that the exception be granted.

Council Member Hanrahan made a motion to approve the primary residency exemption for 2011 for Jana Bigelow as recommended in the packet. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0. Council Member Robinson was not present.

RECOMMENDATION AND POSSIBLE ADOPTION OF SENIOR ISSUES STRATEGIC PLAN

Council Member Hanrahan made a motion to adopt the Senior Issues Strategic Plan as presented. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0. Council Member Robinson was not present.

CONSIDERATION AND POSSIBLE APPROVAL OF AMENDMENT TO SUMMIT COUNTY CODE TITLE 2, CHAPTER 27, SUMMIT COUNTY SERVICE AREA #3, BY ADOPTION OF AN ORDINANCE

Council Member Hanrahan made a motion to approve the amendment to Summit County Code Title 2, Chapter 27, Summit County Service Area #3, by adoption of Ordinance 749-C. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0. Council Member Robinson was not present.

DISCUSSION AND POSSIBLE APPROVAL OF INTERLOCAL COOPERATION AGREEMENT BETWEEN SUMMIT COUNTY AND MORGAN COUNTY REGARDING THE CONDUCT OF A FIELD SURVEY OF THE SUMMIT/MORGAN COUNTY BOUNDARY LINE

County Recorder Alan Spriggs presented a map showing the existing boundary line between Morgan County and Summit County. He explained that the boundary line is described as being at the top of the ridge, but the ridge is somewhat flat, and there have been problems with surveys of property lines in the area. The County has been asked to locate the boundary line precisely and adjust the property boundaries accordingly. The Stagecoach Subdivision has been surveyed to the mathematics of the subdivision plat, which falls short of the ridgeline. Mr. Spriggs explained that the County will adopt the line on the ground and exchange titles to solve the subdivision problems. The County has done its part by defining where the boundary line is located, Morgan County will share in the cost of the surveyor, and both Counties will adopt the boundary line. He requested that the County Council approve the interlocal cooperation agreement between Morgan and Summit County for the survey.

Mr. Jasper noted that the Council did not provide money in the budget this year to pay for a surveyor, and some money needs to be included in the budget to cover that.

Council Member Elliott made a motion to approve the interlocal cooperation agreement between Summit County and Morgan County to conduct a field survey of the Summit/Morgan County boundary line. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0. Council Member Robinson was not present.

CONSIDERATION OF ADOPTION OF RESOLUTION 2011-22 REGARDING GOAL OF COUNTY FOR SUSTAINABILITY PLAN; ASHLEY KOEHLER

Sustainability Coordinator Ashley Koehler provided a brief background of the County's sustainability plan. She noted that she has incorporated the Council's comments from the August 31 work session and contacted each department in the County to introduce the plan to them. She highlighted the number of staff and community members and businesses involved in

developing the plan. She reviewed the goals and accomplishments over the years to reduce carbon emissions and stated that the Council's goal is to reduce carbon emissions by 13% from the business-as-usual forecast by December 31, 2013. She reviewed the major sections of the plan, including promoting renewable energy and energy efficiency for the community, promoting weatherization in the community, especially targeting low-income households or seniors who need weatherization help, focusing on education of County employees, increasing recycling efforts, analyzing technologies and fuels for fleet lease vehicles and researching vehicles that are more efficient and fit the job, and inventorying the County's open space and identifying how to manage it.

Council Member Elliott commented that the County has already made significant strides in implementing sustainability efforts, and she thanked Staff for all they have done in that regard.

Council Member Elliott made a motion to adopt Resolution 2011-22 regarding the goal of the County for a sustainability plan. The motion was seconded by Council Member Hanrahan and passed unanimously, 4 to 0. Council Member Robinson was not present.

MANAGER'S COMMENTS

Mr. Jasper reported that there were not many bids on the TRT bond for the Visitor's Bureau. They will have to amend the 10-year agreement to state that the County will deduct the amount to cover the debt service from the amount the Chamber Bureau would otherwise receive in TRT proceeds. The best bid appears to be a 20-year bid from Zions Bank. All the bidders wanted guaranteed rates for 10 years, and he believed in the next 5 to 10 years the County would be looking at another bond for the fairgrounds, and they would have an opportunity to include the balance of this bond in another bond issue.

Mr. Jasper stated that he would be meeting with the Park City Manager and some of his budget staff and their auditor to talk about the tax miscoding issue. The State Tax Commission has directed the County to change 2011 retroactively and to change 2012.

COUNCIL COMMENTS

Council Member Hanrahan stated that the Health Board Chair has asked that programming for County staff for healthy lifestyles and wellness preventive health care be included on the agenda for their meeting Monday evening. Council Member Hanrahan recalled that this was discussed a little over a year ago during the budget cycle, and they decided to wait and take a more comprehensive planning approach. He asked if there is anything in the Health Department budget for a program this year. Ms. Lewis replied that about \$8,500 is budgeted, but the budget committee has recommended that they get a more formal plan in place for a healthy lifestyle program. Council Member Hanrahan asked if the Council would like to promote a healthy lifestyle program. Mr. Jasper suggested that they get the employees involved in the process and return in a month or two with input from the employees.

Vice Chair Ure asked for an update on the Jeremy Ranch Golf Course tax appeal.

APPROVAL OF COUNCIL MINUTES

OCTOBER 26, 2011

NOVEMBER 2, 2011

NOVEMBER 9, 2011

Council Member McMullin made a motion to approve the minutes of the November 9, 2011, County Council meeting as written. The motion was seconded by Council Member Elliott and passed unanimously, 4 to 0. Council Member Robinson was not present.

Council Member Elliott made a motion to approve the minutes of the October 26 and November 2, 2011, County Council meetings as written. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0. Council Member Robinson was not present.

Council Member Robinson arrived and assumed the Chair.

WORK SESSION – (Continued)

- **Review and discuss County revenues; Blake Frazier**

Mr. Jasper noted that the revenues estimated for 2012 are \$2.3 million less than the 2010 actual revenues. County Auditor Blake Frazier explained that the 2011 revenue estimates do not include transfers in and out, but the 2010 figures do include transfers. He stated that the main difference between the budget and estimated property taxes is the Flagstaff annexation issue, which is a Municipal Fund issue. He noted that redemptions are ahead of last year, sales and use taxes are about the same as last year, and business licenses are about four times higher.

The Council Members and Mr. Jasper discussed various revenue projections as presented by the Auditor's Office. Chair Robinson asked why the 2012 budget has to show a higher amount of revenues in order to keep the tax rate up and stated that he did not understand the relationship between the two. Mr. Frazier explained that State law does not allow the County to charge more than what it budgets for when it sets the tax rate. If the certified rate would generate \$15 million and the County budgeted for \$14 million, the County could only charge \$14 million and would lose the other \$1 million. Chair Robinson suggested that they budget an additional surplus on property taxes so they would be certain to have a decent surplus rather than budgeting for all the projected revenues to be spent. Mr. Frazier explained that property taxes are broken into four different areas, and they have budgeted for a \$650,000 surplus in the General Fund. Mr. Jasper explained that they could make the numbers more conservative and still keep the tax rate intact. Chair Robinson suggested that they drop the fee in lieu amount to \$550,000 and put an additional \$300,000 in the General Fund surplus. The other Council Members agreed with that concept.

Chair Robinson reviewed the other revenues and commented that they seem to be reasonable, except for the jail reimbursement fund, which he believed should be reduced. Mr. Jasper explained that he would be willing to adjust the bottom line for revenues, but there are ways to bring down the totals without adjusting every line, and they need to fund a budget that is reasonable. Council Member Hanrahan stated that he believed it would be reasonable if the philosophy is to go back to 2010 actual and 2011 estimated revenues. Mr. Jasper stated that he hoped the Council would leave his and the Auditor's recommendations as they are and find some

other way to balance the budget with a surplus account. He explained that the Auditor is responsible for making estimates, and he did not want to change every estimate line by line. He would not mind reducing the bottom line, but he believed the Auditor should make the estimates for the line items. The Council Members reviewed and discuss various line items in the projected 2012 revenues. Chair Robinson requested a column showing actual 2010 and the Manager's budgeted 2012 revenues the next time they see the revenue report. Chair Robinson verified with Mr. Frazier that the contributions from surplus are from various restricted funds to the General Fund.

Matt Leavitt with the Auditor's Office summarized the changes made by the Council Members. There would be a transfer of \$332,000 from property tax revenues to a surplus account; fee in lieu would be reduced to \$550,000, a difference of \$150,000; redemptions would be increased to \$200,000, an increase of \$50,000; jail reimbursement would be decreased to \$450,000, a decrease of \$200,000; subdivision fees would be increased to \$245,000, an increase of \$125,000; and plan check fees would be increased by \$50,000. It was noted that the total decrease in revenues would be \$40,000, plus the \$332,000 to be transferred to surplus from property tax revenues.

Chair Robinson explained that next year they will approve a budget based on the 2012 budget, and he would rather have the line items represent what the Council believes will actually happen rather than assuming that one figure may be high and another one may be low and considering it to be a wash. He wanted revenues to represent what they believe is reasonable for each revenue source.

- **Public Works, including Road Department, Engineering and Fire Warden**

Public Works Director Kevin Callahan reviewed the Public Works Department administrative budget and indicated areas where the budget was reduced based on the Manager's recommended budget. He stated that he believed they could cut back in some areas to accommodate that recommendation. He explained that there are a number of uncertainties in the larger budgets, such as fuel, but he hoped to be able to absorb them somewhere in the budget. He noted that the helicopter rental was cut in the weed budget. Mr. Leavitt explained that the revenues that come in from the weed spray program are in a special revenue fund, and the budget committee recommended that they start to use those funds that have built up in that account. Mr. Callahan answered a number of questions posed by the Council Members regarding various items in the Public Works budget. He noted that a portion of the wildland fire budget will be funded by the new tax on property within the wildland fire district.

County Engineer Derrick Radke reviewed the road budget and road projects in Service Area 6 and other municipal capital road projects and explained that the projects requested for 2012 total \$665,000. The Manager's recommendation of \$941,000 for 2012 would only allow the County to do about \$50,000 of capital maintenance projects because of the increase in the fleet lease fund for new equipment. With a \$1.2 million budget, they could do \$290,000 in capital projects. Mr. Callahan clarified that the Manager's recommendation of \$1.2 million would be contingent on modifying the assessment in Service Area 6, which has not changed in 30 years.

The Council Members requested that the Manager confirm the amount of revenue that would be generated by the proposed tax increase in Service Area 6.

ANNUAL REPORT OF THE SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT

District Director Rena Jordan provided an overview of the operations and maintenance tax rate levy and balances in the various accounts. She noted that the District has used money from the capital fund to enhance amenities in the Recreation District. They have managed growth over the last six years with a balanced operations and maintenance budget and have been able to contribute to the capital and general fund savings balances. They have been conservative in their 2012 estimates, because they do not know what the tax revenues will be until mid-January. She provided a brief overview of the Recreation District's overall responsibilities and the Recreation District staff.

Board Member Elliott expressed concern that the Recreation District employees are the highest paid employees in Summit County and getting raises while the County is having to lay people off. Board Member Hanrahan stated that he would be interested in knowing what process the Recreation District goes through in making the determination to give raises. Ms. Jordan explained that the District hired a consultant to look at recreation jobs in other mountain recreation areas and the surrounding area, and their payroll philosophy is to be in the top 25%. She did not know how that compares to County-specific jobs, because that would be like comparing apples and oranges. She explained that they used the information from the consultant to update the jobs that had not been updated for three years and are trying to stay current with that. She recalled that four years ago they reorganized and eliminated positions, and the payroll would have been much higher had they not done that. She also noted that the employees have taken on more responsibility.

CLOSED SESSION

Council Member Elliott made a motion to convene in closed session for the purpose of discussing litigation. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.

The Summit County Council met in closed session from 4:10 p.m. to 4:15 p.m. for the purpose of discussing litigation. Those in attendance were:

Chris Robinson, *Council Chair*
David Ure, *Council Vice Chair*
Sally Elliott, *Council Member*
John Hanrahan, *Council Member*
Claudia McMullin, *Council Member*

Robert Jasper, *Manager*
Anita Lewis, *Assistant Manager*
Gary Sackett, *Special Counsel*

Council Member Elliott made a motion to dismiss from closed session and reconvene in regular session. The motion was seconded by Council Member Hanrahan and passed unanimously, 5 to 0.

CONVENE AS THE BOARD OF EQUALIZATION

Council Member Hanrahan made a motion to convene as the Summit County Board of Equalization. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0. Council Member Elliott was not present for the vote.

The meeting of the Summit County Board of Equalization was called to order at 4:20 p.m.

APPEAL OF SUMMIT WATER DISTRIBUTION COMPANY TAX ASSESSMENT

Chair Robinson introduced Gary Sackett with the legal firm of Jones Waldo, who will represent the Board of Equalization in this matter. He noted that questions had been raised regarding Bruce Babcock, also with Jones Waldo, who had dealings with the County in 2006, and the fact that Mr. Sackett has represented another taxpayer who protested his taxes in a matter that did not come before the Board of Equalization. Chair Robinson stated that it was his opinion that no conflict has risen to the level that the Board of Equalization should not engage Mr. Sackett as legal counsel based on those two potential conflicts.

Scott Lilja, attorney representing Summit Water Distribution Company, stated that, with regard to Mr. Babcock, he did not believe there was a conflict with Mr. Sackett's representation in terms of a disqualifiable conflict under the rules of professional conduct. However, to the extent that there was a claim where Mr. Babcock operated as independent counsel, the issue of independence is questionable. Chair Robinson stated that the Board has noted that, and none of them know Mr. Babcock or have had any communication with him. He stated that they could instruct Mr. Sackett to not talk to Mr. Babcock about this matter if it is the Board's opinion that they should do so. Otherwise, they will note that Mr. Lilja has raised the conflict and move on.

Mr. Lilja explained that this matter arises from real property and personal property taxes assessed against Summit Water on property described as water distribution infrastructure, which consists of pipelines, a water treatment plant, and pumps. The same conflict arose in 2000 regarding the same water distribution system, and for the next 10 years it was in litigation. After that ruling, Summit Water was immediately served with another tax assessment on the same system. The basis for those taxes is that they are escaped property under the Tax Code, both real escaped property from 1996 through 2003 and personal escaped property from 2004 to 2010. If this is not escaped property, he claimed that there is no basis to tax it under the Tax Code and that escaped property, real or personal, can only be assessed in one of three circumstances. One is if property is inadvertently omitted from the tax rolls, which means unintentionally. The facts in this case show that there is nothing unintentional about not including these materials on the tax rolls. In fact, they have been included on the tax rolls and have been taxed. Unless any failure to include the property in the tax rolls was inadvertent, it cannot be taxed as escaped real property. In 2000, Summit County found through an audit that this was water distribution equipment that they believed had not been taxed. Summit Water told the County that the water system was an improvement to real property and had been taxed. The County proceeded to tax it as escaped personal property, which resulted in a lawsuit. The County chose to tax the water system as they did. They were fully aware of what it was, of its value, and they made a choice to tax it as personal property. Mr. Lilja claimed that the County was wrong in doing so, and the Utah Supreme Court has told the County it was wrong. He claimed that the County's choice was not inadvertent but was a conscious decision to take one direction rather than another, and this is not

escaped property, because the County had full knowledge of the existence of the water distribution facilities and their value.

Mr. Sackett noted that Mr. Lilja stated that the Supreme Court decided this issue. He clarified that the Supreme Court only decided on the irrigation issue and the double taxation issue. It did not decide the question of personal versus real property. Mr. Lilja concurred that the County did not appeal the decision of Judge Morris on that point. Mr. Sackett further clarified that it is not right to say that the Supreme Court decided that issue.

Mr. Lilja further claimed that the escaped tax statute is not intended to correct mistakes made by the assessing authority, and this was a knowing, conscious decision by the County, so it is not escaped real property. He stated that the second circumstance under which property can be deemed escaped property for purposes of taxation is when the property is omitted from the tax rolls because of the failure the taxpayers to comply with reporting requirements. If the taxpayer does not disclose property of which the assessor is not aware, and the property was not subject to tax, it would qualify as escaped property. The third circumstance where property could qualify as escaped real or personal property would be where property is undervalued due to incomplete information from the taxpayer, the County is unaware of the complete information, and the property is undervalued as a result. Mr. Lilja stated that Summit Water has returned the personal property affidavit to the County every year from 2000 to 2010 on which the County has listed all the water distribution facilities and other personal property owned by Summit Water. Each year Summit Water crossed out the property that would be considered water distribution facilities, noting that the question of whether those facilities constituted personal property was to be decided in the pending litigation. The County accepted that, and it was determined in the pending litigation that those items are not personal property but are improvements to real property. As such, they are not taxable as personal property. Throughout this time period, the County was well aware of the existence of the property and of its value. To the extent the property was not taxed, it was not because of anything Summit Water did or failed to disclose. The County was fully aware of everything Summit Water knew about this property. What the County is supposed to do in a situation where they believe the taxpayer has not reported accurately is to assess the tax based on estimates and upon whatever basis they believe it should be taxed and apply penalties, and Summit County did not do that. He explained that they are only talking about personal property tax, because that is the only basis upon which the County ever asked for information about these facilities. No inquiry was ever made regarding real property with regard to those facilities.

Mr. Sackett noted that Mr. Lilja's argument with regard to the term "inadvertent" is that the County just made a mistake, and that is not inadvertent. He commented that it sounds like someone just misread the law and did it wrong, but in fact, the County and the appellant went to the Tax Commission, and the Tax Commission said the County was right. Therefore, it was not unreasonable that at least one body decided that the County was right, even though a tax court decided otherwise. It is not as if there was a clear misreading of the statute or the applicable law, because there are two bodies that disagree about it. Mr. Lilja replied that there is one that counts and one that doesn't. He did not believe reason has anything to do with that and that it does not depend on how reasonable the determination is. The County could act reasonably and make a mistake, and case law is clear that they do not get to reassess the property. Mr. Sackett stated that he has a problem with saying that the County made a mistake when what they did was

something the Court said they did wrong and in the meantime another body said they did it right. He had a problem with making “mistake” the watchword when it comes to inadvertence.

Chair Robinson stated that it appears Mr. Lilja is saying that the County should have hedged its bet by assessing the property as both real and personal property, and depending on how the Court ruled, they would have their bases covered either way. Mr. Lilja claimed that the water system was already taxed as real property, but if that was not the case, the County should have said they thought it had not been taxed as real property and should be. He compared this to the West Side case, in which the county assessed property as improved real property with buildings. Then they found out there was a building they had overlooked and came back and wanted to reassess it, because they inadvertently left it off. The court said they did not inadvertently leave it off and did not accept it as inadvertence, because it was not accidental.

Mr. Lilja stated that it is important to study the escaped property requirements, because the law is quite clear, and inadvertence does not mean someone made a wrong decision. The law is very clear that they do not get to go back and redo, because the taxpayers depend on the assessments they are given. With regard to tolling, there was correspondence between the County and Summit Water which the County asserted was an agreement that they would put everything on hold until the court decided the issue, and then the County would make a decision as to where to go from there. However, that is not reflected in any of the correspondence. Former County Assessor Barbara Kresser wrote a letter to counsel for Summit Water stating that the County was granting extensions for payments from 2001 and the ensuing five years for business personal property taxes pending the outcome of an appeal to the Utah State Tax Commission on the personal property owned by Summit Water Distribution Company. There are additional letters from Summit Water indicating that they are paying the personal property taxes from 2001 to 2005 in which they crossed out all the items in question due their stance concerning taxation of distribution system elements, stating that the taxing of those items would be resolved by the court. Mr. Lilja claimed that all of the letters reflect an agreement between Summit County and Summit Water to extend payment of business personal property taxes pending the determination as to whether those were properly assessed. The Court has decided that they were not properly assessed. Had the court determined that personal property tax was owed and assessed by the County, he claimed that it would have been paid pursuant to that extension, but the court did not make that determination. He also claimed that, after the matter came through the Tax Commission, the County was no longer willing to abide by the agreement as to the 1996 to 2000 taxes. Summit Water actually deposited in court some \$260,000 for not only the taxes but also the interest and penalties assessed by the County, and the concept of a tolling or standstill agreement would not contemplate the payment of interest.

Chair Robinson asked why Mr. Lilja believes that to be the case and why Summit Water should get an interest holiday, because the appellant would have time value of money, and the County would have lost that time value. He stated that he does not agree with that concept. Mr. Lilja made the point that, under the agreement with the County, Summit Water received an extension from paying personal property taxes, and they were not tolling anything. If it were a tolling agreement, time would stand still, but the County is claiming that the appellant’s rights stood still while the County’s did not, which makes no sense. He explained that a tolling agreement is a standstill, not an agreement that the property owner has to pay taxes and interest and the County gets to go back and reassess taxes later on if they feel like it.

Mr. Lilja referred to the Beaver County case, which says that they do not get equitable tolling unless they qualify under a discovery rule. The discovery rule means they did not know about it and did not discover it until too late. The County clearly knew about this property in 2000 and cannot claim equitable tolling. From 2004 to 2010, the County has now changed its tactic, claiming that in 2004 there was a revision to the Tax Code under which the Tax Commission could designate even real property as personal property, and it could be subject to personal property tax. However, that argument was not raised until 2011. He referred to a case involving Holladay Water in which the Tax Commission determined that their pipelines, which were found to be improvements by the court in this case, were improvements through 2003, and the court went on to consider whether that status changed from 2004 to 2007. They determined it did not and that the pipelines continued to be improvements to real property after the amendment to the tax code. The idea that the Tax Commission can convert real property improvements into personal property is contrary to the Tax Code itself. Mr. Lilja contended that is outside of the authority of the Board of Equalization, and in this case as in other cases, it would result in double taxation, because the improvements are already taxed under the fair market value of the real property to which they are attached. He asked the Board to keep in mind that the law is clear that tax statutes and any ambiguities in those statutes must be construed literally in favor of the taxpayer. For the past 10 years Summit Water and Summit County have been in court resolving their tax disputes, and Summit County lost, which he believed should be the end of it.

Mr. Sackett verified with Mr. Lilja that Summit Water believes the facilities they are talking about, which the County previously identified as personal property and which were established judicially as real property except for about 1%, are already taxed as part of the real property, and those assessments have been paid. He asked if it is Mr. Lilja's view that when the County considered the facilities as personal property, they were already double counting them. Mr. Lilja replied in the affirmative. Mr. Sackett asked if Mr. Lilja would not admit to the possibility that the County had divided the facilities and not included them in the real property side. Mr. Lilja replied that he believed the facilities were included in the fair market value of the real property assessments. To the extent they were not included, the real property was assessed and taxed as improved property. Under case law, if the County failed to distinguish that any improvement is not included in that, it is included in it for purposes of later determination of escaped tax. He claimed that the courts have been very clear about that. If the County taxes someone on their real property and they make a mistake in the assessment, it does not matter. The County cannot come back and re-tax it. If they tax real property as improved real property and list buildings on the assessment and it turns out that there are more buildings than the ones listed, the County cannot re-tax the property owner, even if the building was excluded from taxation, unless the taxpayer was given notice on the tax notice that it was excluded.

Deputy County Attorney Dave Thomas, representing the County Assessor, commented that the red herring in the appellant's argument is whether the property is real or personal property. He explained that all tangible taxable property, whether real or personal, that is located in the State, is taxable at fair market value, and classification of the property as real versus personal is immaterial to the payment of property tax. The difference with personal property is that the owner is allowed to depreciate it. With regard to the Assessor's opinion that the water works were real property from 1996 to 2003 and personal property from 2004 to 2010, historically the Tax Commission classified utility transmission lines as personal property, but they did that without authority from the State Legislature. The Summit Water case brought that issue to light, and the Legislature then changed the Tax Code in 2004 and granted the Tax Commission the

authority to classify transmission lines as personal property and include that on the Tax Commission's official schedule. He presented the Tax Commission's official schedule and noted that it classifies water pumps, water purification equipment, and pipeline and pipeline systems as personal property. He noted that the tax schedules are the same as they have always been, but they re-published them after the action of the Legislature. He clarified that the purpose of the legislation was to validate that everything the Tax Commission thought was personal property before 2004 is classified as personal property after 2004. All their administrative decisions, prior rules, and prior schedules were all ratified by that legislative action. The court found in August 2009 that the transmission lines and pumps were real property until 2001, because that was all the court considered. The County Assessor determined from that decision that the transmission lines and pumps were real property until 2004, but in 2004 he had to choose whether to follow the Tax Commission's official schedule or default to the court's decision and extend it until 2010. Mr. Lilja claims that the County never brought that up, but the County brought it up repeatedly with the District Court throughout the entire case, and the judge made a footnote in 2009 that the County made that argument.

Mr. Sackett commented that essentially Judge Morris trumped the Tax Commission's rule making. Mr. Thomas agreed that he did for the years 1996 through 2001, because that was all that Judge Morris considered. He did not consider what happened with the 2004 amendments. Summit County brought it up, and in the footnote, the judge said it was not relevant. Mr. Sackett commented that the judge's decision was substantive and not targeted at specific years, and he was having trouble differentiating that somehow the judge's opinion about what is or is not real property somehow stopped at 2003 or 2004. Mr. Thomas claimed that it stopped because, before that time, the Tax Commission did not have delegated authority to designate personal property. Mr. Sackett asked if the judge rejected that argument when he made his decision. Mr. Thomas replied that the judge said that from 1996 to 2001 the Tax Commission did not have the authority to designate, and the Legislature gave them that authority in 2004, but not retroactively.

Mr. Thomas explained that the County Assessor made the decision on August 8, 2011, to follow the Tax Commission's official schedule, which became effective in 2004. Summit Water has argued that pipelines can be personal property but lose that character once they are put in the ground. However, the Tax Commission Classification Tables indicate that "pipelines and pipeline systems" are personalty. Black's Law Dictionary defines a system as an "orderly combination or arrangement, as of particular parts or elements into a whole." People do not put together a pipeline and then put it into the ground, the pipeline is installed on site in the ground. He noted that the Holladay Water Company case cited by Summit Water was heard by an Administrative Law Judge, not the full Tax Commission, and was just decided only a few weeks ago. Salt Lake County has until December 9 to file an appeal for a formal hearing before the Tax Commission.

Mr. Thomas explained that the County Assessor had no preference as to whether the Summit Water system is considered to be real or personal property after 2004; he simply wanted to comply with the Tax Commission's official schedule. The Assessor's position is that whether the system is real or personal property is immaterial, but that does not alleviate the payment of property taxes. The real issue in this appeal revolves around escaped property, and he reviewed the definition of escaped property, noting that escaped property may be assessed at any time as far back as five years prior to the time of discovery. In 2000, Summit Water filed a personal property tax affidavit stating that they had personal property of \$26,000. The Property Tax

Division of the Tax Commission determined in an audit in late 2000 that the pipes and other equipment owned by Summit Water were personal property and that the value was \$5 million. Summit County did not conduct the audit, the Tax Commission made that determination, and that has always been the Tax Commission's position in terms of taxation of the pipelines. Board Member McMullin verified with Mr. Thomas that the Tax Commission added in the pipeline, pumps, and purification equipment as personal property and assessed a value of \$5 million, then went back four years and reassessed the value retroactively.

Mr. Thomas recalled that on March 29, 2001, the Board of Equalization found that there was escaped personal property. Summit Water appealed, asserting that the water works were real property, not personal property, that there was a tax exemption of 51% on the water works, that this was unconstitutional double taxation, and that the asset was worth \$0 because it had already been taken into consideration and had already been taxed. Board Member McMullin asked if the Board of Equalization in 2001 stated that this was escaped personal property. Mr. Thomas replied that they did. Mr. Thomas stated that on July 25, 2001, County Assessor Barbara Kresser provided notice that the County was granting an open-ended extension in terms of payment of the property taxes. The following year another open-ended extension was granted, which included 2002 and future tax years. In January 2003 the Tax Commission found in favor of Summit County and noted that, even if the property had been misclassified, it would still qualify as escaped real property. The character of the asset did not make any difference as to the payment of the tax. On January 25, 2006, Summit Water sent a letter to Summit County stating that they were striking off all the water works from the personal property tax affidavit, because they were awaiting the decision on the appeal. If this were not part of a tolling agreement, it would make no sense for the County to have agreed to it, because if they were not agreeing to toll the property tax, the five-year look-back had already passed. There would be no reason the County Assessor would have agreed to that if she did not believe it would all be tolled for the future, and that is what she states in her affidavit. She stated that she had a long-standing agreement with Van Martin at Summit Water that they would settle up at the end.

Mr. Sackett stated that he was not clear about what "settle up" means. He believed that, if the County were going to be careful about the tolling agreement, they would have stated that they are arguing about whether this is going to be real property, and if it turns out to be real property, they would agree that the County would go back and add it in as real property that was not included in the value, but that is not stated anywhere. Mr. Thomas stated that is what the County Assessor understood the deal to be. Otherwise, it would not have made sense for her to not do something about it. Chair Robinson verified with Mr. Thomas that the understanding was that, if the County's position that this was assessable as personal property was proved wrong, the County would have the opportunity to construe as real property. Mr. Thomas explained that there were also valuation issues, and all of that would be resolved at the end. It would not have made sense for the County to do what it did without that understanding in place. He explained that on August 31, 2009, the court ruled that the water works were real property with a 51% tax exemption, and the court found that there was no double taxation. The result of the ruling is that the County views the water works from 1996 to 2003 as real property, and starting in 2004 based on the Tax Commission classification tables, it is considered to be personal property. However, the classification does not really matter, because Summit Water needs to pay the taxes either way. The Supreme Court affirmed the decision of the trial court on July 29, 2011. The County Assessor then made the assessment, and for the first time, Summit Water stated that they would not recognize the long-standing agreement.

Mr. Thomas explained that there is no argument that 49% of the water works is taxable property, which was found by the District Court and affirmed by the Supreme Court. The two issues are whether the water works are escaped property and whether the Assessor can go back more than five years to assess the property. The County claims that the water works are escaped property because the value was underreported, and the County won the argument at the Supreme Court that this was not double taxation. Summit Water intentionally struck off the water works from the tax rolls, and since all the parties agreed that it was under dispute, the water works could not have been added as real property at that time. The Tax Commission found in its 2003 decision that the water works was escaped real property inadvertently omitted from the tax rolls. Even if the Tax Commission ruling were vacated in its entirety, the reasoning of the Tax Commission still holds true, and it was never overturned. A misclassification of property does not relieve a taxpayer of paying his taxes, and that applies whether the water works are real or personal property. Summit Water received an extension in terms of escaped property.

With regard to the West Side case cited by Summit Water, Mr. Thomas explained that the facts were that on the tax notice, the improvement to the real property said “buildings,” and the assessor tried to add a building they had missed. The court in that case said that, “for an improvement to qualify as an escaped property rather than an under-assessed property, the tax assessment notice must not list the improvement.” That does not apply in this case. The real property tax notice for Summit Water lists the Summit Water treatment plant as a non-primary building and specifically does not list the water purification or pipeline system as improvements. The pipeline system is not listed on any real property tax notices. Much of the land that the pipeline system crosses is simply designated as non-primary land, and two-thirds of it is in the County’s right-of-way according to the court decision. Since the pipeline runs across land not owned by Summit Water, Summit Water would have received a separate tax notice per State law, but because the County viewed it as personal property, Summit Water did not receive such a tax notice based on it being real property. From 1996 to 2003, the water works were not added to the realty, because they were awaiting a court decision. There was no mistake by the County. The tax notice on the realty showed a value of about \$1 million, and from the Tax Commission audit, the water works were valued in 2001 at \$5 million, so they were not part of the real property tax notice. The County asserts that the property was personalty from 2004 to 2010, but even if it were realty, the parties were still awaiting a court decision as to the character of the property, and there was no mistake or negligence on the County’s part, which is an important aspect of escaped property.

Mr. Thomas asserted that the five-year look-back provision as cited in the Beaver County case is not applicable. In this case the County believes equitable tolling is appropriate, and the discovery rule is triggered because the classification of the water works could not be ascertained by the County until after the conclusion of the tax appeal. Summit Water contested the classification of the property, and the District Court found in August 2009 that from 1996 to 2003 the water works were realty. Summit Water asserts that continues through 2010, so the County could not have assessed and collected tax on the water works as anything other than personal property, which the Tax Commission had ruled prior to the court ruling. Hence, the true classification of the water works was not discoverable until at least August 31, 2009, and the County could not have ascertained the classification or value of the property until that time. Summit Water would have the Board of Equalization believe that the County could have assessed the assets as both personal and real property at the same time. However, if they had,

that would have been double taxation. Prior to that, the County also could not have assessed and collected tax on the water works at anything other than 100% of value, because the true value was not discoverable until July 29, 2011. Mr. Thomas argued that the five-year look-back is tolled because the County believed they had an extension, and it would not have made sense for the County to have done what it did unless there was a tolling agreement in place where the County believed there was an opportunity to go back and settle up. The complexity and paradox the County Assessor found herself in was that she could have continued to send out bills and have Summit Water continue to strike off the items, but both parties knew that the type of property was not going to be decided until the end of the tax appeal. Summit Water makes no argument as to a five-year look-back for 2007 to 2010, because no tolling is needed for those years. Their argument is based on this not being escaped property, and Summit County believes the Tax Commission has already determined that it is escaped property. Even if Summit Water is correct that the water works are real property, it does not change the asset's status as escaped property. It was still undervalued and inadvertently omitted from the tax rolls due to the classification dispute. It does not change the discovery rule, because the asset was not discoverable due to the classification and valuation issues, and the tax extension argument is the same.

In conclusion, Mr. Thomas stated that there has been an 11-year dispute over classification and value of the water works. Whether they are realty or personalty is immaterial to the payment of taxes. The water works are taxable at 49% of their fair market value. In good faith, Summit County granted Summit Water a long-term tax extension with the understanding that the parties would settle up at the conclusion of the tax appeal. The total property taxes owed are a little more than \$1 million, which would actually be higher if the Board of Equalization finds the assets to be real property, because under the County Assessor's interpretation of personal property, they would be depreciable assets.

Chair Robinson asked how the County would tax the pipeline as real property when two-thirds of it is in public rights-of-way or across private properties where the owner of the property the pipeline crosses receives no benefit from it. Mr. Thomas replied that the real property owner would receive their normal tax assessment, and Summit Water would receive a separate real property tax assessment. Chair Robinson asked what percentage of the assessed value is on parcels owned by Summit Water and what percentage is on other properties. Mr. Thomas replied that the County does not know that. One problem associated with treating these assets as real property is what would happen to the property owner if Summit Water does not pay the taxes and whether the property would go to tax sale to collect back taxes. Chair Robinson confirmed that the 51% that was determined to be tax exempt would be retroactive and that the 51% exemption was included in the Auditor's calculation of the \$1 million figure. Mr. Lilja stated that he had no idea how the County calculated any exemption. In 2000 the Tax Commission audit valued the property at \$5 million. In 2001, the County is taxing at a value of \$7.5 million, claiming it to be 49%, and he had no idea where those figures came from. Mr. Thomas explained that, because Summit Water refused to provide any information, the County Assessor made an estimate using the building permits and other items that were of record to reconstruct a valuation. Mr. Lilja stated that there are a number of questions about how that calculation occurred, because the Tax Commission audit was in 2000, and suddenly Summit Water is being taxed on property at three times what that audit discovered. Mr. Thomas noted that the County Assessor in his August 8 letter invited Summit Water to meet with him and give him what they believe to be correct numbers.

Chair Robinson commented that he believes Summit Water's position has been that this is not taxable as personal property, and the County lost its chance at real property taxes, so they should forget it. However, he did not want to worry about the assessed values today but wanted to understand how the process works. If the court says they need to assess this as real property, he wanted to understand how they deal with pipeline that runs through other people's property, and if they fail to pay the tax, whether it would go to tax sale and what would be sold. Mr. Lilja claimed that the County has assessed it all to the water treatment plant. Mr. Thomas explained that the County would have to put a lien against whatever real property it can. Mr. Lilja stated that the County should assess this as part of the fair market value of the property on which the pipeline resides. If someone has a water line going across their property, it would actually decrease the fair market value, because it is an impediment on the property, and that is how fair market value assessment is done on real property. Chair Robinson noted that two-thirds of the pipeline is in public rights-of-way owned by Summit County, which is tax exempt. The Utah Code says that all tangible taxable property located within the State shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, and he asked how the County would assess that pipeline. Mr. Lilja claimed that it should not be assessed. Chair Robinson verified that Mr. Lilja is claiming that this tangible property is tax exempt because it is in the public right-of-way. Mr. Lilja claimed that is what the legislation says. Mr. Thomas suggested that it could be determined that it is part of a privilege tax.

Chair Robinson noted that in 2001 or 2002, the County required that the taxpayer deposit \$260,000 with the court for 1996 through 2001. Mr. Thomas clarified that the County did not require that for the extension beyond 2001. Chair Robinson also noted that in 2011 when the Supreme Court made its ruling, an effort was made by both parties to have that money released to them, and he asked why it was not released to the County. Mr. Thomas explained that it could not be released to the County, because the court ruled before receiving the Tax Commission's brief. The Tax Commission was one of the parties to the appeal, but by the time the Tax Commission answered, the court had already decided, with no explanation as to why. Chair Robinson commented that it appears that the Supreme Court as to 1996 to 2001 somehow determined that the taxes on personal property were not due to the County, and therefore the money was entitled to be refunded to the taxpayer. Now that the classifications have determined by the Court, the whole argument revolves around whether the County can go back and claim escaped real property and how it can do that. The appellant's position appears to be that the County had its opportunity and blew it. Even though the Tax Commission and its rule making sided with the County, somehow the County should have been smarter than that and foreseen that the court would overrule, or they should have gone on a parallel track and taxed the property as both real and personal property, which would have been double taxation. Mr. Lilja stated that the County should have taxed it as real property. Chair Robinson asked how they should have done that in the right-of-way. Mr. Lilja stated that they could do what they have just done and assessed the tax and attached it all to the treatment plant. Mr. Thomas explained that the County cannot assess personal property tax and real property tax during the same period on the same item, because that is double taxation.

Chair Robinson asked if Mr. Lilja would agree that the fundamental issue is whether the County now has an opportunity to claim escaped real property taxes on the improvements going backward. Mr. Lilja stated that there are a number of issues, and the first issue is whether this is escaped property and whether it can be taxed as escaped property. Mr. Thomas clarified that the

State determined that this was real property from 1996 to 2001, and the County has interpreted that as going all the way to 2003. The assessor's position is that in 2004 it became personal property based on the classification schedule. Chair Robinson asked if the 2009 case trumps the rule making change at the Tax Commission. Mr. Thomas replied that it does not, and it specifically does not go into that. Chair Robinson asked how the court can say that the water works are real property and still let stand a rule promulgated by the Tax Commission saying that it is personal property. Mr. Thomas explained that the Tax Commission determined that it makes no sense, since the pipeline is in the road and determined that it is personal property, and then suddenly it is not personal property but is real property because it is in the right-of-way, and then if there is a paving project, suddenly it would be personal property again. Judge Morris also said that a lot of this does not make sense, and instead of trying to make sense out of it, he just interpreted it strictly. Chair Robinson noted that Judge Morris said to just memorize the rule and not try to understand it. If Judge Morris's opinion is the law and they just look at the rule, then this would all be personal property. Mr. Thomas clarified that it would be real property until 2003. In 2004 with the change in the law, if they take Judge Morris's opinion that they just look at the rules, then they look at the Tax Commission rules, which change this to personal property. Mr. Lilja stated that they need to look at the Holladay Water case. Chair Robinson explained that the problem with Holladay Water is that it has not been fully vetted. Mr. Lilja stated that it is the only decision on this issue, so it has some weight. The Tax Commission rules are contrary to the ruling in that case, and you would think that the Tax Commission would have knowledge of its own rules. Mr. Thomas explained that it is immaterial whether this is real or personal property, because the appellant still owes the tax. Chair Robinson clarified that would be the case provided the County can assert that it is escaped property, and they are claiming that the County did the best job it could based on the classifications that were then available and made the most reasonable decision it could based on the facts then known. Now that there is an opinion of the court, it should be captured as escaped property. Mr. Thomas explained that the Tax Commission's ruling, whether or not it was vacated, said that, if this was not personal property, it was escaped real property. Chair Robinson asked how the County responds to the argument that they should pretend that the decision of the Tax Commission does not exist because this is a de novo matter. Mr. Thomas replied that the Board of Equalization could do that. However, in reality there is a certain understanding of what the Tax Commission would rule, because they already ruled it once, and it was not overturned. From the Tax Commission's point of view, they view inadvertence to mean misclassification of the property.

Chair Robinson asked how the Holladay Water case would apply in this situation. Mr. Thomas replied that, if that ruling stands, all of Summit Water's property would be real property. The County would look to see if it is escaped real property, and through inadvertence, it is escaped real property because of the misclassification of the property, which the Tax Commission has already looked at and determined that misclassification is escaped real property. Chair Robinson stated that it seems like a tall order to try to assess Summit Water's treatment facility, pump station, and miles of pipeline as real property. Mr. Thomas commented that, if that is what the Tax Commission decides, that is how it will be assessed.

Board Member Hanrahan referred to the Tax Commission's determination in 2000 that the personal property was undervalued and asked if it would have been undervalued if it had been real property. Mr. Lilja replied that they do not think so. He stated that the Tax Commission decided that Summit Water had failed to include in their personal property tax the water distribution facilities, and they included \$5 million in that reporting for Summit Water and

assessed the personal property tax on that basis. It is Summit Water's position that that value was already being taxed through their real property taxes. He confirmed for Board Member Hanrahan that this was not the double taxation issue. The double taxation issue they argued was that because the ratepayers are paying tax on the equipment to the extent it is in their property, and they also pay taxes that come out of Summit Water, they are being double taxed, and the court rejected that argument. Mr. Thomas explained that in the tax case, Barbara Kresser testified that the County had not assessed the personal property to the real property at all. When looking at the values, the property tax audit says the value is \$5 million, and the value of the building was \$1 million. If they added the additional \$5 million, that would be \$6 million, and that is not what happened. Chair Robinson clarified that was because the Assessor at that time believed the proper way to do this was to assess it as personal property, which the Tax Commission held temporarily pending appeal to the higher authority. Board Member Hanrahan asked if it is the Assessor's view that the assessed value of the property would not change if it is assessed as personal or real property. Mr. Thomas explained that the assessor has to assess the fair market value, whatever the property is. If the Assessor is assessing the real property of the treatment plant as just a building with nothing in it, and then you add in what the Assessor had deemed to be personal property, which was the pipes and the water purification equipment, etc., those have a fair market value that would increase the value of the real property. But the Assessor did not do that, because she considered it to be personal property, and that is why it was never assessed. Board Member Hanrahan asked if Summit Water is saying that the value was \$5 million, but it was real property and was already being taxed to the ratepayer. Mr. Lilja replied that it was at \$1 million. The Tax Commission claimed that the total water distribution facility was \$5 million in 2000. Mr. Thomas confirmed that the building was taxed at \$1 million. Chair Robinson summarized that Summit Water is arguing that they were being taxed as a building with improvements, and whatever value the County put on that was their opportunity to value it, and they valued it at \$1 million. They did not include an additional \$5 million for the components inside the building or whatever was considered to be personal property, and therefore the County is out of luck. Board Member McMullin added that was regardless of the fact that the testimony at the time was that the Assessor did not include the value of the water works in the assessment on the real property because the Assessor believed it was personal property. Chair Robinson noted that the rules indicated that as well, and the Tax Commission supported that. Later it was changed by the court. He noted that for 2011 and beyond there is a constitutional amendment that makes this moot, so this is all historical.

Mr. Lilja stated that Mr. Thomas indicated that the tax notices for the treatment plant said something about buildings, and it did after 2007. From 2001 to 2006 it described the property being non-primary improved property. It was Summit Water's understanding that the improvements on their property were taxed. Mr. Thomas explained that the court ruled that they had to list out the buildings, and just listing improvements does not pass the test. Mr. Lilja claimed that the courts have said that if the County taxes property, and they say they are taxing non-primary improved property, the taxpayer can rely on the fact that it includes improvements to the property, whatever they may be, and that is what is being taxed. If the Assessor later says they did it wrong, the County does not get to go back and redo it. Chair Robinson clarified that what they have here is a situation where the Assessor provided two notices, one for real property and one for personal property. The Assessor would have been satisfied with assessing and collecting tax on the real property based on the tax notice and on the personal property based on the personal property tax notice. The problem is that Summit Water appealed that, and there was an agreement to let the court work it out. The court has now determined that it should all be

taxed as real property, and Summit Water is now claiming that they cannot go back and change that. Mr. Lilja argued that they could not go back 15 years, even if it is escaped real property. Chair Robinson stated that the issue is the discovery rule and that the County has not known how to treat the property, so everything has been at a standstill until the court clarified that. Mr. Lilja stated that he understands Mr. Thomas's argument, but he is wrong. That is not the discovery rule. The discovery rule says that, if you know the facts and you can assert your claim, you are deemed to have been in a position to assert it. He referred to the Beaver County case and noted that the counties were waiting on the Tax Commission to go out and assess taxes. The counties were powerless, and through no fault of their own, they passed the deadline to assert their right to the tax. Chair Robinson noted that there is a big distinction in that case where the county did not send an innocent taxpayer notice on a timely basis compared to this case where there is pending litigation between the parties. Mr. Lilja claimed that is not a big distinction, because the escaped tax rule does not exist to protect counties from their own mistakes. It is not there to save counties if, through no fault of their own, they made a wrong decision or they cannot assess a tax because it is in someone else's hands, and that is what the law says.

Mr. Lilja stated that the Tax Commission ruling that the County is relying on, in which they say the Tax Commission found that this is escaped property, is not an issue in this case. He claimed that was strictly a throw-in by the ALJ in that decision. There was no issue about escaped real property in that case, and there had been no assessment of escaped real property. No one argued about escaped real property, and it was something the ALJ threw in gratuitously. He believed the ALJ may have been indicating to the County that they might want to switch and assess this as real property rather than personal property, because it does not make a difference. However, he did not believe the ALJ was right, because Summit Water had already paid its real property tax. He did not know why she said it, but it was meaningless, and it was not based on arguments made by anyone, because there was no issue about it. To say the Tax Commission has decided this was escaped real property is not even an issue. There is no analysis and no consideration of any of the factors talked about here today. The County keeps saying there was an agreement that Summit Water would pay personal property or real property tax and asked why they would make such an agreement. He questioned why they would spend 10 years in court only to have to pay the tax anyway, because that would make no sense. Chair Robinson explained that the issue is whether the courts decided that Summit Water owed tax, and the court decided that they are exempt as to 51% and that it is real property. The question is whether the County can go back and treat this as escaped real property, because they know it is not personal property. The decision of the court did not bar that and was not explicit, it just said that it is real property. Mr. Lilja stated that what the court actually said is that the water works were not subject to personal property tax, and by determining that there were improvements, it determined that they were real property. But even if you assume that this is escaped property, unless there is an agreement that takes it back to 1996, in assessing the tax in 2011, there is a five-year look-back, and the County can only go back to 2006. Chair Robinson confirmed with Mr. Lilja that it is his position that, assuming the Board of Equalization determines that it can be treated as escaped real property, the County can go back five years and no more.

Chair Robinson requested additional information from the County Assessor about how he calculated the valuation and taxes, which should be provided to the appellant's counsel and the Board of Equalization. The information should include the valuation, whether any tax is due, and what the amounts are. Mr. Thomas stated that the Assessor would be willing to sit down with Summit Water to try to reach an agreed-upon number. Chair Robinson stated that he would

prefer to do that now so the Board's decision includes that and there would be something Summit Water can either accept or appeal. Mr. Lilja stated that he believed they need to consider it all at once, because depending on the decision here, there may be an appeal to the Tax Commission. Mr. Lilja requested that they see the 2000 audit.

Mr. Sackett recalled that they previously discussed having post-hearing briefs and asked if that would be helpful. Chair Robinson replied that he believed it would be. He first wanted to get the detail on the assessed values so the briefs could inform the Board of the opinions regarding the assessment methodology. Chair Robinson suggested that the briefs be provided by January 15. Mr. Sackett suggested that the briefs be limited by a certain number of words. Chair Robinson stated that he wanted the briefs to be to the point, and both parties should be judicious about the length of the briefs.

Mr. Lilja stated that one question raised by Mr. Thomas in his memorandum was whether Summit Water's request for certain refunds on page 5 of the Notice of Appeal were properly reported or deemed as appealed, and he stated that he did not believe they were. He stated that request needs to be ruled on by the County Council as the legislative body, and there has been no ruling on that. Summit Water is making that claim and asking for guidance as to procedures, and that is a separate issue. Chair Robinson clarified with Mr. Lilja that it is Summit Water's position that they are entitled to a refund of 51% of the real and personal property taxes they have paid based on the Supreme Court's decision this year plus interest. Mr. Lilja stated that he was not certain that there is an interest component. Chair Robinson asked that those figures be calculated as part of the discussion.

CONSIDERATION OF APPROVAL OF 2011 STIPULATIONS

Board Member Elliott made a motion to approve the stipulations as presented. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.

DISMISS AS THE BOARD OF EQUALIZATION

Board Member Elliott made a motion to adjourn as the Board of Equalization and to reconvene as the Summit County Council. The motion was seconded by Board Member McMullin and passed unanimously, 5 to 0.

The meeting of the Summit County Board of Equalization adjourned at 6:05 p.m.

PUBLIC INPUT

Chair Robinson opened the public input.

There was no public input.

Chair Robinson closed the public input.

CONVENE AS THE GOVERNING BOARD OF THE MOUNTAIN REGIONAL WATER SPECIAL SERVICE DISTRICT

Council Member Elliott made a motion to convene as the Governing Board of the Mountain Regional Water Special Service District. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.

The meeting of the Governing Board of the Mountain Regional Water Special Service District convened at 6:06 p.m.

PUBLIC HEARING REGARDING THE ISSUANCE OF \$1,500,000 AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2011B (THE “SERIES 2011B BONDS”) BY THE SUMMIT COUNTY COUNCIL ACTING AS THE GOVERNING BODY OF THE MOUNTAIN REGIONAL WATER SPECIAL SERVICE DISTRICT OF SUMMIT COUNTY, UTAH (THE “ISSUER”) AND TO ALLOW PUBLIC INPUT REGARDING ANY POTENTIAL ECONOMIC IMPACT THAT THE PROJECT DESCRIBED HEREIN TO BE FINANCED WITH THE PROCEEDS OF THE SERIES 2011B BONDS MAY HAVE ON THE PRIVATE SECTOR

Scott Green with Mountain Regional Water Special Service District provided a list of the projects proposed to be completed with the bond proceeds.

Chair Robinson opened the public hearing.

There was no public comment.

Chair Robinson closed the public hearing.

DISMISS AS THE GOVERNING BOARD OF THE MOUNTAIN REGIONAL WATER SPECIAL SERVICE DISTRICT

Board Member Elliott made a motion to dismiss as the Governing Board of the Mountain Regional Water Special Service District. The motion was seconded by Board Member McMullin and passed unanimously, 5 to 0.

The meeting of the Governing Board of the Mountain Regional Water Special Service District adjourned at 6:10 p.m.

The County Council meeting adjourned at 6:10 p.m.

Council Chair, Chris Robinson

County Clerk, Kent Jones

MINUTES

SUMMIT COUNTY
BOARD OF COUNTY COUNCIL
WEDNESDAY, DECEMBER 7, 2011
COUNCIL CHAMBERS
COALVILLE, UTAH

PRESENT:

Chris Robinson, Council Chair
David Ure, Council Vice Chair
Sally Elliott, Council Member
John Hanrahan, Council Member
Claudia McMullin, Council Member

Robert Jasper, Manager
Anita Lewis, Assistant Manager
Dave Thomas, Deputy Attorney
Kent Jones, Clerk
Annette Singleton, Office Manager
Karen McLaws, Secretary

CLOSED SESSION

Council Member Elliott made a motion to convene in closed session for the purpose of discussing litigation. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.

The Summit County Council met in closed session from 12:35 p.m. to 12:50 p.m. to discuss litigation. Those in attendance were:

Chris Robinson, Council Chair
David Ure, Council Vice Chair
Sally Elliott, Council Member
John Hanrahan, Council Member
Claudia McMullin, Council Member

Robert Jasper, Manager
Anita Lewis, Assistant Manager
Dave Thomas, Deputy Attorney
Don Sargent, Community Development Director

Council Member Elliott made a motion to dismiss from closed session to discuss litigation and to convene in closed session to discuss personnel. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.

The Summit County Council met in closed session from 12:50 p.m. to 1:50 p.m. to discuss personnel. Those in attendance were:

Chris Robinson, Council Chair
David Ure, Council Vice Chair
Sally Elliott, Council Member
John Hanrahan, Council Member
Claudia McMullin, Council Member

Robert Jasper, Manager
Anita Lewis, Assistant Manager

Council Member Elliott made a motion to dismiss from closed session and to convene in work session. The motion was seconded by Council Member Hanrahan and passed unanimously, 5 to 0.

WORK SESSION

Chair Robinson called the work session to order at 1:55 p.m.

- **Council Mail Review**

Chair Robinson reviewed the agenda for the December 14 meeting with the Council Members and Administrative Office Manager Annette Singleton.

- **Discussion and recommendations by Economic Development Task Force for the County's Economic Diversification Strategic Plan**

DeAnn Geary recalled that the County Council asked the task force to develop an action plan that they believed would help Summit County provide more economic diversity. She explained that they had good open discussion and focused primarily on eastern Summit County, because that is where they believe the economic needs are. The task force has proposed four action plans, and one recommendation would be to have a local on-line business directory tied to the County's website, which would benefit the businesses in Summit County. The Council Members suggested that they also produce a published, bound version.

Council Member Elliott expressed concern about the suggestion that Eastern Summit County form its own Chamber of Commerce when they already have the infrastructure in the Park City Chamber Bureau. Council Member Hanrahan stated that he believed it would make sense, because the western side of the County has a tourism-based economy, and the eastern side is trying to attract other kinds of businesses. Bill Malone, Executive Director of the Park City Chamber Bureau, stated that he believed there would be a way to accomplish that plan with the Park City Chamber providing resources to create savings. However, there needs to be a different identity, because the issues in eastern Summit County are different, and the leadership should come from the eastern part of the County. Alison Weyher explained that this idea was an outgrowth of several meetings the task force held with businesses in eastern Summit County where they discussed challenges that businesses in eastern Summit County face that businesses in the western part of the County do not. She did not believe the funding for this would be significant, and in order to make it work, it needs to be peer to peer, which is the goal of having it stay within eastern Summit County initially. Ms. Geary explained that they do not believe they need an office staff; it is more a matter of working together for the cause. County Manager Bob Jasper commented that the County gives a lot of resources to the Chamber Bureau that should be used on both sides of the County, and he believed they should assist in helping get a group established in eastern Summit County.

Ms. Weyher discussed the unique challenges in eastern Summit County of community acceptance of new and more intensive land uses and noted that regulations can be somewhat onerous for new start-up businesses. The task force discussed the shortage of labor force in Summit County and how they might lower the cost of infrastructure impact fees and other fees, such as resource fees, associated with bringing new businesses into the County. They discussed

encouraging businesses that are complementary to the lifestyle and finding ways to help existing businesses expand. She commented that many businesses in eastern Summit County feel somewhat alienated and isolated, and the task force would like to find a way to get them together and form a cohesive group. Ms. Geary commented that businesses will check the Summit County website to determine whether to locate here, and she did not believe the existing website gives enough information about existing businesses in the County. If the website were developed correctly, it would bring more business to existing companies and encourage companies to come to Summit County and see what they have to offer.

Ms. Geary explained that the last action item is proposed improvement of regulations. She stated that probably the biggest difference between businesses on the eastern and western sides of the County is that eastern Summit County is more open to a larger manufacturing group, because there is space, and they want to get their people working. The task force felt that some regulations make it more difficult to recruit those businesses. Carsten Mortensen reviewed a written document he had provided and commented that Summit County has worked hard to develop a tourism industry over the last couple of decades. However, he believed the business potential for the eastern side of the County has been damaged, and economic development has been slowed down in eastern Summit County. He stated that they need more input from business people on the east side of the County. If a business is not able to become established and flourish, it will not be there for long. He reviewed and described the six problem areas shown on the document he had provided. Ms. Geary noted that one thing that makes eastern Summit County different from businesses on the west side is that the property has been passed on from generation to generation, and the businesses are family owned. They feel they are the ones who have built and sustained the County for a hundred years and that they ought to be allowed to work in the County and be supported for what they have done and are doing. She stated that they need zoning in place where the resources are located in order to conduct their businesses.

Mr. Geary explained that the business people in eastern Summit County are willing to donate their time to try to improve the community, and their biggest concern is that they do not want their time to be wasted. They want to know that the County would like them to pursue the action plan they have developed before they do the work. Assistant Manager Anita Lewis noted that the task force has been following the County's strategic plan, and they will continue to work with the County Council on a regular basis to update them on their progress.

Council Member Elliott stated that she appreciates what the task force is doing, but they cannot expect the Planning Commission, Planning Department, and County Council to support the removal of zoning, because they have to be understanding of the people adjacent to the uses. Council Member McMullin stated that the task force is not wasting its time on the action items. However, that does not mean the County will get rid of all the things the task force might not like. Council Member Ure commented that this is the best presentation he has seen from eastern Summit County explaining and documenting what they need. He supports their efforts and will back them, and he believed there needs to be an understanding between the task force and the County Council as to where they want to go with this. He encouraged them to move forward as quickly as possible. Council Member Hanrahan expressed appreciation for the work the task force has done and encouraged them to move forward.

- **Presentation and recommendations of the RAP Tax Committee**

This item was postponed to a later date.

- **Department Head budget presentation on Waste Disposal; Cliff Blonquist**

Mr. Jasper explained that the proposed budget would not allow the County to do business as usual if it were to continue with its current contract. He recommended that the Council leave some space in the budget depending on how bids for the new contract come in and how trash collection procedures are changed. He noted that last time the County had only one bidder. This time he believed there would be multiple bidders and that competition could create sharp pencils.

The Council Members and Cliff Blonquist discussed various aspects of the curbside recycling program. Mr. Jasper explained that bidders are being asked to bid on recycling and trash collection separately as well as on both services combined.

Council Member Elliott stated that she would like to create an enterprise fund so they know where the money comes from and where it goes and so they will have all the costs in one place and understand the real costs. She would also like part of the budget and request from the consultant to include an estimate of what it would cost the County to purchase garbage trucks and collect garbage themselves.

Chair Robinson addressed the revenue side of the budget and whether garbage collection should come from the General Fund through property taxes or on a pay-as-you go basis through an enterprise fund. He did not believe the decision should be based on setting up an enterprise fund if the County does its own garbage collection and not setting up an enterprise fund if they contract with someone else.

Mr. Blonquist noted that the budget is short on the operations side for transportation and disposal of appliances, electronic waste, tires, household hazardous waste, etc. The budget request was \$15,000, and no money is allocated to this item. The current year's costs are \$23,000, and he requested \$25,000 in the budget for that line item. He stated that they hope to increase the tipping fee to help cover those costs effective with the next waste management contract. The Council Members requested that Mr. Blonquist present a resolution to the Council for an increase in tipping fees at the beginning of 2012 rather than waiting until the new contract is in place. Mr. Blonquist noted that a waste transport item also needs to be included in the budget.

The Council Members discussed the fleet lease budget, and Chair Robinson requested a work session on the fleet lease budget and policies.

The Council Members reviewed the waste transport and fuel line items, and Matt Leavitt with the Auditor's Office provided a history of those two line items. Council Member Hanrahan suggested that they put \$15,000 in the waste transport budget and \$80,000 in the fuel budget.

- **Discussion and recommendations by Economic Development Task Force for the County's Economic Diversification Strategic Plan**

Mr. Jasper noted that historically the County has given Recycle Utah \$2,000 per month for education and a \$24,000 grant. Those are both included now as line items in the budget, with no grant.

Insa Riepen with Recycle Utah asked for clarification about whether they have a grant or a service contract with the County. She believed Recycle Utah provides a service to County residents and that a service contract would make more sense. She stated that they have received two types of funds, one being \$24,000 as a grant, which she understands will now be a service contract. The \$24,000 they get from Allied Waste is tied to the last waste management contract for education. She stated that she requested \$37,500 from the County, because e-waste costs have increased to a minimum of \$3,500 per month, and if they want to continue that service, they need to increase their request. If not, they could allow people to take their e-waste to the landfill. Chair Robinson verified with Ms. Riepen that she does not have a contract with the County to dispose of e-waste. Ms. Riepen stated that she believes they should make it easy for people to dispose of e-waste so they will not take it to the landfill, and it should be done through a service contract. Chair Robinson suggested that the County negotiate a contract with Recycle Utah.

PUBLIC HEARING

Chair Robinson called the regular meeting to order at 3:50 p.m.

PUBLIC HEARING REGARDING THE ISSUANCE AND SALE OF NOT MORE THAN \$1,400,000 AGGREGATE PRINCIPAL AMOUNT OF TRANSIENT ROOM TAX REVENUE BONDS, SERIES 2011, AND TO ALLOW PUBLIC INPUT REGARDING ANY POTENTIAL ECONOMIC IMPACT THAT THE PROJECT DESCRIBED HEREIN TO BE FINANCED WITH THE PROCEEDS OF THE BONDS MAY HAVE ON THE PRIVATE SECTOR

County Clerk Kent Jones recalled that Brian Baker with Zions Bank presented the preliminary resolution to start this process previously. Notice was sent to the newspaper for the public hearing today, and the County Council is required to hold a public hearing on the bond issue.

Chair Robinson summarized that the Transient Room Tax revenue bonds will close on Wednesday, December 14, with the winning proposal coming from Zions Bank. The bonds are callable at any time with no penalty at a rate of 3.14%. Mr. Jasper explained that at the end of 10 years, the bonds will go to a variable rate, but he believed that at some point in the next 10 years the County would have another bond issue into which this bond could be folded.

Chair Robinson opened the public hearing.

There was no public comment.

Chair Robinson closed the public hearing.

WORK SESSION - (Continued)

- **Discussion regarding 2012 budget**

Mr. Leavitt noted that the Sustainability Coordinator informed him today that the County will receive a grant of \$7,236 for salary, equipment and supplies, and travel and training that will go into the Municipal Fund.

Mr. Leavitt noted that the Assessor's Office would like a new full-time employee. Personnel Director Brian Bellamy explained that the County reduced a position in the Assessor's Office last year, and the Assessor decided not to fill that position. That position is the one the current Assessor used to hold, and he wants to replace it with an appraiser technician position.

Mr. Leavitt explained that the Council needs to make a final decision on the Planning Technician position. The Council Members discussed the Community Development Director's decision regarding the position that he believed should be cut and decided that they would not make a decision on this item today.

Mr. Leavitt asked for a decision on the contract for random drug testing. The Council Members concurred that they should cut the random drug testing of existing employees from the budget.

Mr. Leavitt confirmed with the Council Members that they agree with funding capital improvements by increasing the TRT funds transfer of \$12,700 for recreation.

Council Member Elliott stated that she wanted to fund a full-time permanent position for the Historical Society as a line item in the General Fund budget. She believed it was bad policy to assume that Summit County could get by with a part-time historian. Supplies and materials produced by the historian could probably be justified from the TRT funds, but as a matter of policy, she believed it was important to have a full-time historian. The Council Members discussed whether to form a non-profit corporation for the Historical Society in order to obtain RAP tax funding. Mr. Leavitt suggested that the Council Members make the decision that the position is restored, and he would look into the mechanism for funding it.

Mr. Leavitt asked for input on funding the healthy employee program. Council Member Hanrahan reported that the Health Board passed a resolution to urge the Council to increase this item to a total of \$20,000. He recalled that a year ago the Health Department requested \$56,000, and the request was rejected because there was no defined wellness program in place. There is still no defined program, but the Health Department anticipates having the first phases of a program in the next few months, and they would like some money in the budget for that initial phase. He believed it would be a good idea to fund the program so they could motivate those who would set up the program to determine what programs they should institute and because it would save the County money over time in the self-insured program. He noted that the Council contingency fund and Manager's contingency fund are both higher than what the budget committee and auditor recommended, and he believed they should both be cut to \$50,000.

The Council Members agreed that the restricted legal funds for general government should be increased to \$150,000.

Mr. Leavitt asked the Council Members to discuss the contingency funds, noting that the proposed Manager contingency is \$75,000 and Council contingency is \$100,000. Council Member Hanrahan stated if they know of something that needs to be funded, it is his philosophy that they should either fund it now or cut the budget somewhere else if something comes up later. They might also find that their revenues increase, and they could then fund what might come up. Mr. Jasper explained that things come up during the year that they may need money for, and they do not know what their revenues for the year will be until the end of the year. Council Member Hanrahan stated that, if they have a \$100,000 contingency fund, it will be spent. Mr. Leavitt confirmed that the Council has spent about three-fourths of its contingency fund this year. Chair Robinson suggested that the contingency funds remain as recommended.

Mr. Leavitt asked the Council Members to discuss salary increases. Council Member Hanrahan suggested that they remain as recommended. Council Member Elliott agreed and stated that she believed they should be merit increases rather than an across-the-board cost of living adjustment. The Council discussed whether the increases should be 2% or 3% and whether they should be given on the employee's anniversary date or at the beginning of the year. Council Member Elliott stated that she would suggest waiting until Friday to make that decision. She would be in favor of a 3% increase but wanted to be sure they have 3% after they have all the figures.

CLOSED SESSION

Council Member Elliott made a motion to convene in closed session to discuss personnel. The motion was seconded by Council Member Hanrahan and passed unanimously, 3 to 0. Council Members McMullin and Ure were not present for the vote.

The Summit County Council met in closed session from 5:15 p.m. to 5:50 p.m. to discuss personnel. Those in attendance were:

Chris Robinson, Council Chair
David Ure, Council Vice Chair
Sally Elliott, Council Member
John Hanrahan, Council Member
Claudia McMullin, Council Member

Robert Jasper, Manager
Anita Lewis, Assistant Manager

Council Member Elliott made a motion to dismiss from executive session and to reconvene in regular session. The motion was seconded by Council Member Hanrahan and passed unanimously, 5 to 0.

- **Pledge of Allegiance**

CONVENE AS THE BOARD OF EQUALIZATION

Council Member Hanrahan made a motion to convene as the Summit County Board of Equalization. The motion was seconded by Council Member Elliott and passed unanimously, 4 to 0. Council Member Ure was not present for the vote.

The meeting of the Summit County Board of Equalization was called to order at 5:50 p.m.

CONSIDERATION OF APPROVAL OF 2011 STIPULATIONS

Board Member Hanrahan made a motion to approve the 2011 stipulations as presented. The motion was seconded by Board Member Elliott and passed unanimously, 4 to 0. Board Member Ure was not present for the vote.

DISMISS AS THE BOARD OF EQUALIZATION AND CONVENE AS THE GOVERNING BOARD OF THE SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT

Board Member Hanrahan made a motion to dismiss as the Summit County Board of Equalization and to convene as the Governing Board of the Snyderville Basin Special Recreation District. The motion was seconded by Board Member Elliott and passed unanimously, 4 to 0. Board Member Ure was not present for the vote.

The meeting of the Summit County Board of Equalization adjourned at 5:51 p.m.

The meeting of the Governing Board of the Snyderville Basin Special Recreation District was called to order at 5:51 p.m.

DISCUSSION AND POSSIBLE APPROVAL OF SALE OF SURPLUS PROPERTY TO QUESTAR GAS COMPANY

Bonnie Park with the Snyderville Basin Special Recreation District and Mark Johnson with Questar answered questions for the Council Members about the sale of the property.

Board Member Elliott made a motion to approve the sale of surplus property to Questar Gas Company. The motion was seconded by Board Member McMullin and passed unanimously, 4 to 0. Board Member Ure was not present for the vote.

DISMISS AS THE GOVERNING BOARD OF THE SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT

Board Member Elliott made a motion to dismiss as the Governing Board of the Snyderville Basin Special Recreation District and to reconvene as the Summit County Council. The motion was seconded by Council Member Hanrahan and passed unanimously, 5 to 0.

The meeting of the Governing Board of the Snyderville Basin Special Recreation District adjourned at 5:55 p.m.

PUBLIC INPUT

Chair Robinson opened the public input.

There was no public input.

Chair Robinson closed the public input.

PUBLIC HEARING – CONSIDERATION OF APPROVAL OF AMENDMENTS TO SUMMIT COUNTY CODE TITLE 3, BUSINESS LICENSE REGULATIONS, INCLUDING CHANGES IN FEES, BY ADOPTION OF ORDINANCE 191-E; KENT JONES

County Clerk Kent Jones verified that he had reviewed the amendments with the lodging associations.

Chair Robinson expressed concern about the various size categories for condotels and asked if they would constitute a huge increase to some owners. Mr. Jones explained that management companies manage several properties owned by different parties. If a person does not have their nightly rental units in a management pool, the owner would license his own properties. However, if a management company represents several owners, the owner must be licensed as a business and the nightly rental licensed as a rental unit, and it falls to the management company to collect from the individual property owners. The County would collect from the management company, which would provide a list of the properties it manages. The Clerk's office would also provide the list to the Assessor's Office, which will help with the primary residency exemption issue, and to the Auditor for TRT purposes. Chair Robinson commented that if a person were at the bottom end of one of the categories, they might feel that they are being overcharged, and if they are at the top end, they might feel they are getting a good deal. He suggested that they have the management companies pay the applicable fees per unit rather than having broad categories of numbers of units. Mr. Jones explained that the management companies may have units that go in and out of the pool during the year, and they will be required to provide a list of the units they manage over the period of the entire year. Chair Robinson expressed concern that this might be abused if the list provided is just a snapshot in time on a specific date, because the management company could then add a large number of additional properties after that date.

Council Member Ure verified with Mr. Jones that this would apply only to nightly rental units in the County and asked if they could do the same in Park City. Council Member Elliott replied that they cannot, because the City has a much higher tax rate than the County. Council Member Ure asked if the fees are new. Mr. Jones explained that the commercial business license fee will increase from \$175 to \$200, but the rest of the fees are new as they relate to the categories. He explained that the primary difference with these amendments is that, instead of the County having to license every property owner individually, the management company will collect from the property owner when they put their property in the pool, and the management company will pay the County.

Chair Robinson reviewed with Mr. Jones how the process would work and commented that it appeared to him that, based on the categories, the management companies could turn this into a profit center for themselves. He believed would prefer to have a fee per unit rather than graduated categories. He also believed providing the list as a snapshot in time would open the process to abuse. Mr. Jones explained that the list must include any unit managed by the management company any time during the year. Chair Robinson requested that language be included to state that the manager will provide the required information for any unit in the rental pool during the calendar year. He wanted it to be clear that, if they have a unit in the pool for even one day, it must be included on the list.

Council Member Ure asked if the fees would be revenue neutral. Mr. Jones replied that the in-home business license fee would increase from \$67 to \$75, and the commercial fee would increase from \$175 to \$200, which covers the cost of the upgrade to the GovPartner business license program annually and the cost of on-line electronic fee payments. The condotel fees would probably be revenue neutral. Council Member Ure asked if a 501(c)3 is required to have a business license. Mr. Jones replied that they should apply for a business license, but they are exempt from the fees. Council Member Ure expressed concern that a person might not be able to get approvals for their business license within 30 days and would be denied a license. He believed they should make it easier for people who are trying to go into business. Mr. Jones explained that he does not have authority to approve business licenses. He simply issues them when the applicants have received approval from all the necessary County departments.

Chair Robinson requested that, with regard to condotels, the fee should be either \$200 per unit, so it is identical to the fee for a private nightly rental unit owner, or a level fee per unit for the management company that may be discounted from the fee paid by the individual owner. That way it would be truly revenue neutral for the County. The fees for condotels would be a specific amount per unit, and the nightly rentals would be a specific fee per unit, no matter how many units there are.

Chair Robinson opened the public hearing.

There was no public input.

Chair Robinson closed the public hearing.

Council Member Elliott made a motion to approve the amendments to the Summit County Code Title 3, Business License Regulations, including changes in fees and the changes discussed this evening by adoption of Ordinance 191-E with amendments. The motion was seconded by Council Member Ure.

Council Member McMullin agreed with Council Member Ure that, if 30 days have passed and all the approvals have not been received, the business license should be issued, not denied. Mr. Jones agreed to revise the language accordingly.

Council Member Elliott amended the motion to include the language that a business license will not be denied if approvals are not received within 30 days. The amended motion was seconded by Council Member Ure and passed unanimously, 5 to 0.

The County Council meeting adjourned at 6:40 p.m.

Council Chair, Chris Robinson

County Clerk, Kent Jones



Staff Report

To: Summit County Council acting as the Administrative Control Board of the Snyderville Basin Special Recreation District (SBSRD)
Report Date: Thursday, December 29, 2011
Meeting Date: Wednesday, January 2, 2012
From: Ashley Koehler, County Sustainability Coordinator
Project Name: **Osguthorpe 120 Open Space Bond Funding Request**
Type of Item: Approval for allocation of funds

EXECUTIVE SUMMARY: The Basin Open Space Advisory Committee (BOSAC) and the SBSRD Board have recommended that an additional \$150,000 be allocated from the 2010 Snyderville Basin Open Space/Trails Bond to fund the conservation easement on the Osguthorpe 120 parcel. A previous \$300,000 was recommended and approved in June of 2011. This consideration could result in a \$450,000 total contribution towards the easement.

BACKGROUND & ANALYSIS:

In early 2011 the Summit Land Conservancy began presenting to BOSAC a request for funding the 120 acre Osguthorpe Farm, known as the Osguthorpe 120 parcel. The request has consistently been for \$600,000 from the 2010 Open Space/Trails Bond funds to help reach a total needed amount of \$5,700,000. In June of 2011 BOSAC recommended to the Council that \$300,000 be funded and the SBSRD Board recommended that up to \$450,000 be funded. At the June 29, 2011 meeting the Council voted and allocated \$300,000 towards the easement (Exhibit C). During this meeting there was discussion and a failed motion regarding an intent to consider additional funding at a later date.

Since this time, the Summit Land Conservancy has requested that additional funding be considered in the amount of \$300,000 for a total of \$600,000. Letters of recommendation from BOSAC and SBSRD recommend that \$150,000 be allocated for a total of \$450,000. The recommendation is contingent on an amendment to the conservation easement to establish a SBSRD interest in the property, and that a management plan for the entire Round Valley area be developed with input from Summit County.

2010 Snyderville Basin Open Space & Trails Bond

Open Space	\$12,000,000
Trails	\$ 8,000,000
TOTAL Open Space & Trails Bond	\$20,000,000

Open Space portion of 2010 Bond

Original Balance	\$12,000,000	November 2010
Osguthorpe 120	(\$ 300,000)	June 2011
Hi-Ute/3-Mile Canyon easement	(\$ 2,800,000)	December 2011
TOTAL Open Space portion remaining	\$ 8,900,000	

RECOMMENDATION:

Staff recommends that the Council review the letters and information provided in the report and vote to allocate the additional \$150,000 for a total contribution of \$450,000 from the 2010 Open Space/Trails Bond.

Attachment(s):

Exhibit A: BOSAC recommendation letter

Exhibit B: SBSRD recommendation letter

Exhibit C: County Council Meeting Minutes 6-29-2011

Exhibit D: Map of property

Exhibit E: Summit Land Conservancy letter



Summit County Council & County Manager
PO BOX 128
Coalville, UT 84017

December 13, 2011

Summit County Council and County Manager,

The Basin Open Space Advisory Committee (BOSAC) received an additional request from the Summit Land Conservancy to contribute funds towards a conservation easement on the property known as the Osguthorpe 120 parcel. This property is located along Highway 248 and is contiguous to the Round Valley open Space. The conservation easement will remove all development rights and allow for agricultural uses to continue and permit seasonal trails. On May 24, 2011 BOSAC reviewed the request from Summit Land Conservancy for \$600,000 and voted to recommend to the County Manager and County Council that \$300,000 be awarded towards the conservation easement on this property. On June 29, 2011 the County Council acting as the Governing Board of the Snyderville Basin Special Recreation District voted to allocate \$300,000 of the 2010 Open Space Bond fund towards this conservation easement.

Since this time, Summit Land Conservancy has requested that BOSAC considering additional funding up to the total \$600,000 requested. On December 13, 2011 BOSAC reviewed this request and now recommends 6-1 that the Summit County Council, acting as the Governing Board of the Snyderville Basin Special Recreation District, allocate an additional \$150,000 for a total of a \$450,000 County contribution to the Osguthorpe 120 conservation easement. BOSAC further recommends that this funding is contingent on a management plan being completed for the entire Round Valley open space area with the County participating in the creation and implementation of the plan.

Sincerely,

A handwritten signature in blue ink that reads "Max Greenhalgh". The signature is written in a cursive style.

Max Greenhalgh
BOSAC, Chair



December 15, 2011

Summit County Council and Manager
P.O. Box 128
Coalville, UT 84017

Summit County Council and Manager:

At their meeting on December 13, 2011 the Basin Open Space Advisory Committee (BOSAC) recommended an allocation of an additional \$150,000 toward the acquisition of the Osguthorpe 120 conservation easement on the south side of Round Valley. This reflects a recommended total one time contribution of \$450,000 utilizing Open Space bond fund authorized by voters of the Basin Recreation District in the 2010 election.

At the SBSRD Board meeting on Wednesday, December 14, the Basin Recreation Board restated their motion of June 22, 2011, and reaffirmed the recommendation of BOSAC to contribute a total of \$450,000, as follows:

MOTION: To affirm the District's recommendation of June 22, 2011 at which time the Basin Recreation Board reviewed the request from Summit County Land Conservancy to contribute towards a conservation easement on the Osguthorpe 120 parcel for \$600,000. The Basin Recreation Board voted to support BOSAC's recommendation of a contribution of \$300,000, however the Basin Recreation Board's recommendation provided for an additional \$150,000 contribution if there are funds remaining after other subject priority parcels are acquired. The contribution is contingent on an amendment to the conservation easement to establish a SBSRD interest in the property, and that a management plan for the entire Round Valley area be developed with input from Summit County. [Perry/Stinson] All in favor: Jay Burke, Tracey Douthett, Ramon Gomez, Jr., David Kottler, Jim Magruder, Ron Perry, Marilyn Stinson. None Opposed. Absent: None. Motion carries.

The District Board requests that the Summit County Council, acting in its capacity as the Governing Board of the District, support the recommendation of BOSAC and Basin Recreation when authorizing an additional \$150,000 of 2010 Open Space Bond Funds for a total contribution of \$450,000. The District has budgeted sufficient funds in 2012 for this contribution and will work with Summit Land Conservancy and Park City to ensure an amendment to the conservation easement reflects the District's financial interest.

Best Regards,

Rena Jordan, District Director
Snyderville Basin Special Recreation District

MINUTES

SUMMIT COUNTY
BOARD OF COUNTY COUNCIL
WEDNESDAY, JUNE 29, 2011
COUNCIL CHAMBERS
COALVILLE, UTAH

PRESENT:

Chris Robinson, *Council Chair*
David Ure, *Council Vice Chair*
Sally Elliott, *Council Member*
John Hanrahan, *Council Member*

Robert Jasper, *Manager*
Anita Lewis, *Assistant Manager*
Dave Thomas, *Deputy Attorney*
Helen Strachan, *Deputy Attorney*
Kent Jones, *Clerk*
Annette Singleton, *Office Manager*
Karen McLaws, *Secretary*

CLOSED SESSION

Council Member Elliott made a motion to convene in closed session for the purpose of discussing property acquisition. The motion was seconded by Council Member Hanrahan and passed unanimously, 4 to 0.

The Summit County Council met in closed session from 1:40 p.m. to 3:00 p.m. to discuss property acquisition. Those in attendance were:

Chris Robinson, *Council Chair*
David Ure, *Council Vice Chair*
Sally Elliott, *Council Member*
John Hanrahan, *Council Member*

Robert Jasper, *Manager*
Anita Lewis, *Assistant Manager*
Ashley Koehler, *Sustainability Coordinator*
Cheryl Fox, *Summit Land Conservancy*
Max Greenhalgh, *BOSAC*
Rena Jordan, *Snyderville Basin Recreation*

Council Member Hanrahan made a motion to dismiss from closed session and to convene in work session. The motion was seconded by Council Member Elliott and passed unanimously, 4 to 0.

Chair Robinson called the work session to order at 3:05 p.m.

WORK SESSION

- **Proposal to participate in sponsoring “The County Seat” television show**

Chad Booth with The County Seat explained that this television program, which started broadcasting in January 2011, is funded by counties to bring issues of county importance to the

CONVENE AS THE GOVERNING BOARD OF THE SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT

Board Member Elliott made a motion to convene as the Governing Board of the Snyderville Basin Special Recreation District. The motion was seconded by Board Member Hanrahan and passed unanimously, 4 to 0.

The meeting of the Governing Board of the Snyderville Basin Special Recreation District convened at 4:40 p.m.

CONSIDER APPROVAL FOR THE ALLOCATION OF OPEN SPACE BOND FUNDS FOR THE OSGUTHORPE CONSERVATION EASEMENT

Board Member Elliott made a motion to contribute \$300,000 as the first moneys to be allocated out of the recently passed open space bond to be used to purchase the Osguthorpe property. The motion was seconded by Board Member Ure.

Board Member Hanrahan amended the motion to state that they are allocating \$300,000 with the understanding that they will consider an additional \$300,000 in the future if there is money left over after they have reviewed and negotiated for other parcels.

Board Member Elliott did not accept the amendment to her motion.

Board Member Elliott stated that she did not want to encumber the moneys further. Board Member Hanrahan stated that his motion would not encumber the money; it just indicates a desire to do something if the possibility arises.

Board Member Elliott withdrew her motion.

Board Member Hanrahan made a motion to allocate \$300,000 of open space bond funds for the purchase of the Osguthorpe parcel and to also consider allocation of up to an additional \$300,000 contribution if there are funds remaining after other subject priority parcels are acquired.

Board Member Ure stated that he did not understand the purpose of Board Member Hanrahan's motion. Board Member Elliott stated that she would be willing to wait until the last minute and grant last funds, but she was not willing to make a statement to the public that this is their intent until they see what the options are for the other funds. Board Member Hanrahan stated that his intent is to say that, if they have funds left over, they will consider using them for the Osguthorpe parcel. Board Member Elliott stated that, if Board Member Hanrahan would leave the number open ended, she would second the motion. Board Member Hanrahan stated that his motion stands as stated. Chair Robinson explained that the motion simply shows intent for use of future funds and is not binding.

Chair Robinson vacated the chair and seconded the motion.

Vice Chair Ure assumed the chair.

The motion failed by a vote of 2 to 2, with Board Members Hanrahan and Robinson voting in favor of the motion and Board Members Elliott and Ure voting against the motion.

Chair Robinson reassumed the chair.

Board Member Elliott made a motion to allocate \$300,000 of open space bond moneys to purchase an easement on the Osguthorpe property. The motion was seconded by Board Member Ure and passed unanimously, 4 to 0.

Board Member Hanrahan stated that, although he voted in favor of the motion, he believed they could make a stronger gesture, and he would support a stronger gesture.

DISMISS AS THE GOVERNING BOARD OF THE SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT AND RECONVENE AS THE SUMMIT COUNTY COUNCIL

Board Member Ure made a motion to dismiss as the Governing Board of the Snyderville Basin Special Recreation District and to reconvene as the Summit County Council. The motion was seconded by Board Member Elliott and passed unanimously, 4 to 0.

The meeting of the Governing Board of the Snyderville Basin Special Recreation District adjourned at 4:50 p.m.

CLOSED SESSION

Council Member Elliott made a motion to convene in closed session for the purpose of discussing litigation. The motion was seconded by Council Member Hanrahan and passed unanimously, 4 to 0.

The Summit County Council met in closed session from 4:50 p.m. to 5:35 p.m. to discuss litigation. Those in attendance were:

Chris Robinson, *Council Chair*
David Ure, *Council Vice Chair*
Sally Elliott, *Council Member*
John Hanrahan, *Council Member*

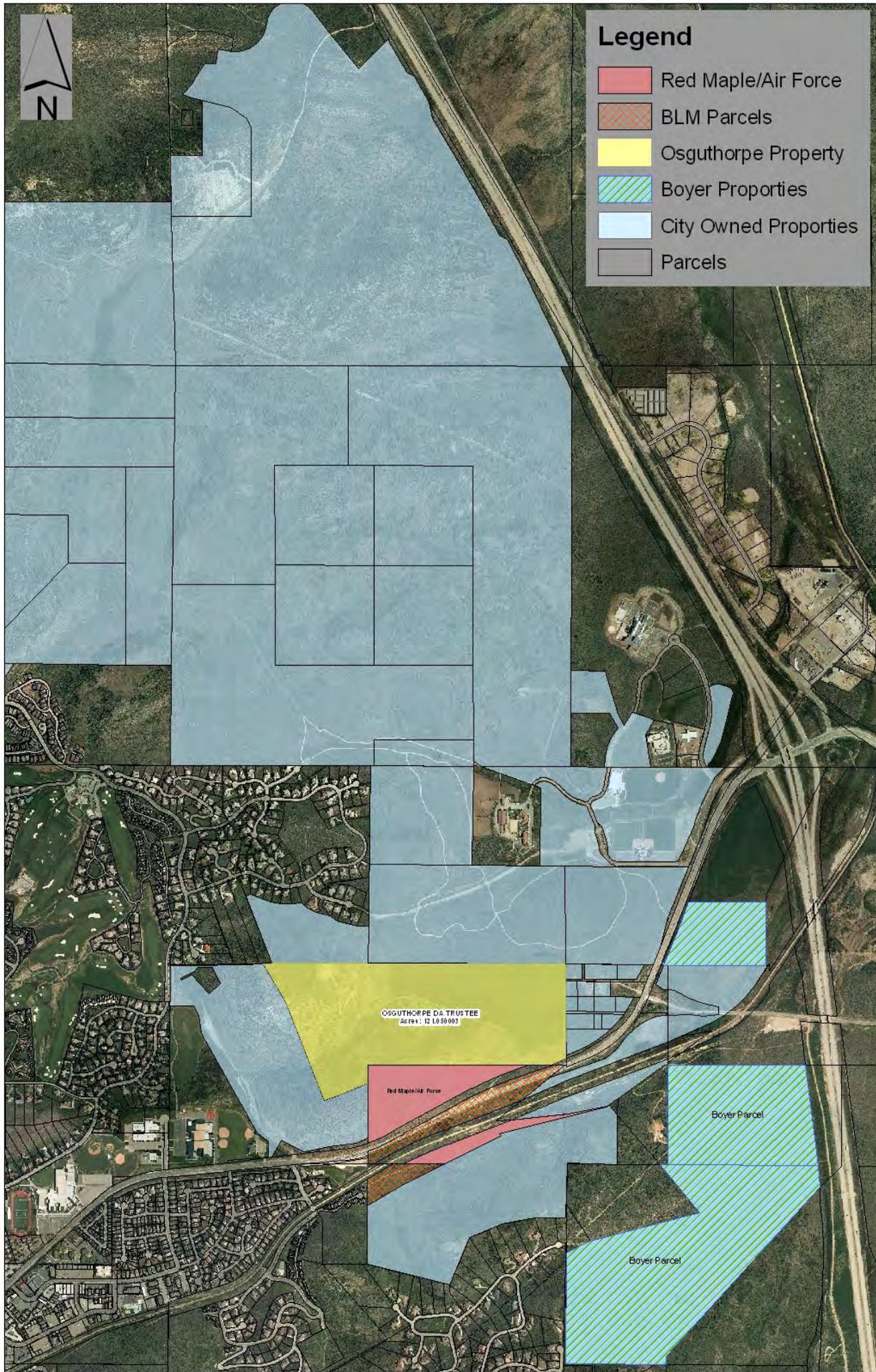
Robert Jasper, *Manager*
Anita Lewis, *Assistant Manager*
Dave Thomas, *Deputy Attorney*

Council Member Hanrahan made a motion to dismiss from closed session and to convene in regular session. The motion was seconded by Council Member Ure and passed unanimously, 4 to 0.

REGULAR SESSION

Chair Robinson called the regular meeting to order at 5:40 p.m.

- **Pledge of Allegiance**





WE SAVE LAND

December 28, 2011

Summit County Council
Summit County Manager
via email

Dear Summit County Council and Manager Jasper:

As you know, the members of both BOSAC and the Snyderville Basin Recreation Board have voted to allocate an additional \$150,000 of the Basin's Open Space bond funds for the Conservancy's purchase of a conservation easement on the Osguthorpe's Round Valley farm.

A condition of this additional funding is the formation of a management plan for the entire Round Valley area. The staff at both the City and the Conservancy agree that a management plan for the entire area would be useful. We have agreed to work together, with input from BOSAC as well as the community at large, to develop this management plan.

Currently, City staff meets regularly with both the Conservancy, which holds easements on roughly 700 acres of the Round Valley open space, as well as with representatives from Mountain Trails. To date, the terms of the conservation easements that protect these lands have formed the basis for the City's management of these landscapes. The Conservancy monitors Round Valley many times each year to insure that the terms of the easements are enforced, that weeds are pulled, and that impacts are mitigated. We look forward to participating in developing a management plan that would, we hope, be pro-active in dealing with the potential impacts of recreation as well as environmental changes.

Yours truly,

A handwritten signature in blue ink that reads "Cheryl Fox".

Cheryl Fox
Executive Director

Summit Land Conservancy
PO Box 1775
Park City, UT 84060
www.summitlandconservancy.org

