MINUTES

SUMMIT COUNTY

BOARD OF COUNTY COUNCIL
WEDNESDAY, JANUARY 25, 2012
COUNCIL CHAMBERS
COALVILLE, UTAH

PRESENT:

David Ure, *Council Chair*
Claudia McMullin, *Council Vice Chair*
Sally Elliott, *Council Member*
John Hanrahan, *Council Member*
Chris Robinson, *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 personnel. The motion was seconded by Council Member Robinson and passed unanimously, 5 to 0.

The Summit County Council met in closed session from 1:05 p.m. to 2:15 p.m. to discuss litigation. Those in attendance were:

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

Robert Jasper, *Manager*
Anita Lewis, *Assistant Manager*
Dave Thomas, *Deputy Attorney*
Brian Bellamy, *Personnel Director*

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

The Summit County Council met in closed session from 2:15 p.m. to 2:45 p.m. to discuss litigation. Those in attendance were:

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

Robert Jasper, *Manager*
Anita Lewis, *Assistant Manager*
Jami Brackin, *Deputy Attorney*
Adryan Slaght, *Principal Planner*

Council Member Robinson 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, 5 to 0.

WORK SESSION

Chair Ure called the work session to order at 2:50 p.m.

- **Council Mail Review**

- **Discussion and recommendations by Ron Boyer, Director of Information Technology, regarding the County's Communications Strategic Plan**

Information Technology Director Ron Boyer reported that the County Manager asked him to look at the communications strategies that resulted from the County Council meetings last year. He noted that the issues statement is in the packet and discussed the strategy statement, commenting that it may be backward. He noted that the County has all kinds of people who talk to the public and press about various issues, and the question is where to start and to be sure that the public understands. He referred to a statement by Steven Covey to seek first to understand, and then to be understood. That led him back to the citizen survey which indicated that the County was considered to be average in providing services, with Eastern Summit County being more likely to rate the County as less than average. He started thinking about the media outlets the County is using and noted that the Park Record probably reaches more people than the Summit County News. He explained that the committee divided the strategy into four components: modernizing communications, communications in Spanish, face-to-face communications, and centralized internal communications.

With regarding to modernizing communications, Mr. Boyer noted that some departments contact the media themselves, and there is no central point for communication with the media. He stated that the media prefers to have one central person with whom they can communicate, which also helps keep the message consistent. The County has a website, which they are always looking to improve. They also have a reverse 911 service and are looking at possibilities for getting people's cell phone numbers registered. The County is also on social media, such as Facebook and Twitter. He suggested setting up a Skype session so people can dial in for the public input session at Council meetings. Chair Ure suggested having a camera at County Council meetings so people can watch them. Council Member Elliott stated that she would be supportive of anything the County can do to live stream its meetings. She also recalled that the Council has discussed the need for a public information officer and needs to work with the Manager on that.

With regard to improving communications in Spanish, Mr. Boyer noted that the County is doing quite a bit already. Council Member McMullin asked if it would be possible to have Spanish translation for the web site. Chair Ure agreed that the Sheriff's Department and Health Department need Spanish translation, but he was not certain they need to go to extraordinary measures other than that. He believed those who might apply for a business license or take an active part in the community or the County would probably already speak English. Council Member Elliott disagreed with Chair Ure. She stated that there is a large number of Hispanic people in the community who are not literate in either Spanish or English. They can do all kinds

of outreach, but the County will never be able to reach a certain percentage of the Hispanic population. She believed translating most of the web site into Spanish would be of little value now, but it probably would be in the future. Mr. Boyer explained that he has suggested to Personnel Director Brian Bellamy that they compile a list of employees who can communicate in Spanish to act as translators as needed. County Manager Bob Jasper stated that he will also work with Mr. Bellamy to do some outreach for people with a Hispanic heritage or background when hiring employees.

Mr. Boyer explained that face-to-face communication might include Council Members visiting schools. In order for the Council Members to understand the community and the community to understand them, he believed they need to establish relationships they have not had before. Council Member Elliott stated that she also felt that the County had done a poor job of communicating with senior citizens, and they need to schedule some time to meet with them.

Mr. Boyer discussed centralized communications and noted that some people do not know who to contact in the County to address their issues, so they call and just tell the person who answers all about their problem. The committee discussed establishing a customer service center and consolidating secretaries to track telephone calls from the initial contact to the problem's resolution. This group would share information about what is happening in the various County offices and cross train each other, so any one of them could answer questions or know how to handle calls as they come in. Someone who contacts the County would just have to deal with one person as their liaison for all County services. Council Member Hanrahan stated that they are here to serve the citizens of the County, but many people do not see it that way, and just that change in perception would be worthwhile. Mr. Boyer suggested that the County have one number for people to call and get the information they need. Mr. Jasper explained that the County probably needs a different telephone system and suggested that they look at a new phone system for next year's budget. They also need to coordinate with the telephone book companies to make it clear what number people should call to reach the County offices. He dislikes calling somewhere and getting a recording with a menu of options, and he believed it would be better if people can call in and speak to someone. Chair Ure commented that the County needs to be more like the hotel industry in providing customer service.

- **Discussion regarding County Weed Program; Kevin Callahan**

Public Works Director Kevin Callahan explained that the Summit County Weed Board adopted a strategic plan in 2009, which is their guide for managing the weed program and evaluating their performance. One of their goals is to be sure they have sufficient funding to provide cost-effective weed services. Given the economic challenges, the budget has decreased by about 15% since 2009, but they have been able to increase the amount of acreage sprayed by about 47%. The Council was concerned about enforcement, so an enforcement program was implemented in 2010, and the weed enforcement officer provides education and cites people if necessary. Unlike Code enforcement, citations do not go to the Administrative Law Judge. The State has an adopted weed law which gives the County authority to spray weeds if someone else does not and attach the cost to the owner's property taxes. In 2010, 126 warnings or citations were issued, and all have been resolved. In 2011 they issued 45 citations and provided warnings and education to about 300 individuals. For those who are issued citations, they achieve about 85% compliance; for those they talk to face to face, they get about 90% compliance. The direction from the Weed Board has been to work with people and try to get them to take action. They do not emphasize

citing people, and their goal is to try to get people to take care of their weeds. The County did not necessarily go out and spray weeds for the people they cited who did not take action, but if that is the direction the Council would like them to take, they could do that.

Mr. Jasper stated that he believed sometimes it is necessary to enforce and spray the weeds so people know there is a consequence. Council Member Elliott stated that she believed the County should spray the properties where people do not comply and lien the property for the costs. Council Member Hanrahan agreed.

Dave Bingham, County Weed Enforcement Officer, explained the weed enforcement process. He explained that he usually tries to make personal contact with the property owner, and if he cannot find them, he sends a letter giving them two weeks to take care of the problem. If it is not resolved in two weeks, he sends another letter giving another two weeks to resolve the problem or the County will spray. He stated that many people respond that they did not know what to do to take care of the weeds. Mr. Callahan clarified that is the procedure outlined by State law.

Chair Ure commented that he was not certain that it is fair to the vendors in the State or Summit County for the Weed Department to sell Roundup for less than it can be purchased elsewhere. He wanted to be fair to the taxpayer and to private enterprise, and he could not justify selling Roundup at a reduced cost, because it is used for so many things other than fighting weeds. Mr. Callahan explained that the Weed Board sold Roundup to the Kamas Co-op at their cost, and the Co-op resold it to the public. He offered to take that information to the Weed Board and discuss it with them.

Mr. Callahan explained that the Weed Board has been mapping areas that have an infestation of more than a quarter acre of weeds, and about 110 sites have been mapped. They are able to track how the infestations are doing and make sure they are kept under control. They are also mapping new invasive areas they are concerned about. The Weed Board has set certain priorities and is trying to use their resources to address them. He estimated that about 7,800 acres of weeds were sprayed in 2011. There is a good relationship between education and enforcement and how people are responding, and people are happy to know the County has weed sprayers and chemicals and that there is something they can do about their weeds.

Council Member Hanrahan asked the Weed Board to try to come to a conclusion about who will take care of the weeds in Service Area 3.

- **Discussion regarding fleet lease; Blake Frazier**

This item was postponed to a later date.

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

Council Member Robinson made a motion to convene as the Governing Board of the Snyderville Basin Special Recreation District. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.

The meeting of the Governing Board of the Snyderville Basin Special Recreation District was called to order at 3:55 p.m.

DISCUSSION AND POSSIBLE APPROVAL FOR THE ALLOCATION OF OPEN SPACE BOND FUNDS FOR THE OSGUTHORPE 120 CONSERVATION EASEMENT; CHERYL FOX, SUMMIT LAND CONSERVANCY; ASHLEY KOEHLER, SUMMIT COUNTY SUSTAINABILITY COORDINATOR

Cheryl Fox with the Summit Land Conservancy presented a letter on behalf of BOSAC. Board Member Robinson explained that he had asked for a document identifying the County's legal interests in the Round Valley open space, since the County is expending funds on that property and Park City owns most of the land. He verified that the Board has received those documents and that they are adequate.

Rena Jordan, Executive Director of the Snyderville Basin Special Recreation District, explained that the ownership of the conservation easement will be in the interest of the Recreation District, not Summit County.

Board Member Robinson made a motion to allocate an additional $150,000 from the 2010 Snyderville Basin Open Space/Trails Bond to fund the conservation easement on the Osguthorpe 120 parcel for a total contribution of $450,000. The motion was seconded by Board Member Elliott and passed unanimously, 5 to 0.

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 Board Member Hanrahan and passed unanimously, 5 to 0.

The meeting of the Governing Board of the Snyderville Basin Special Recreation District adjourned at 4:00 p.m.

GRAND OPENING/RIBBON CUTTING AT NEW COALVILLE LIBRARY AND HEALTH DEPARTMENT

The Council Members attended the grand opening and ribbon cutting at the new Coalville Library and Health Department from 4:00 p.m. to 5:00 p.m.

REGULAR MEETING

Chair Ure called the regular meeting to order at 5:00 p.m.

- **Pledge of Allegiance**

CONSIDERATION AND APPROVAL OF ADJUSTED CONGRESSIONAL, STATE HOUSE, STATE SENATE, STATE SCHOOL BOARD, AND LOCAL VOTING PRECINCT BOUNDARIES; KENT JONES

County Clerk Kent Jones explained that the State House, Senate, and School Board boundary lines have been sent down to the County from the State, and there have been no Congressional District changes in Summit County. He commented that the North Summit and South Summit boundaries have not changed in about 40 years, and the State Senate boundaries have now split the South Summit area. In determining the precinct boundary lines for the eastern part of the County, the goal was to make all municipalities whole, and there are no splits in the Henefer, Coalville, Oakley, Kamas, and Francis precincts. Each municipality will be a whole precinct. If there are annexations in the future, the precinct boundary will be moved to encompass the annexation areas. Separate precinct boundaries have been drawn for the unincorporated areas outside those municipalities, and those precincts will still vote in the adjacent municipalities.

Council Member Elliott noted that there are significant variations in the precinct populations. Mr. Jones explained that it is necessary to follow identifiable features when setting boundaries, and there can be up to 1,250 people in a precinct before it must be split. To keep people in the same precincts and polling places, they did not move them when setting up boundaries if they did not need to. Council Member Elliott commented that it would have an effect on equal representation in the caucuses. Mr. Jones noted that caucuses are held by the parties, and the parties can divide their delegates however they want to.

Council Member Robinson asked about the rationale for incorporating an entire municipality into one precinct and then creating a huge geographical area outside the municipality as a separate precinct. Mr. Jones explained that on odd-numbered years when they hold municipal elections, sub-precincts would have to vote in those elections if the municipalities and unincorporated areas were not in separate precincts, because people living outside the city limits have nothing to vote for on municipal election years. Council Member Robinson verified with Mr. Jones that all of eastern Summit County is in Senator Van Tassell's district.

Mr. Jones reviewed the proposed map and indicated the school district boundaries. He indicated pockets where the State and the County lines do not match and explained that a bill is being introduced at the State Legislature to clear up those lines so they will match.

Council Member Robinson asked if the school board members are elected at large or by district. Mr. Jones replied that they are elected by district. He stated that he met with the school boards' representatives, and in the North Summit School District, because of the boundary change, one school board member was displaced and will complete their term, then it will go to someone else in the next election. In South Summit, the boundary changes did not displace anyone. Once the County Council adopts the precinct map, the school districts can rebalance the districts according to the County's lines and equalize the districts as they see fit.

Mr. Jones explained that, once they clean up the boundary lines in the Park City area, the House and Senate lines will be new. The Senate line follows the school district boundary. He indicated the House lines and explained that the County cannot change those lines or cross them, so they had to redraw the precincts in Pinebrook. Council Member Robinson confirmed with Mr. Jones

that the County cannot cross any State Senate, House, or School Board boundaries when creating precincts.

Council Member Robinson made a motion to approve the adjustments to the State Senate, House, and School Board boundaries and local voting precinct boundaries subject to the clean-up amendments proposed by the State Legislature to match up school district boundaries with the State Senate and House district boundaries. The motion was seconded by Council Member Elliott and passed unanimously, 5 to 0.

CONSIDERATION AND POSSIBLE APPROVAL OF DELINQUENT TAX PAYMENT PLAN FOR PARCEL CT-65-A

Sheryl Clark, the applicant, stated that she has been on disability since 2003 and has been unable to return to work. She got behind on her tax payments and was able to catch up with most of them, but she was unaware that she could have received an abatement if she had applied for it because of her disability. She explained that she cannot apply for it retroactively, and if the County Council would offer her a settlement, she would borrow the money to pay it. If she cannot get a settlement amount, she requested a payment plan.

Council Member Hanrahan asked Deputy Auditor Kathryn Rockhill to explain the abatement process. Ms. Rockhill explained that Ms. Clark would have probably qualified for an extreme hardship abatement of approximately half her property taxes per year. Ms. Clark was not aware of that, and Ms. Rockhill was not aware of Ms. Clark's need for it, or she would have let Ms. Clark know.

Council Member Elliott asked if the Council could abate penalties and interest in arrears. Ms. Rockhill explained that is up to the Treasurer. Council Member Elliott confirmed with County Treasurer Corrie Kirklen that settling for an amount less than the whole amount due is within the County Council's purview and not within the Treasurer's purview. Ms. Kirklen stated that she could waive the interest and penalties, because this is a primary home.

Council Member Hanrahan commented that people have come to the Council requesting an abatement because they were unaware of the law, and the Council has not granted it. However, he believed a disability hardship case is different. He suggested that they ask the Treasurer to waive the penalty and interest and that the Council grant the abatement for which Ms. Clark would have been eligible.

Council Member Hanrahan made a motion to encourage the Treasurer to waive the interest and penalty charges for Parcel CT-65-A and to retroactively abate 50% of the taxes back to 2007. The motion was seconded by Council Member Elliott and passed unanimously, 5 to 0.

Council Member Robinson asked when the balance would be due. Ms. Clark stated that she would have the balance paid within five days. Council Member Robinson suggested that they allow Ms. Clark 30 days to pay the balance.

CONSIDERATION AND REQUEST FOR CORRECTION AND REFUND ON 2010 TAX BILLING; WILLIAM D. STEWART

Council Member Hanrahan made a motion to refund the $28.46 overpayment for the 2010 property tax assessment error for Parcel PI-F-8-AM. The motion was seconded by Council Member Elliott and passed unanimously.

CONSIDERATION AND REQUEST FOR ELAINE ALIBERTI FOR ABATEMENT OF PROPERTY TAX INTEREST AND PENALTIES

Ms. Aliberti explained that she loaned some money to a friend, and less than six months later he had a stroke, and she was unaware that there were past-due property taxes. She took the property in return for the money she had loaned, and last week she received a tax sale notice. She agreed that taxes need to be paid on the property, and she has always paid her taxes on time. She requested an abatement of penalty and interest because she tried to take care of this as soon as she found out about it.

Ms. Kirklen explained that the notice was sent because taxes were charged on the property in 2007, and the County taxes the property, not the owner. She stated that she gets calls every week from people who have been given property in exchange for something and do not realize it is encumbered, and the onus is on the property owner to understand that the taxes are due. Ms. Aliberti explained that she is happy to pay the taxes and is only requesting that the County remove the penalties and interest.

Council Member McMullin asked what Ms. Aliberti did to determine whether taxes were due when she acquired the property. Ms. Aliberti replied that her partner looked into it and represented to her that no taxes were due.

Council Member Hanrahan asked why Ms. Kirklen could not abate the interest and penalty. Ms. Kirklen explained that this is unimproved property, not a home, so she does not have the ability to abate interest and penalty. She would not do it in this case anyway, because it does not fall under the guidelines that would allow her to so.

Council Member Elliott made a motion to waive the penalty and interest on the past-due property taxes on Parcel NS-126-A-2.

Ms. Kirklen noted that she has to address this issue frequently, and the Council should be careful and understand they will establish a precedent. She would be willing to work with the applicant on a payment plan and would respect the Council's judgment, but she wanted to be sure they understand that this question comes up regularly.

Council Member Robinson commented that, unlike a primary residence, this was a commercial transaction, and money was loaned with the expectation of repayment with interest for profit. Commercial transactions often go awry, and he did not see how to make an exception in this case without setting a precedent. He felt this was a question of the time value of money, and the County would be giving the applicant an interest-free loan if they were to waive the interest, which is a dangerous precedent to set. He suggested that a payment plan would be fair.

Council Member Elliott withdrew her motion.

Chair Ure noted that, in the absence of a motion, the applicant's request would not be granted.

CONSIDERATION AND REQUEST BY SUMMIT COUNTY FOR DEADHEAD OF 2010 PROPERTY TAX ON PARCEL SU-K-18-X

Council Member Elliott made a motion to approve the deadhead of the 2010 property tax on Parcel SU-K-18-X as recommended. The motion was seconded by Council Member Robinson and passed unanimously, 5 to 0.

MANAGER COMMENTS

Mr. Jasper explained that the RAP recreation committee has recommended that 80% of the RAP recreation tax money be reserved to obtain a loan or bond for a 10-year period. The County Auditor has recommended against that, claiming that it could interfere with the County's cash flow. Mr. Jasper requested direction with regard to bonding for approximately $3 million. Assistant Manager Anita Lewis recalled that a year ago the RAP recreation committee met with the County Council and explained that they were aware of some large projects for communities that want to do some capital building. The Council indicated that they might be in favor of a loan rather than a bond. The question for the Council is whether they support funding for a 10-year period to do capital projects with either a loan or a bond. She clarified that the County Auditor is in favor of a bond because of cash flow considerations. Chair Ure stated that this decision is important enough that it should be placed on the agenda with proper documentation so the Council knows exactly what is being requested.

Mr. Jasper reported that he, Ms. Lewis, and Des Barker met with Mel Brown and asked him when would be the best time to meet with the delegation. Mr. Brown suggested that they wait a month or so to see what issues they might be interested in with which he could help. Council Member Elliott stated that she would like to plan one or two events between March and December to visit and interact socially with the representatives.

PUBLIC INPUT

Nicholas Schapper stated that he represents a small coalition of people who have been working closely with CAGE and the Planning Department. He stated that they would like the Council to look at their concerns about several issues and claimed that a number of items were not addressed through the public process on the Stone Ridge development. Council Member Elliott suggested that Mr. Schapper wait to express his concerns when the Council is considering the Stone Ridge project. She explained that the Council does not know anything about the project, and Mr. Schapper's remarks would be more timely and legal if they were presented in the public hearing for the entire project. Mr. Schapper stated that what he wants to discuss has to do strictly with the Code and how information is presented.

Council Member Elliott requested an opinion before Mr. Schapper continues. Deputy County Attorney Dave Thomas recalled that there were previous situations where those opposed to a project came to give public input and laid out their case. Council Member McMullin asked if Mr. Schapper's comments are specific to a certain application. Mr. Schapper replied that his

comments are specific to the Code and the process. Council Member McMullin requested that Mr. Schapper not make reference to a specific application.

Mr. Schapper stated that his first concern is the definition of compatibility in the Code, and he claimed that the County is not using that definition in a number of issues that have come before the Planning Commission. Council Member McMullin verified with Mr. Schapper that he means when compatibility is used in the CORE portion of the Development Code, it is defined differently than it is in a non-CORE application. Mr. Schapper explained that becomes a problem, because the public process is defeated when only half the definition is presented with regard to compatibility. His second concern was the definition of open space in the Code, and by Black's definition, that means unimproved land. If Planning Staff calculated open space using improved land, such as a pocket park with sprinklers or any improvement on the property, that does not fit the open space definition. It was his opinion that the definition of open space is that it cannot be improved land. He noted that the CORE Code says providing 80% open space allows certain densities, but there is no definitive calculation of open space in the staff report, and no one signed their name to a report saying they calculated the open space based on the Code using the definition of open space. Because of that, vital pieces of information are not presented to the Planning Commission which are key criteria in certain parts of the Code. He reiterated his concern that key information is left out of the process and petitioned the Council to put together a committee to resolve the issues in the Code. He stated that the committee could consist of a non-quorum of the County Council, a non-quorum of the Planning Commission, different citizen groups that represent a majority of citizens, and the open space committee, so they could look at issues that are of concern to him. Council Member McMullin asked if those issues relate to the CORE. Mr. Schapper replied that they are related to the Code in general, and they will have a better Code if they use that process. He claimed that integrity needs to be built into the process, because the CORE Code was written by Michael Barille, who went on to work for a developer who used the CORE Code. Council Member McMullin refuted Mr. Schapper's claims and stated that they are absolutely untrue, as she was on the Planning Commission at the time and was very much aware of the process when the CORE was written. Mr. Schapper replied that he is just sharing concerns from citizens who have been meeting for a long time and have put a lot of work into it.

Council Member Robinson noted that the CORE has been repealed, and the only application pending is one they will not talk about until they hold a public hearing. It would be appropriate for Mr. Schapper to discuss definitions, open space, process, or anything else he wishes to when the Council holds public hearings on that application. With respect to the broader rewrite of the substitute for the CORE, there will be plenty of opportunities to provide input, and the Council has made note of his suggestion regarding a non-quorum of the Planning Commission and County Council being involved in that process. He suggested that they move on.

Mr. Schapper stated that he wanted it to be noted that they have petitioned the Council to look into the process, whether the process was fair, and whether all the information was presented. He gave them a solution for making sure those arguments are presented, because in the process this far, the people he has been meeting with do not feel like the public process was followed or that all the information was presented. Council Member Robinson stated that the public process continues for any application that may be presented, and there will be ample opportunity for Mr. Schapper and anyone else to explain why they believe the process did not work. Mr. Schapper stated that they wanted to get ahead of the process and take care of the issues on the front end,

because without a clarified process, if all the information is not presented and addressed, there is not a true public process. He claimed that only one definition of compatibility was presented. Council Member McMullin noted that Mr. Schapper is talking about one application, which is precisely what the County Council is not supposed to listen to, because there will be a series of public hearings on that application. Mr. Schapper proposed that this applies to a number of projects and are the concerns he has been talking about. He stated that he volunteered to come to the Council to petition them ahead of time to make sure the process is clean and clear so that, when it does come to the public forum, there will not be issues of missing documentation or missing terms, and they will get a better outcome.

Mr. Jasper explained that Mr. Schapper is asking to come to court beforehand, when the other side is not here, to get a leg up. The Council cannot do that, because they have to hear in a public setting both sides at the same time. Mr. Schapper is asking them to hear his side when the other side is not present, which does not allow the Council to act judicially. Mr. Schapper will get to say these things over a long period of time, but coming in to ask to do it beforehand when the other side is not here is not justice. Mr. Schapper claimed that if the process of discovery is not there and they do not have all the information, it is tough to go to court.

Boy Scout Troop 1231 from Hoytsville introduced themselves.

Hubert Resch, representing the Pinebrook Cottages Homeowners Association, stated that about this time last year County road crews sent a front loader to push snow and did considerable damage to their neighborhood. He presented photographs of the damage and the invoice the HOA paid to repair the damage. He stated that they understand an occasional problem with snow plows, but this was a push back of snow that caused extensive damage. He acknowledged that the County has a 15-foot right-of-way on either side of the road to push back snow, but he did not believe that gives the County the right to damage property in the way it was damaged and be unwilling to fix it.

Mr. Jasper stated that he has seen the documentation, and this is his issue to resolve. He noted that nothing is to be planted in the right-of-way that is used for snow plowing, and people would not have been able to get in and out of Pinebrook if the County had not moved the snow during a very difficult winter. He stated that plow operators sometimes work in very difficult situations. He has checked with the Legal Department, and they do not believe the County is liable for these damages.

Council Member Robinson commented that, from a legal standpoint, the County does own the right-of-way, but it is difficult to take the position of asking people to not landscape in the right-of-way and leave a 15-foot weed patch on either side of the road. He asked whether this was an extraordinary situation due to the snow or whether it is an annual problem. Mr. Resch replied that this is the first time it has happened during the six winters he has lived in the area. Council Member Robinson stated that he believed this could be categorized as an extreme winter event, and the HOA may have to absorb the repair costs. He believed the County was within its legal right and did the best they could.

Mr. Resch disagreed with the job that was done and the reason for doing it. He explained that the area has been landscaped for about 17 years and is not new to the snow plow people. Typically they do not plow the east side of the road, and the snow builds up 6 to 10 feet into the road. That creates a restriction and a dangerous situation, and he believed that is why they were pushing the snow back. He noted that the land is flat, so they were not pushing snow uphill. He has operated backhoes and front loaders himself, and if he sees a problem in the first pass, he would raise the blade so he would not do it again. This person continued to do it for more than a half mile on both sides of the street throughout the neighborhood, and he believed the operator was incompetent.

Mr. Jasper offered to meet with Mr. Resch and Public Works Director Kevin Callahan to review the issue again.

Chair Ure closed the public input.

PUBLIC HEARING AND POSSIBLE APPROVAL OF AMENDMENTS TO THE EASTERN SUMMIT COUNTY DEVELOPMENT CODE REGARDING LOTS OF RECORD BY ADOPTION OF AN ORDINANCE

Michael Brown, Chair of the Eastern Summit County Planning Commission, stated that the Planning Commission has worked diligently for the last few years to analyze the Code and come up with a provision to help Staff administer the Lot of Record issue and assist the public and landowners in Eastern Summit County in understanding the status of their parcels. He reported that the amendments were forwarded to the County Council with a 6 to 1 vote.

Community Development Director Don Sargent explained that this has been a confusing issue in the Development Code for many years, and the entire Planning Staff has been involved in developing these amendments. He stated that the one concern they heard throughout the process was density, and he explained that the Lot of Record is not a mechanism to increase density. Zoning creates density. He explained that the objective of the Code amendments is to clarify the definition of a Lot of Record, help in considering density increases by zoning rather than Lot of Record status, incorporate the Planning Department policies and procedures into the Code, provide the public with more information on the application of a Lot of Record on legally platted lots, recognize agricultural subdivisions in conformance with Utah Code, and identify the eligibility to convert an agricultural subdivision to a non-agricultural development. He reviewed the definition of a Lot of Record and noted that the first Summit County Development Code was adopted August 1, 1977. Any parcel described and recorded before that date was defined as a Lot of Record. On June 30, 1992, the first Summit County subdivision ordinance was adopted, and it was determined that any parcel described and recorded between August 1, 1977, and June 30, 1992, that complied with the zoning in effect at the time would also be classified as a Lot of Record. After June 30, 1992, any lot created was required to go through the subdivision process and become a legally platted lot, so no Lots of Record were created after June 30, 1992. He explained that Lot of Record status gives the landowner the right to apply for development of the entitlement on the lot, and they can apply for a building permit, Low Impact Permit, or Conditional Use Permit subject to the regulations of the Code. He explained the process for someone to restore Lot of Record status to their property through a lot line adjustment and boundary line agreement or through a subdivision or special exception.

Council Member Robinson asked about a situation where someone has sold off a portion of their parcel and how that can be restored to Lot of Record status. Mr. Sargent replied that would be a two-lot subdivision. Council Member Robinson noted that would require the signature of both parties, which creates the issue they were trying to resolve where a person who purchased part of a parcel may not be willing to sign off on the subdivision.

Mr. Sargent stated that he believed one of the options outlined in the Code amendments would work 90% of the time in allowing the owner of a Lot of Record to move forward with a development application. Other options available for restoring Lot of Record status are a subdivision and the special exception.

Council Member Robinson explained that this ordinance needs to include a provision that deals with non-subdivision parcels. He asked why they would want to incorporate into the Code the need for a person who may have built on a portion of a Lot of Record that was deeded to him without going through the subdivision process to consent to the remainder parcel going through the subdivision process based on the underlying zoning. Commissioner Brown explained that going forward, the owner of a Lot of Record would be required to apply for a subdivision if he wants to carve off a separate lot. Council Member Robinson argued that a number of situations exist where a portion of a Lot of Record was deeded to someone else without going through the subdivision process, and if the owner of the original Lot of Record wants to subdivide the remainder of his lot, he must obtain permission from the owner of the portion that was deeded off in order to develop his subdivision. Mr. Sargent explained that Lot of Record status could go to the parcel that was carved off, and the remainder parcel could go through the subdivision process. Commissioner Brown stated that the only remedy if the owner of the remainder parcel cannot obtain permission from the other lot owner is a special exception, because State law requires the other property owner's permission. After 1992 the County should have required owners of a Lot of Record to go through the subdivision process before issuing a building permit, and they did not. If the lots had been legally subdivided, they would no longer be tied to one another, and they would be subject to zoning or the plat requirements.

Council Member Robinson noted that they seem to be saying that the special exception can override State law, and they have not accomplished much if they have to grant a special exception every time someone wants to subdivide a non-Lot of Record that otherwise meets the zoning. Mr. Sargent explained that those circumstances are rare, and normally the owner of the parcel that was deeded off is willing to participate in the subdivision process. Council Member Robinson asked if there is language in the Code stating that a property owner can seek a special exception if the non-Lot of Record otherwise meets the underlying zoning. He stated that there have been conveyances of land by metes and bounds that have destroyed existing Lots of Record and created two non-Lot of Record parcels, and to develop one of them, the owner of the other parcel must consent. Commissioner Brown explained that nothing in State law says that someone must start with a Lot of Record to enter the development process. If a property owner has parcels that conform to zoning, they can develop based on the zoning. Council Member Robinson argued that between 1977 and 1992 the Code said that a person could subdivide their property, and it would be deemed a Lot of Record if it otherwise met zoning. After 1992 they could write a provision that says a property owner could enter the subdivision process on a parcel that is not a Lot of Record if it otherwise meets zoning, but there is nothing in the Code that says that. He recalled that they had this discussion two years ago, and there are many circumstances where there is rivalry between neighbors. He would like to avoid those situations without having

to go through a discretionary process of granting a special exception. Commissioner Brown explained that from the beginning zoning was to be the overriding factor, the Lot of Record was only used as a safety net for parcels that did not conform to zoning, and zoning trumps Lot of Record status. Mr. Thomas explained that the State subdivision regulations would deem the circumstances described by Council Member Robinson to be an illegal subdivision. Council Member Robinson clarified that, if a parcel was illegally created, and it meets zoning, they can perfect it by going through a subdivision process. Currently, the County will not let the property owner enter the subdivision process because the original parcel was illegally created. Mr. Thomas replied that is correct, unless they put the original parcel back together. Council Member Robinson stated that standard is too high and is unnecessary. Mr. Sargent offered to explore that issue further. Council Member Robinson suggested that they allow Staff to finish their presentation, hold the public hearing, and continue discussion of this item to another date. He stated that he is not prepared to support it as it is, and he has some suggestions. He did not believe this is a trivial matter, but it is very important, and he did not want to rush it.

Mr. Sargent stated that Staff and the Planning Commission have worked too hard on this to keep it in abeyance. He recommended that the Council adopt the proposed amendments and look at adding a provision to address the Council's concerns in a separate amendment. He proceeded with the presentation and presented the definitions of a legally platted lot and an agricultural subdivision. Council Member McMullin asked if an agricultural subdivision is defined by the use at the time the parcel was created or the intent of the use going forward. Mr. Sargent clarified that it is the intent of the use going forward. Commissioner Brown clarified that a lot that satisfies the demand of the State law could be a traditional Lot of Record with no changes, a platted lot, or an agricultural parcel. Staff has the ability to determine which type of parcel it is, and the Code outlines which rights each type of parcel has been given. Mr. Sargent reviewed the six criteria an agricultural subdivision must meet in order to become a non-agricultural subdivision. Staff recommended that the County Council conduct a public hearing and adopt the proposed Code amendments by ordinance as outlined in the staff report.

Council Member Robinson referred to State law and the requirements for recording an agricultural subdivision and asked if it has to have been recorded at the time the subdivision occurred, or if it could be recorded now, even though the subdivision occurred years ago. He believed there are many farms and ranches where pieces of land have been divided off that may not have met the recording requirements. Commissioner Brown agreed that people do things that are out of compliance, and the Code amendments apply to what happens moving forward. If someone did not follow the rules for an agricultural subdivision in the past, they did not comply, and their parcel would not meet the definition. Council Member Robinson asked how the County can provide a mechanism, short of a special exception, to allow a parcel that did not comply with the rules to move forward, which he believed is the crux of the issue. Mr. Sargent replied that it could be cured by going through the subdivision process or a retroactive boundary line agreement. Council Member Robinson indicated that he would like a unilateral right that does not involve the other owner. Commissioner Brown suggested that they may have to extend the 1992 date or get away from the notion that a Lot of Record has such prestige in the County, go back to true zoning, and forget the Lot of Record status. Council Member McMullin suggested that they consider another window of time to implement some potential cures as they have their discussions.

Chair Ure opened the public hearing.

Mike Crittenden stated that he was proud of the Planning Commission and the incredible job they have done. He used a funnel to demonstrate his point. He stated that zoning came into effect August 1, 1977, and the people in government at that time provided a safety net to protect people if they owned a parcel that did not meet the zoning requirements. That has been turned upside down over time, and even with zoning in place, a Lot of Record is required. He congratulated the Community Development Director and Planning Commission Chair for recognizing that. This has been a public process, and what is being presented tonight would turn the process back to how it should be to the best of their ability, so that zoning dictates, and they would restore the Lot of Record safety net. He was disappointed, because there have been 13 public meetings on this issue, most of which he attended, and this is the first time he has heard the issues raised this evening. He believed Council Member Robinson could have attended the Planning Commission meetings, and he felt like they had been ambushed.

Council Member Hanrahan explained that the Council Members are not allowed to attend Planning Commission meetings, nor can they impose their views on the Planning Commission. They are an independent body.

Council Member Robinson explained that he expressed these concerns a couple of years ago, and the matter was sent back to the Planning Commission to work out. With regard to the funnel analogy, the funnel is still upside down if a person has a parcel that is not a Lot of Record. Even adopting these amendments will not correct the problem for parcels that were illegally created, and they cannot be subdivided without the cooperation of the neighbor who was originally part of the Lot of Record parcel or getting a special exception. Before adopting the amendments, he would like to see a provision that simplifies that process and gets back to having zoning govern.

Council Member Hanrahan asked why they would not adopt the amendments this evening and specifically target this other issue in a separate amendment. Council Member Robinson believed they could resolve this in another meeting, and he would not want to go back to the Planning Commission and start the whole process again. He did not see a reason to divide the issue and explained that this issue is right on the point of the Lot of Record. Mr. Sargent stated that he believes it is a separate issue. Commissioner Brown reiterated that the Code amendments establish a basis in law and apply to what will happen from this time forward. The Planning Commission did discuss how to fix what is already on the ground, and Commissioner Foster actually suggested extending the date. However, every time they tried to determine how to fix it, they were told the only option was a special exception, so they decided to move forward and stop trying to solve the problem. Council Member Robinson stated that, if that is the answer from the Legal Department, he would like to make sure it is the right answer.

Council Member McMullin acknowledged that the Planning Commission has worked on this for a year and a half, and the Lot of Record issue Council Member Robinson brought up was the only one she was aware of. She has never dealt with a Lot of Record except in circumstances where there is an illegal subdivision, and there is not a building right on the parcels. The issues the Planning Commission has struggled with for a year and a half have never risen to the Council level. She did not want the Planning Commission to feel disregarded, and she believed it was great that they have gone this far. She expressed concern about putting this off for another year, noting that the Planning Commission is very particular about language, and she would not want to see it go back to the Planning Commission while they work out the details of their concerns.

She did not believe the Planning Commission would be happy if the Council adds language that the Planning Commission has not had an opportunity to discuss. Council Member Robinson stated that he believed the changes would be minor and could be resolved at the next meeting. Council Member McMullin stated that, even if they find a way to resolve the issue, they would have to craft language to address it, and she believed the Planning Commission would want input on the language. Council Member Robinson argued that there is no reason they have to approve the amendments after a late night discussion tonight. He asked to have another meeting where they can discuss it and understand the legalities of other options. He stated that nothing in the amendments deals with the hundreds of parcels that are in an illegal status where the special exception is the only route.

Ken Henrie, a member of the Eastern Summit County Planning Commission, stated that he believed the language as drafted was well written, has a lot of merit, and would solve a lot of issues, but not all of them. He agreed with Council Member Robinson that the amendments do not address how to fix the problems that exist, and that is what started the whole thing. He believed the amendments contain good information, but they never got back to solving what is already on the ground, and he did not know the proper way to do that. He believed it should be fixed, whether it is done as a separate issue or whether they can do it with this hearing.

Mr. Thomas explained that the Legal Department has also considered this for two years, and they have not found a way outside of a special exception or amnesty through taking the 1992 date forward to resolve the problem.

Commissioner Henrie stated that he did not believe extending the 1992 date would be a solution, because since 1992, people have illegally divided and sold off parcels. There is a law on the books that says people must go through a subdivision process to divide their land, but that has not been required of the public. The Recorder's Office will record a deed whether it complies with the law or not. The problem is that people can still do that now and next year and 10 years from now. Extending the 1992 date to today will not stop people from doing it tomorrow.

Commissioner Brown argued that up to this point nothing was codified, and there was never a basis to say no to people. Once it is in the Code, they can draw the line, and then the property owner is out of luck if they do not comply. Somewhere along the line they have to draw the line. Up to this point, especially between 2000 and 2006, many Lots of Record were divided and conveyed to others, and he believed people thought they were going through a subdivision process. Once the law is in place, they cannot worry about how to help property owners reconstitute their lots.

Mr. Sargent acknowledged that there will be some cases where it is not possible to recombine a lot, and it is not the County's fault that someone went through a process without going through the procedures. The problem with moving the date is that zoning has changed, and it would be an administrative nightmare to try to track all the lots involved. He would prefer to deal with zoning and the subdivision and signature of the landowner.

Council Member Robinson stated that he would also like to see if there is a way to retroactively allow agricultural subdivisions to meet the criteria, because in many instances, people have not recorded a record of survey that has been approved by the County.

Council Member Hanrahan noted that Commissioner Henrie was the only dissenting vote when the recommendation was forwarded to the County Council and asked if his reason was that the Code amendments would not resolve the existing problems. Commission Henrie replied that was not the reason for his dissenting vote. There was some wording in the language that he believed was confusing, and he thought they should clarify it before forwarding a recommendation. He commented that, prior to these amendments, people have been able to illegally divide their land and still get a building permit. The proposed language states that the County will not issue a building permit until the applicant has complied. That does not solve anything, but it is a key issue, because if a portion of a parcel has been deeded to someone else and has a house on it, the remainder parcel is held hostage. With the proposed language, the County can deny the owner of the remainder parcel a building permit, because they did not go through the subdivision process.

Council Member Robinson made a motion to continue the public hearing and discussion on the proposed amendments to the Eastern Summit County Development Code to Wednesday, February 1. The motion was seconded by Council Member Elliott and passed unanimously, 5 to 0.

COUNCIL COMMENTS

Council Member Robinson reported that he will attend the UAC meeting on January 26 to go over bills UAC is tracking and SB 124.

Council Member Hanrahan referred to Mr. Schapper's comments and asked about the Code amendment process. Mr. Sargent replied that the Planning Commission discussed the process last evening and outlined a work program for the General Plan and Development Code amendments and the housing needs assessment. They will return to the second Planning Commission meeting in February with the overall General Plan document. Council Member Hanrahan asked if there is a working subcommittee of Planning Commission and Staff. Mr. Sargent replied that Staff is currently working on the amendments. The subcommittee has provided input, and most of the chapters are complete based on that input. Council Member Hanrahan asked if there would be a benefit to forming a subcommittee that includes more than just the Planning Commission. Mr. Sargent replied that there would not be at this time, because they have already gone through the process and have amendments ready to move forward, and recalled that they held workshops and open houses to involve the public in the process. Council Member Hanrahan verified with Mr. Sargent that anyone who has issues they would like to address would go to the future public hearings and asked if they ever use citizen committees when making Code amendments. Council Member McMullin recalled that they did when the CORE Rezone was developed. Council Member Hanrahan commented that they tend to get a parochial view when they only involve the Planning Commission, and he believed it would make sense to invite people from the community who might have a different perspective. Mr. Sargent explained that they are trying to do more outreach and involve members of the community in discussions who have interest and time.

Council Member Elliott reported that she had received communication from a constituent who was concerned about three lots that were given by the Presbyterian Church to the Christian Center for Habitat. The Christian Center would like to convert those lots to cash rather than use them for affordable housing. Mr. Sargent has explained that they cannot resubdivide the three

lots that were combined so the Presbyterian Church could be built. It is now a combined lot which must comply with the underlying zoning, which it does not. Mr. Sargent has suggested that they grant a special exception. She asked if the Council or Mr. Jasper would like her to find out more about what is involved. Council Member McMullin replied that the entities involved should take care of it. Mr. Sargent requested that Council Member Elliott forward the e-mail to him and he would explain the situation to the parties involved.

The County Council meeting adjourned at 8:20 p.m.

_____ _____

Council Chair, David Ure ***County Clerk,*** Kent Jones

MINUTES

SUMMIT COUNTY

BOARD OF COUNTY COUNCIL
WEDNESDAY, FEBRUARY 1, 2012
COUNCIL CHAMBERS
COALVILLE, UTAH

PRESENT:

David Ure, *Council Chair*
Claudia McMullin, *Council Vice Chair*
Sally Elliott, *Council Member*
Chris Robinson, *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, 4 to 0.

The Summit County Council met in closed session from 3:00 p.m. to 3:35 p.m. to discuss litigation. Those in attendance were:

David Ure, *Council Chair*
Claudia McMullin, *Council Vice Chair*
Sally Elliott, *Council Member*
Chris Robinson, *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 McMullin and passed unanimously, 4 to 0.

WORK SESSION

Chair Ure called the work session to order at 3:40 p.m.

- **Council Mail Review**

Council Member Elliott noted that neither the County Council Members nor the Planning Commissioners have filed conflict of interest disclosure notices, and she felt it was important to do that, especially since they have new Planning Commissioners.

- **Discussion regarding fleet lease; Blake Frazier, Auditor**

County Auditor Blake Frazier reviewed the information in the packet regarding how the fleet lease fund operates. He recalled that the fund was established in the 1980's, and the theory behind it was to be able to do large purchases for the various departments and equalize the payments to maintain a level budget. He explained that they track all of the assets and maintain balances and an adequate level of working capital to mitigate current and future risks and insure stable fees. He noted that upgrades in equipment for the Sheriff's vehicles are also purchased from the fleet fund. He indicated that the formula for charting costs and receiving money into the fund is shown in the staff report. He noted that it also explains how they dispose of assets in the fleet fund.

Council Member Ure commented that he was led to believe in the budget session that the County amortizes trucks over 10 years and then gets rid of them. Mr. Frazier explained that they are amortized over 10 years, which means they cannot be sold before then. But they may keep them longer, depending on the truck. County Manager Bob Jasper explained that, if the County has a truck that is 10 years old that still looks good and runs well, they do not necessarily get rid of it. Public Works Director Kevin Callahan explained that they will establish a fleet committee to look at retention rates and how the fleet is managed.

Council Member Elliott stated that she has not known this much before about how the fleet is managed and that she is very impressed with the program. She felt it was unfortunate that they did not understand it better during the budget process.

Mr. Frazier noted that the amortization period depends on the vehicle and the kind of use it gets. Some vehicles are amortized over three years, and others over 10 years. That may be adjusted from time to time based on what is happening historically.

Mr. Jasper explained that the fleet committee, based on the Council's adoption of the sustainability plan, will move toward natural gas powered vehicles. They will also work with departments to see if they can get by with smaller vehicles and look at how they can transition to a more sustainable fleet. He noted that there are no tax implications related to the County's fleet, which is different from private industry.

Council Member Robinson noted that the Council reduced the lease payments in 2011 and 2012 and asked if they went too far in reducing the fund balance. Mr. Frazier replied that they should be all right for now, but they cannot do it continually. There is still a good fund balance, and they should be adequately funded, but they cannot do this every year. He noted that they also transfer vehicles to other departments when they still have some useful life. He stated that they try to run all vehicles up to about 100,000 miles.

- **Presentation and recommendations of the RAP Tax Committee; Tom Fey, Chair**

Tom Fey reviewed the committee's recommendations for RAP cultural grants and noted that these will be the tenth grants since the RAP tax was passed 10 years ago. He believed the community was happy that they have reinstated the tax for another 10 years. He noted that, with this year's grants, the RAP committee will have granted more than $6 million to organizations in Summit County. He stated that they have had an excellent committee. This year 17 grants

qualified, and 2 grants did not, based on the State Code requirement that they be a 501(c)3 publicly supported charity. This year's grant requests totaled $1,182,000, and there was only $714,000 available to recommend to the Council. Last year's grants totaled $748,000, which is $34,000 more than they have available this year.

Mr. Jasper asked why there is less money this year than last year. Dianne Walker with the RAP Tax committee explained that the Jazz Foundation funds were returned last year, which accounts for the difference. Mr. Fey commented that he has been hearing from the community that sales are up this year compared to a year ago.

Mr. Fey reviewed how the committee operates in determining what should be granted to each applicant. After review and negotiations as a committee, they take a final vote, and the committee is unanimous in their decision regarding how the funds will be allocated. He stated that they use a matrix to look at which individuals are supported by a particular organization to be certain that the money is spread across all entities. They look at the number of people served, efficiency of the organization, and cost per individual served. He explained that they counseled with the County Commission when the RAP Tax started and determined that RAP Tax funds should not support more than 50% of any performance or performing budget, and they should not support more than 35% of the overhead of any organization.

Council Member Elliott reported that the Council got a letter from Sarah West with Sundance objecting to the fact that Sundance did not get as much this year as they got last year. She recalled that they brought Sundance from Salt Lake City to Summit County after the RAP Tax rules and regulations were in place and came with guarantees of location and community funding. She acknowledged that they cannot expect an arts organization to produce a return on investment, but in the case of Sundance, the community benefit Sundance provides is significant. She asked the committee to reinstate the amount of funding to Sundance that they received last year, even if it means other organizations have to be cut. She believed they would see an increase in future years in the tax that is produced for the RAP committee to allocate to other organizations. Mr. Fey noted that the committee's recommendation is that Sundance receive the second highest allocation of all the organizations being funded.

Debbie Dorius, a member of the RAP Tax committee, asked why Ms. West already knew the figure. Council Member Elliott explained that it is in the packet, which was published online. Ms. Dorius stated that this would open a can of worms for every group to come back and say they want what they received last year. Council Member Elliott stated that no one else has the compelling argument that Sundance has. Ms. Dorius explained that the committee met with each group and spent hours analyzing the applications, and Sundance was one of the healthier groups that came in. She did not believe an additional $3,000 to Sundance would have such a huge impact on them that it would justify taking that money away from other organizations.

Jan Massimino, a member of the RAP Tax committee, noted that when they first started the RAP Tax grants, fewer non-profits were bargaining for a piece of the pie. Now there are significantly more non-profits that bring a significant difference to the community. She would hate to sacrifice the little bit that Sundance might get when it means a lot to some other organizations.

Council Member Robinson asked if the RAP Tax committee adhered to their standards on every grant. Mr. Fey replied that they did with one exception, the Echo Historical Society.

Council Member Ure noted that KPCW received a $20,000 increase in funds compared to last year. Mr. Fey explained that KPCW used to get more money, and when their management ended up in turmoil, their funds were cut back dramatically. This increase will bring them closer to what they received in previous years. The committee is recommending that the grant money only support local programming and not purchase national programming and has requested that be documented by either a 1099 or W-2.

Council Member McMullin noted that the grant to the Performing Arts Foundation is $23,000 less than last year and asked why they had such a significant reduction when most other entities had only a slight reduction. Mr. Fey replied that it relates to how they wrote their grant request. The committee are sticklers about not letting people change their grant request once it is submitted, and the Performing Arts Foundation wrote their grant request in such a way that they only asked for support of their outreach program, which covers a fairly small population. They asked for support of the incremental cost of keeping performers in town for an extra day or two so they could perform or provide a master class for the students. The committee has suggested that next year they might want to change their grant request to support for a particular performance. Council Member McMullin asked if any part of their request was for outreach during the Sundance Film Festival. Ms. Walker explained that their application was very thorough in describing everything they do, and that was described, but when it came requesting funding, their request was only to keep performers for an extra day. Council Member McMullin asked if the size of the organization is taken into consideration and whether it is compared with other organizations. Mr. Fey replied that they do take size into consideration and try to compare like organizations.

Council Member Elliott requested that the committee return with an alternative recommendation. The other Council Members disagreed and suggested that the Council Members return with their own suggestions if they would like to see an alternative recommendation.

Ms. Dorius expressed concern that the Council Members want to pull $3,000 from groups whose applications they have not seen and to whom they have not listened. The Council has not gone through the process that the committee spent hours on, and she struggled with the idea of pulling money from other organizations to give to Sundance.

Ms. Walker asked if the Council would consider assessing grant recipients 1% of their grant money in the future to have an auditor look at their procedures. She noted that one applicant does not require two signatures on checks, and things like that are very basic and important when dealing with funds. Mr. Jasper stated that he would hesitate to do that, and if the committee has concerns about an organization's viability or how they do business, that should be taken into consideration in deciding whether to fund them.

- **Discussion regarding proposed amendments to Section 10-8-2 of the Snyderville Basin Development Code regarding signs; Jennifer Strader, Planner**

County Planner Jennifer Strader presented the staff report and noted that the sign amendments have been ongoing since the beginning of 2010 and were initiated at the Council's request. At first, Staff looked at only the temporary sign provisions, but the Attorney's Office recommended that they amend the entire Sign Code to make it content neutral in order to comply with the First

Amendment right to freedom of speech, as a number of signs in the Code are content based. Initially Staff separated signs into residential and non-residential categories. Typical signs on residential lots would be campaign signs and real estate signs, and the new language states that a residential lot could have up to 6 square feet of sign area as long as the signs do not advertise a commercial operation. If there is an approved business at the residence, a small sign could be used to advertise that use. It is also proposed that residential signs be no more than 6 feet in height.

Planner Strader explained that the same language is proposed for signs for non-residential uses. Businesses would be subject to 6 square feet of sign area with no time limit and no permit required, which would be a Class I temporary sign. Class II temporary signs would be allowed only for temporary uses, could be up to 20 square feet in size, and would be limited to two 30-consecutive-day periods per year. Class II signs would require a permit, and examples would include banner signs advertising a grand opening or special sale, and they could be attached to a building or poles. Class III temporary signs would be no larger than 20 square feet and would be allowed for up to a year. The Code currently allows for rental, sales, leasing, development, and construction signs for new construction, which are typically displayed while construction is ongoing and the building is being leased. Because those signs would be more permanent, they would have to be made of more rigid material. After the year is up, if the applicant wants to renew for another year, they would have the option to do so. Planner Strader explained that they have tried to remove the content-based language in the Code and tried to keep intact as many signs as are currently allowed in the Code. She explained that signs would not be allowed in the right-of-way, and they would have to be on the property on which the entity requesting the sign is located.

Planner Strader discussed permanent signs and explained that the County receives complaints about the comprehensive sign plan allowance. Comprehensive sign plans are specific to certain developments and typically allow more flexibility than the normal Sign Code provisions. She explained that it is difficult to tell a business owner that they are subject to the Sign Code provisions, but their neighbor is allowed to have bigger and better signage. The intent is to adopt a Sign Code that can be consistently applied throughout the Snyderville Basin and is fair to everyone. Staff proposes that they remove the comprehensive sign plan requirement, and developments with existing comprehensive sign plans would be allowed to continue to abide by those plans. In exchange for removing the comprehensive sign plan requirements, Staff felt they should add more flexibility with regard to permanent signs, which are typically provided more flexibility through a comprehensive sign plan. The amendments propose that each single user, such as McDonalds, can have a monument sign up to 30 square feet. A multiple use development, such as Kimball Plaza, would be allowed up to 45 square feet to enable them to include all the business names.

Council Member Robinson asked about businesses that currently have non-conforming signs. Planner Strader explained that currently the Code will not allow a business with non-conforming signage to expand their business unless all the non-conforming signs are brought into conformance. Council Member Robinson verified with Planner Strader that the proposed language would separate conforming buildings from non-conforming signs and allow the buildings to be expanded without updating the sign and making it come into compliance. He asked if a business with a non-conforming sign could apply for a conforming sign in addition to the nonconforming sign. Planner Strader explained that is not clear in the language. Community

Development Director Don Sargent stated that most businesses with non-conforming signs also have other signage associated with them. As long as the existing signs do not become more nonconforming, they have allowed them to continue, even if they are changed out. Council Member Robinson suggested that they include language in the Code to address whether businesses with non-conforming signs would be allowed to have additional conforming signs based on the Code amendments.

Planner Strader noted that Staff has included miscellaneous amendments to clean up and clarify the language. She explained that the Planning Commission discussed changeable copy signs and recommended that electronic changeable copy signs not be allowed, but signs that could be manually changed would be all right. Council Member Robinson noted that there was some divergence among the Planning Commissioners according to the minutes. Planner Strader explained that the sign amendments will come back to the Planning Commission in one year for review to see how they are working. If things have changed and they want to address changeable copy signs again, they could do it at that time. She also noted that the proposed amendments address neon signs. The Planning Commission felt that one neon sign would be appropriate, but it cannot be flashing or animated and can be up to 2 square feet in size. Planner Strader reviewed the flag regulations and explained that the current language is unclear in explaining what types of flags are allowed. The proposed language states that no more than three flagpoles may be erected at any time, flagpoles are restricted to flying only one flag per pole, the maximum size of any flag shall be 24 square feet, and flagpoles cannot exceed 28 feet in height. Uplighting of all flags is prohibited except the U.S. flag.

Council Member Robinson reviewed the proposed language and proposed a number of edits. He suggested that the language clarify that a Class I temporary sign is allowable in both residential and non-residential areas, but Classes II and III are non-residential only. With regard to a 6-square-foot limit for Class I signs, he noted that would allow only two political signs on a residential parcel. He believed campaign workers would ignore this language and that there would be more than two signs on some people's property. County Clerk Kent Jones explained that would be compounded by the new law that staggers the County elections, which means there will be presidential, Federal, State, and County candidates all in one year, which is more races in a given year than they have had in the past.

Council Member Elliott asked if the proposed sign ordinance would abrogate the ordinance the County adopted several years ago that outlawed huge campaign banners and signs.

Mr. Thomas explained that enforcement is up to the Code Enforcement Officer, and usually during the election season, they do not enforce as much. However, the public right-of-way issue is simple, because the Code Enforcement Officer can remove any signs in the right-of-way. Chair Ure noted that it depends on whether the right-of-way is owned by the State or the County, because the County does not have authority to regulate the State right-of-way.

Council Member Robinson commented that normally people do not want to litter their yards with signs, other than during campaign season, and wondered whether it is necessary to have a restriction of 6 square feet. He clarified that he would want that to apply only to residential signs, not to businesses. He believed they should re-think whether they want to outlaw changeable copy signs, and if they do, the language should probably state "unless required by State and Federal law" rather than just Federal law. He asked about the intent of the two 30-day

periods for Class II temporary signs and asked if it might be better to allow them to be displayed for 60 days. Planner Strader noted that, because they cannot limit content, a person could apply for a Class II temporary sign on a non-residential lot to put up a 20-square-foot campaign sign, and they would have to comply with the time frame of two 30-consecutive-day periods. When they allowed for two 30-day periods, they were thinking of stores that might have a sale in the spring and a sale in the fall. However, they could apply for two 30-day permits to run consecutively.

Chair Ure explained that the Chamber Bureau members and community feel that the Snyderville Basin Sign Code is strangling their businesses. He asked how people are to know if there is a business they are looking for unless they advertise in the telephone book or have a sign so people can find them. Council Member Elliott recalled that the economic development committee is planning to publish a directory of all businesses in Summit County, and she believed people should use the directory rather than allowing businesses to proliferate signs to advertise services people can find out about in other ways. Chair Ure stated that he does not want things to be more stringent for businesses, and he was not in favor of tightening down many of the things that are being tightened down in the ordinance. Mr. Sargent noted that, overall, the proposed Sign Code language would be less restrictive than what currently exists.

Council Member Robinson stated that he believed the restriction on window signs being not more than 10% of the window size was ambiguous. He asked whether neon signs would be considered window signs. He noted that there is language referring to billboards, but billboards are not addressed anywhere else in the ordinance.

Mr. Jasper asked if the sign ordinance, once it is adopted, would apply to everyone or whether development agreements would pre-empt the ordinance. Planner Strader replied that it would apply to the entire Snyderville Basin Planning Area. If a development has a comprehensive sign plan and would prefer to use the requirements in the ordinance, they would file a statement with the Recorder's Office stating that they no longer want to be subject to their comprehensive sign plan and want to be subject to the new standards. Council Member Robinson suggested that language be added to the Code explaining what would be required if a developer no longer wants to be subject to a comprehensive sign plan.

REGULAR MEETING

Chair Ure called the regular meeting to order at 5:35 p.m.

- **Pledge of Allegiance**

ASSESSOR'S OFFICE 2011 ERRORS AND OMISSIONS; STEVE MARTIN, ASSESSOR

County Assessor Steve Martin explained that the errors and omissions represent valuation errors, usually situations where property owners have found errors on their tax notices

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Council Member Robinson made a motion to approve the errors and omissions as presented. The motion was seconded by Council Member Elliott and passed unanimously, 4 to 0.

DISCUSSION AND DECISION CHANGING SUMMIT COUNTY VACATION, SICK LEAVE, PERSONAL DAY, AND RETIREMENT POLICY; BRIAN BELLAMY, DIRECTOR OF PERSONNEL

Personnel Director Brian Bellamy reported that minor changes have been made to the policy. He noted that most vacation time and sick leave has accrued by hours, not by days, and he proposed that also be done for funeral leave. He also explained that some employees who plan to retire may retire at the beginning of one month, but their sick and vacation leave is paid out until the following month. The current policy continues to accrue vacation and sick leave after they are gone. The new policy would not allow sick leave or vacation to accrue once they have actually retired.

Council Member Robinson asked if the County is also required to pay for health insurance and retirement benefits during the period when the retired employee is using up their accrued vacation and sick leave. He believed once someone leaves, the County should pay the accumulated vacation and sick leave and be done. Mr. Bellamy explained that there is a significant tax impact if the County pays that in one lump sum. Council Member Robinson noted that the employee would get that money back as a tax refund, and the current policy costs the County additional money in health insurance premiums. He noted that a retiring employee could have up to 10 weeks using up accrued sick leave and vacation time that they would not be working, with the County would pay for their health insurance. He asked about various items in the policy and suggested some edits, including a reference to domestic partner or adult designee.

Council Member Elliott made a motion to approve the changes to the Summit County Vacation, Sick Leave, Personal Day, and Retirement Policy with the recommended edits. The motion was seconded by Council Member Robinson and passed unanimously, 4 to 0.

Mr. Jasper stated that he was confused about the process for setting policy under this form of government. He thought he had the authority to issue executive orders, with the Council confirming them, and he wanted to be sure they are doing this right. Deputy County Attorney Dave Thomas explained that the Council can set policy for the entire County. The Manager has the ability to issue executive orders, which can be overruled by the Council. He verified that they are following the correct procedures, because this is a County-wide policy.

DISCUSSION AND DECISION CHANGING SUMMIT COUNTY DRUG TESTING POLICY; BRIAN BELLAMY, DIRECTOR OF PERSONNEL

Mr. Bellamy recalled that the Council removed random drug testing from the recently adopted 2012 Budget. However, the County does other types of testing, such as accident testing and reason of suspicion testing, and they have the opportunity to do testing if someone self-discloses and chooses to get help. The proposed changes would remove random drug testing from the County's policy, retain drug testing for those with a commercial driver's license, which is federally mandated, and allow law enforcement to possess illegal substances as evidence in the process of their law enforcement work.

Council Member Robinson commented that the Council may elect to reinstate random drug testing in the future if there are sufficient funds and suggested that they leave that in the policies. He did not understand why they should prohibit themselves from doing random drug testing.

Council Member Elliott made a motion to approve the changes to the Summit County Drug Testing Policy as presented in the packet with corrections to typographical errors. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0.

MANAGER COMMENTS

Mr. Jasper commented that things are moving very quickly at the legislature, and he received a call from the County Health Director expressing concern about HB 114, which would not allow health regulations that are more stringent than State regulations. He advised the lobbyist to work closely with UAC to address that issue. Chair Ure commented that he believed that bill was a long way from passing.

Mr. Jasper reported that he has approved the transfer of a vehicle to Friends of Animals. He noted that Friends of Animals adopts out a lot of the County's pets and has donated more than the cost of the vehicle in services to the County. Council Member McMullin disclosed that she had nothing to do with the transaction, and a member of the Friends of Animals board handled it.

COUNCIL COMMENTS

Council Member Elliott explained that the Quality Growth Commission discussed the Payment in Lieu of Taxes (PILT) funding and the proscription that the money be spent on things that have to do with Federal properties. She did not believe she had ever seen an accounting of that fund. She requested that the County Auditor provide a memorandum about how PILT funds are spent in Summit County, because the legislature is trying to change things.

Council Member Robinson explained that a new legislator from Cedar City wants to change that. He noted that PILT funds come from the Department of Interior for BLM lands, and the County receives about $1.2 million in PILT funds each year. He stated that he asked the County Auditor specifically about the PILT funds at the UAC meeting. Summit County puts PILT funds into its municipal fund. The purpose of the new legislator's bill is to require counties to first put PILT funds into their municipal funds, which Summit County is already doing. He commented that the bill has other issues and is probably a bad bill.

APPROVAL OF COUNCIL MINUTES

JANUARY 4, 2012
JANUARY 11, 2012

Council Member Elliott made a motion to approve the minutes of the January 4, 2012, and January 11, 2012, Summit County Council meetings with corrections. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0 for the January 4 minutes, and 3 to 0 for the January 11 minutes, with Council Member Ure abstaining from the vote, as he did not attend the January 11 meeting.

PUBLIC INPUT

Chair Ure opened the public input.

There was no public input.

Chair Ure closed the public input.

PUBLIC HEARING TO CONSIDER POTENTIAL PROJECTS FOR WHICH FUNDING MAY BE APPLIED UNDER THE CDBG SMALL CITIES PROGRAM

Administrative Office Manager Annette Singleton presented the staff report and explained that the amount of CDBG funds available each year varies, and Summit and Wasatch Counties expect to receive approximately $400,000 in this program year. The purpose of this first public hearing is to introduce the applicants, obtain citizen input, and respond to any questions about the proposals. A second public hearing will be held in March or April for applicants who have been notified that their projects will receive funds. Summit County has two applicants they will sponsor, the Echo Sewer System and the Wooden Shoe Culinary Water System.

Chair Ure clarified that the $400,000 would be split between Summit County and Wasatch County, and the decision regarding the grants will be made on March 19.

Mr. Jasper noted that the process for setting up Echo Sewer System as a body politic has not yet been completed. Lane Peirce with Sunrise Engineering, representing Echo Sewer, explained that the funds are loaned to Summit County as the sponsor of the grant applications, not Echo Sewer, and CDBG funds can be passed on to non-government entities. He explained that their CDBG grant request is $150,000, and the total project cost will be $850,000.

A representative from the Wooden Shoe Water Company reported that the entire cost of their project is $340,000, and the board chose to request the full amount. He explained that they are trying to secure other funds but have not yet been able to do so. Council Member Robinson commented that he was surprised to learn they would have only a 20,000-gallon storage tank. The representative from Epic Engineering, representing Wooden Shoe Water Company, explained that the water company has such a dire need to provide culinary water that the cost is only what is needed to provide culinary water, and they do not have the funds or the ability to provide fire flow. Council Member Robinson commented that is unfortunate because of the economies of scale associated with providing a larger tank.

Chair Ure opened the public hearing.

There was no public comment.

Chair Ure closed the public hearing.

Council Member Robinson made a motion to sponsor the Echo Sewer System and the Wooden Shoe Water Company as the two projects for which the County will seek CDBG funding. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0.

Chair Ure requested that Mr. Jasper prepare a letter stating that the County will officially sponsor these two projects.

CONTINUATION OF PUBLIC HEARING AND POSSIBLE APPROVAL OF AMENDMENTS TO THE EASTERN SUMMIT COUNTY DEVELOPMENT CODE REGARDING LOTS OF RECORD, BY ADOPTION OF AN ORDINANCE

Council Member Robinson recommended that they not take action on this item, because the language is in a state of flux. He requested that this item be continued to February 15.

Chair Ure noted that Council Member Robinson has drafted some language and submitted it to Community Development Director Don Sargent.

Chair Ure re-opened the public hearing.

Wade Wilde, a local land surveyor, stated that they have been struggling to find a way for someone to partition off a piece of land in Summit County. One recommendation made to the Planning Commission is to allow a property owner to apply for a one-lot subdivision so a landowner can cut off one parcel and deed it to someone else without encumbering the remainder parcel. He stated that from the mid-1990's to 2004, people were instructed to partition off a piece of land in order to obtain a building permit. Now he understands that the parcels divided off during that time are nonconforming. There are now many nonconforming parcels in the County, and part of the Lot of Record issue is how to address those nonconforming parcels. He has heard it said that only a few isolated incidents occurred, but in reviewing the surveys he has done over the last several years, he has a list of 29 parcels that went through that process and according to today's standards are nonconforming. He noted that it takes a year to process a simple two-lot platted subdivision, and he would like to see a simple mechanism that would allow a piece of land to be partitioned off and quickly achieve the landowner's desires. Council Member Robinson confirmed with Mr. Wilde that, according to his records, the most recent partitioning of lots without going through a subdivision process occurred about 5 years ago. He also verified with Mr. Wilde that he is proposing that the County create an ordinance that would allow one piece to be divided off and leave intact the future building rights of the larger piece. Mr. Wilde explained that other jurisdictions are doing that; they allow a one-lot subdivision to comply with the State Code and call the other parcel a remainder parcel, which is subject to development rights based on the zoning.

Mr. Jasper and the Council Members discussed what has been happening on Lots of Record since 1977 and 1992. Mr. Jasper commented that this appears to be an amnesty issue, because people did something illegal according to the subdivision laws, and the County allowed it to happen.

Glenn Brown stated that nearly 35 years ago he was on the committee that originated planning and zoning in Summit County. The committee consisted of representatives from throughout the County, and they were directed by the County Commission to consider putting planning and zoning in place. Prior to that, anyone could build wherever they wanted to. They spent a lot of time on the Lot of Record decision, and by 2012 the Lot of Record has become so misconstrued from where it started that it is hard to recognize it. At the time they adopted the ordinance on

August 1, 1977, they recommended that every parcel in Summit County, independent of its size, was entitled to a building permit to build a home on if it was eligible within the zone. There was no reference to the underlying zoning at all, and it was a right the County Commission chose to grant to the property. In the beginning, it was administered so that anyone who owned a parcel of ground that was on the books and recorded in 1977 was entitled to one residential unit. Mr. Jasper asked if it was envisioned that the property owner could divide the lot without permission and build additional homes on it. Mr. Brown replied that it was not. It was envisioned that the remaining parcel, after the right to build a residential unit was exercised, would be eligible for whatever the underlying zoning might be at that time. He recalled that they discussed how to zone the County and whether it should be based on where particular activities should occur or on current use. They determined that the zoning would be based on current use, so no one would be out of compliance with the first zoning process. The only restriction on the Lot of Record at that time was that it would be eligible for a unit within the zone where it was located; i.e., if the property was within an industrial zone, it would not be eligible for a residential unit. For many years, the only requirement was that a property owner be able to prove that he owned a parcel that was recorded prior to 1977, and he would be able to obtain a building permit. Now the problem they face is how to comply with State law that requires people to go through a subdivision action. He stated that, until the County is willing to go back and define the terms properly, they will not unscramble this issue. It was not possible to create a Lot of Record after 1977, and Lot of Record status cannot be lost unless the property owner decides to exercise the right to build a unit on their parcel. Anything other than a lot that existed in 1977 is not a Lot of Record.

Mr. Sargent quoted from the 1977 Code regarding Lots of Record, "Nonconforming size of lots: Any Lot of Record at the time of passage of this Code in any zone in which single-family dwellings are permitted and which does not comply with the standards of this Code with respect to lot size may be used for a single-family dwelling." It goes on to explain that they have to be recorded. Based on that language, it was his understanding that it was any parcel that was non-conforming with respect to parcel size of the underlying zone. Mr. Brown claimed that is the wrong interpretation. He stated that it refers to lot size and does not refer to zone and the interpretation of the intent has changed.

Council Member Robinson stated that he does not see a big distinction between what Mr. Sargent and Mr. Brown are saying. To him it means a Lot of Record is a lot that existed on the books on August 1, 1977, and is entitled to a unit of residential density, regardless of the zoning. However, the County has used the Lot of Record status as the ability to build on the lot, and if a property owner does not have Lot of Record status, they are not entitled to even ask for a subdivision.

Mr. Thomas explained that, if someone did not subdivide their property according to the rules after 1977, it created an illegal subdivision, and according to State law, it is void, which means the division never happened. As a result, they have to combine the lots back together in order to apply for a subdivision, but if they cannot get the parties involved to reconstitute the lot, there has to be another process to work equity, and that process is the special exception. Council Member Robinson stated that he believed counties have the authority, if they want to exercise it, to correct some of these problems short of doing the equitable process. Mr. Thomas replied that was done in 1992, which was basically an amnesty process.

Mr. Brown stated that it was his perception that exercising a Lot of Record was never intended to be done by a subdivision action. The County never administered it that way until the State adopted the subdivision law. Since then, the County has accepted as a subdivision action the other parcels that have been brought in. He stated that the County has the ability to not have to require a plat, and exercising some Lots of Record was done without going through the platting process. He reiterated that the County does not have to plat the property to meet the subdivision action of the State law, and they can exempt up to 10 lots if they choose to do so. He explained that the intent was always to make the process to exercise the one right property owners were given when they started zoning and planning a simple one. He takes offense at being told that he has done something when the governing body that issued the permit now tells him he broke the law when they gave it to him. He claimed that when the County authority issued the building permit, they accepted that as legal action requiring what was necessary. Council Member Robinson clarified that some people were coming to the County to get a building permit for their lot, and after the fact hired a surveyor to create a separate lot and deed it to someone else. Mr. Brown stated that many people will testify that is what they were directed to do. He stated that they need to start by clearing up the definitions.

Mr. Sargent confirmed that after 1977, no Lot of Record was ever created again. In 1992, parcels divided without a plat became the same status as a Lot of Record, because they followed the process that was in place at that time. After 1992, nothing has been created that is a Lot of Record, and any lot has to become a legally platted lot.

Chair Ure commented that it was his opinion that the County did not have any confusion as to what the Lot of Record definition was. It was all internal policy, and he is not faulting anyone, but they are trying to improve a process. He believed they need to sit down and work out the policies and fix the problems that are before them. He noted that it has been said that there are people on the County Council who have a conflict of interest in this matter, and he disagrees with that, because anyone who owns property in the County would have a conflict of interest. He believed they are trying to solve problems for the people who are in limbo because of “illegal lots,” which he believed was an improper term. He suggested that County Attorney David Brickey represent the Council and allow Mr. Thomas to represent the Manager and Staff to try to work out language they can all agree on.

Mr. Jasper stated that he would like to fix it and codify it, but he did not want to have to go back and provide amnesty to everyone. He stated that there is still a need for zoning and subdivision, and it sounds to him like this is an amnesty issue.

Council Member McMullin stated that she believes this is like amnesty. It is forgiveness when two parties are equally at fault and they want to move forward, and they need to move forward and figure out what to call it. They need to find a way to legitimize what transpired when two parties made a mistake, and whether intentional or unintentional, it was a mistake. The fact is that it was ratified by the County issuing a building permit. Mr. Thomas explained that the County cannot ratify something that is void as a matter of law, and that is why the State statute specifically says it is void.

Council Member Robinson disclosed that his family owns large amounts of acreage in Summit County, and at various times they have made divisions for agricultural purposes, but he believed his issues are not related to the issue they are discussing with regard to Lots of Record. His issues have to do with bona fide divisions of agricultural land and what someone can do with a bona fide division of agricultural land. He stated that he has had pending since 2006 or 2007 a 13-lot subdivision known as the Lodgepole Ranch on the north slope of the Uintas, and there are issues related to how to deal with a bona fide agricultural subdivision if he wants to develop it. He believed Staff was comfortable with that and that it would be dealt with in the State Code. He wanted to find a way to correct or make whole or provide forgiveness for all the other smaller divisions that occurred for non-agricultural purposes with a systematic process that is fair and does not reward someone who intentionally did something wrong. He wanted to find a way to solve this without property owners having to get a special exception or having to reconstitute the subdivision with a neighbor who does not want to participate. He suggested that they put together a subcommittee with the Community Development Director, Legal Staff, members of the Eastern Summit County Planning Commission, and others and try to come up with something they can bring back to the Council on February 15. Chair Ure stated that he would like to serve on the subcommittee.

Sam Donaldson commented that a lot of people in the County have had this situation occur to them from 1992 to the present, and he takes offense at the insinuation that these lots are illegal. He stated that he did not know that he had done anything illegal when he built his house. He cares about his good name and the process they went through to get their building permit, and they followed every instruction the County gave them. To say now that he lives on an illegal lot is news to him and offends him, because he went through the process. He stated that his wife is from here, her family has owned property here for a long time, and they went to the County several times to find out what they needed to do to get a building permit. They received different scenarios as to what they had to do, and eventually were told exactly what they had to do to get the building permit. To find out now that they did an illegal act when they did not know any better and that they live on an illegal lot offends him. They did exactly what they were told to do, and his father-in-law gave them a quit-claim deed for 32 acres. Ten years later they deeded 30 acres back to his father-in-law.

Mr. Wilde explained that he is not trying to get more density than what was originally intended; he is just trying to get the development rights he is entitled to.

Council Member Elliott made a motion to continue the public hearing on this item to February 15, 2012. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0.

The County Council meeting adjourned at 7:15 p.m.

_____ _____

Council Chair, David Ure ***County Clerk,*** Kent Jones

Resolution No. 2012 -____

RESOLUTION OPPOSING HOUSE BILL 313
SUMMIT COUNTY, UTAH

WHEREAS, Summit County created its Board of Health (the "Board") to enact rules, regulations and standards that are necessary for the promotion and protection of public health and safety; and,

WHEREAS, emerging public health issues are often first identified locally such that the Board must promptly identify and assess the local community's various health needs and concerns, rapidly develop or recommend policies, procedures, and programs to meet the local community's health needs - long before they are addressed at the state or federal levels; and,

WHEREAS, Summit County, Utah has specific local public health needs, as new threats are encountered, the scientific knowledge base grows, and regulatory requirements must be modified - like addressing the fact that Summit County, Utah has the highest rate of skin cancer in the nation; and,

WHEREAS, the Summit County Council recognizes that House Bill 313 to be over-reaching, over burdensome and unnecessary legislation that ties the hands of local governments to timely respond to important and potentially urgent local public health problems;

NOW, THEREFORE, be it resolved by the County Council, Summit County, Utah, that it categorically objects to House Bill 313 in that the bill directly prevents the Board from fulfilling its statutory mission effectively and efficiently, and hinders the provision of adequate public health services at the local level and the proper addressing of emergent and urgent local public health issues.

APPROVED AND ADOPTED this 29th day of February, 2012.

SUMMIT COUNTY COUNCIL
SUMMIT COUNTY, UTAH

ATTEST:

By: _____
David Ure, Chair

_____
Kent Jones, County Clerk

Don B Sargent, Director
(435) 336-3125
dsargent@co.summit.ut.us

MEMORANDUM

DATE: February 24, 2012

TO: Summit County Council (SCC)

FROM: Don Sargent, Community Development Director

RE: February 29, 2012 SCC Meeting - Lot of Record - Eastern Summit County Development Code Amendments

This item is a continued public hearing on proposed amendments to the Eastern Summit County Development Code that clarify existing provisions and codify policies and procedures concerning the determination and application of lots of record and legally created lots. The proposed amendments also include provisions addressing agricultural subdivisions in accordance with the Utah Code.

At the initial public hearing before the SCC on January 25, 2012, several issues dealing with agricultural subdivisions and the re-subdivision of existing lots of record were discussed. A subcommittee of the Council comprised of Council Members Robinson and Ure was established and Planning Commission Chair Brown and Legal and Planning Staff were invited to participate in refining the proposed amendments and bring the language back to the Council for approval consideration.

Attached as Exhibit A are the proposed amendments as edited by the subcommittee. Also attached for reference as Exhibit B, is the original language as recommended by the Planning Commission presented at the January 25th hearing. Other than minor language clarifications throughout, substantive edits included the following:

- The "Legally Platted Lot" language was changed to "Legally Created Lot" to account for property situations which may qualify for exemption of filing a subdivision plat.

- An agricultural land division section was added and the existing agricultural subdivision sections were refined consistent with the intent of the State Code and suggestions of the subcommittee members.

The following policy questions regarding the amendments were also discussed by the subcommittee:

- Consideration of amnesty for all parcels that were created since the enactment of the subdivision ordinance in 1992 to today, which met zoning. It was generally felt that this policy may resolve the lot of record "property splits" which have occurred overtime but would also create an administrative challenge to apply and would be counterintuitive to basis for the lot of record provisions to begin with.

- Allowing the acreage of parcels that are not lots of record or legally created lots to be counted for density purposes when combined with adjacent lots of record or legally created lots. The policy of the County has been to *not* count the acreage of parcels that are not lots of record or legally created lots for density purposes to ensure equitable accounting of all property with respect to development eligibility.

Several other language edits (highlighted in the subcommittee draft) were also discussed. The concerns regarding these edits are mostly related to understanding the meaning of the language and being able to effectively administer the provisions accordingly. Staff will be prepared to describe and illustrate examples of property situations that may be associated with applying these language edits if the SCC is interested.

Staff recommends that the SCC review the proposed subcommittee amendments, address the policy questions raised and discuss the highlighted language edits. Staff further recommends the SCC conduct a public hearing and consider adopting the amendments as addressed by the SCC at the meeting by Ordinance 768 (Exhibit C).

Attachments:

EXHIBIT A: Subcommittee Proposed Amendment Language
EXHIBIT B: Original Proposed Amendment Language as Recommended by the Planning Commission
EXHIBIT C: Ordinance 768

11-4-1: PURPOSE:

The purpose of this chapter is to provide both a simple and comprehensive explanation for consideration of development applications. (Ord. 481, 3-1-2004)

Except as otherwise provided for in this Title, a "lot of record" or “legally created lot” is required for the development of a single family dwelling, subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title. The “lot of record” or “legally created lot” status of a property gives the land owner, or designated representative, the right to apply for such entitlement.

Land divisions for agricultural purposes do not qualify as building lots unless the property is converted to nonagricultural use through the subdivision process of this Title or the process identified in Section 11-4-6 of this Title, in either of which case “lot of record” or “legally created lot” status is not required.

11-4-2: LOT OF RECORD:

A. Any parcel/lot described in a deed, sales contract or survey, that was recorded in the office of the Summit County Recorder before August 1, 1977, is a “lot of record.” Any parcel/lot described in a deed, sales contract, or survey that was recorded in the office of the Summit County Recorder between August 1, 1977 and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation, is also a "lot of record."

A "lot of record" is eligible for the development of a single family dwelling, subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title. The “lot of record” status of a property gives the land owner or designated representative the right to apply for such entitlement.

The allowable density for a “lot of record” is determined by the underlying zone district. A “lot of record” that is smaller than the applicable minimum parcel size for the zone district in which it is located may be eligible for one (1) unit of density, if all applicable provisions of this Title can be satisfied.

Any parcel/lot that is not a “lot of record” and that was not created in accordance with the land use ordinances of Eastern Summit County is eligible for development of a single family dwelling, subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title, by an action of the County through one of the processes as outlined in Section 11-4-2(F) herein, provided all Code and General Plan criteria can be met.

There are parcels/lots within Eastern Summit County that, while their existence may be recorded in the office of the Summit County Recorder, were not created in accordance with the land use ordinances of Eastern Summit County as described herein. Summit County will not process a development application or issue a building permit for such parcels/lots except as provided for in Subsection 11-4-2(F) herein

B. Lot of Record Verification: The CDD or designated planning staff member shall verify "lot of record" status on all parcels for development applications in which an associated building permit will be issued, including requests to subdivide property, except as provided for in Subsection 11-4-2(G) herein. The CDD or designated planning staff member decision on the "lot of record" status will be made in writing and provided to the applicant and land owner.

C. Parcel Combinations:

1. In the event that two (2) or more adjacent "lots of record" are combined through a lot line adjustment process in accordance with this Title, the newly created parcel shall be considered one "lot of record." Any further subdivision of the property would be subject to the underlying zone district with respect to density.

2. In the event that one (1) or more adjacent "lots of record" are combined with one (1) or more parcels that are not "lots of record" through a lot line adjustment process in accordance with this Title, the newly created parcel shall be considered one "lot of record". Any further subdivision of the lot would be subject to the underlying zone district and the acreage of the combined parcel will be counted for density purposes.

D. Appeal Procedure: A "lot of record" determination may be appealed to the County Council within ten (10) calendar days from the date of the decision in accordance with Section 11-7-17 of this Title.

E. Standards for Verification: There are situations where the legal description of a "lot of record" may have changed without losing the "lot of record" status, namely:

1. If a government action creates a public road that bisects a "lot of record," the parcels on either side of the road are considered to be separate "lots of record." If a government action results in the widening of a road within a "lot of record," the parcel shall maintain its "lot of record" status.

2. If the Union Pacific Rail Trail which follows the historic rail bed divides a “lot of record,” then the parcels on either side of the Rail Trail are considered to be separate “lots of record.”

3. If a property owner petitions to have only a portion of a “lot of record” annexed into a city, the portion of the property remaining under County jurisdiction loses its “lot of record” status unless the property is subdivided in accordance with this Title prior to or concurrent with the annexation.

4. Government survey lot(s), although shown as individual lots on ownership plat maps, are not considered to be "lots of record" unless the lot(s) otherwise conform to the definition of a “lot of record” and there is clear evidence that the government survey lot was owned, conveyed, or patented independent of the quarter section of which it was a part.

5. Section lines do not divide a parcel into two (2) or more "lots of record" unless the parcel(s) otherwise conform to the definition of a "lot of record.”

6. If the description of a "lot of record" has changed due to an updated survey for the purpose of confirming property boundaries, and the description does not create additional, separately described parcels, the “lot of record” status will remain intact.

7. Multiple Assessor Parcel or property tax identification numbers are not conclusive proof of “lot of record”.

F. Any parcel/lot that is not a “lot of record” and that was not created in accordance with the land use ordinances of Eastern Summit County is eligible for development of a single family dwelling, subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title, by an action of the County through one of the following development processes, as defined and outlined in Chapter 4 of this Title, provided all Code and General Plan criteria can be met.

1. Lot Line Adjustment/Boundary Line Agreement, including the combination of a “non-lot of record” with a “lot of record.”

2. Subdivision (In the case of recombining parcels which were broken off from a “lot of record,” the revised description of the parcel(s) must match the original description that complied with the “lot of record" definition, subject to

modifications permitted under the preceding Section E).

3. Plat Amendment, including the expansion of a subdivision to include land outside of a subdivision, regardless of “lot of record” status of the expansion parcel(s).

4. Special Exception as granted by the County Council if the criteria for approval as outlined in Section 11-4-11(B) of this Title can be satisfied.

G. Exceptions:

1. Verification of "lot of record" status is not required for the following building improvements, permits, subdivisions, or structures:

   a. Agricultural exempt buildings
   b. Grading permits
   c. Land Divisions for agricultural purposes
   d. Building additions, remodels, detached garages, or other accessory structures less than 2,000 square feet which are associated with an existing residential dwelling

11-4-3: LEGALLY CREATED LOT:

A. A “legally created lot” is:

1. A lot within an existing platted and approved subdivision which was created in accordance with the subdivision regulations of Summit County and recorded in the office of the County Recorder; or

2. A lot that was created from the conversion of agricultural land divisions to a nonagricultural subdivision in accordance with the Utah Code and this Title; or

3. a lot that successfully completes one of the development processes as outlined in Section 11-4-3(E), below.

A "legally created lot" is eligible for the development of a single family dwelling, re-subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title. The “legally created lot” status of a property gives the land owner or designated representative the right to apply for such entitlement.

The density of a "legally created lot" within an existing platted and approved subdivision is determined by the approved subdivision plat. In the event a lot owner of a "legally created lot" applies for a re-subdivision, the density is determined by the underlying zone district in accordance with the development approval process. A "legally created lot" that is part of a homeowners' association and is governed by CC&R's that prohibit re-subdivision is not eligible for re-subdivision without the consent of all owners of record within the homeowner's association subdivision.

The density of a legally created lot outside of an approved subdivision plat is determined by the underlying zone district.

Any lot that is not created in accordance with the land use ordinances of Eastern Summit County is not entitled to "legally created lot" status. The owner of any lot which has lost its "legally created lot" status may be eligible to restore that status as provided for in Section 11-4-3(E) herein.

There are lots within Eastern Summit County that, while their existence may be recorded in the office of the Summit County Recorder, were not created in accordance with the land use ordinances of Eastern Summit County as described herein. Summit County will not process a development application or issue a building permit for such parcels/lots except as provided for in Subsection 11-4-3 (F) herein

B. Lot Combinations:

1. In the event that two (2) or more "legally created lots" are combined through a plat amendment/lot line adjustment process in accordance with this Title, the newly created lot shall be considered one "legally created lot." Any future subdivision of the lot would be subject to the underlying zone district with respect to density.

2. In the event that one or more "legally created lots" within an approved subdivision plat are combined through a lot line adjustment process with one or more adjacent "non-legally created lots," which also are within the same approved subdivision plat, the newly created lot shall be considered one "legally created lot." Any further subdivision of the lot would be subject to the underlying zone district and the acreage of the combined "legally created lot" may be counted for density purposes.

C. Standards for Verification: There are situations where the legal description of a "legally created lot" may have changed without losing the "legally created lot" status, namely:

1. If a government action creates a public road that bisects a "legally created lot," the lots on either side of the road are considered to be separate "legally created lots." If a government action results in the widening of a road within a "legally created lot", the lot shall maintain its "legally created lot" status.

2. If the Union Pacific Rail Trail which follows the historic rail bed divides a "legally created lot," then the lots on either side of the Rail Trail are considered to be separate "legally created lots."

3. If a property owner petitions to have only a portion of a "legally created lot" annexed into a city, the portion of the property remaining under County jurisdiction loses its "legally created lot" status unless the lot is re-subdivided in accordance with this Title prior to or concurrent with the annexation.

4. Government survey lot(s), although shown as individual lots on ownership plat maps, are not considered to be "legally created lots" unless the lot(s) otherwise conform to the definition of a "legally created lot" and there is clear evidence that the government survey lot was owned, conveyed, or patented independent of the quarter section of which they are a part.

5. Section lines do not divide a lot into two (2) or more "legally created lots" unless the lot(s) otherwise conform to the definition of a "legally created lot."

6. If the description of a "legally created lot" has changed due to an updated survey for the purpose of confirming property boundaries and the description does not create additional, separately described lots, the "legally created lot" status will remain intact.

7. Multiple Assessor Parcel or property tax identification numbers are not conclusive proof of "legally created lot" status.

E. Any lot that is not a "legally created lot" and that was not created in accordance with the land use ordinances of Eastern Summit County is eligible for

development of a single family dwelling, subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title, by completing one of the following development processes, as defined and outlined in Chapter 4 of this Title, provided all Code and General Plan criteria can be met.

1. Lot Line Adjustment/Boundary Line Agreement

2. Subdivision (In the case of reconstituting "legally created lots", the revised description of the lot(s) must match the previous description that complied with the "legally created lot" definition, subject to modifications permitted under the preceding Section D.

3. Plat Amendment, including the expansion of a subdivision to include land outside of a subdivision, regardless of the "legally created lot" status of the expansion parcel(s).

4. Special Exception as granted by the County Council if the criteria for approval as outlined in Section 11-4-11(B) of this Title can be satisfied.

F. Exceptions:

1. Verification of "legally created lot" status is not required for the following building improvements, permits, subdivisions, or structures:

   a. Agricultural exempt buildings
   b. Grading permits
   c. Land Divisions for agricultural purposes
   d. Building additions, remodels, detached garages, or other accessory structures less than 2,000 square feet which are associated with an existing residential dwelling.

11-4-4: DIVISIONS OF AGRICULTURAL LANDS

Land may be divided without first going through a development, subdivision, or platting process if the land is a bona fide division or partition of agricultural land for agricultural purposes.

If the land that is divided pursuant to this section is thereafter used for a nonagricultural purpose, the land must comply with the subdivision process of this Title or comply with the requirements of section 11-4-6, in either of which case "lot of record" or "legally

created lot" status is not required.

11-4-5: AGRICULTURAL SUBDIVISION:

A. Purpose: The purpose of this section is to exempt lots or parcels that result from the subdivision of agricultural land from the requirements of a subdivision plat.

B. Criteria: A lot or parcel may be legally subdivided for agricultural purposes subject to the following requirements:

1. The parcel or lot qualifies as land in agricultural use under Section 59-2-502 of Utah Code Annotated;

2. The parcel or lot meets the minimum size requirement of the applicable land use ordinances (underlying zone district); and

3. The land is not used and will not be used for any nonagricultural purpose.

C. Review Procedure: The CDD or designated planning staff member shall verify the criteria set forth in this section in order to determine whether the proposed agricultural subdivision is exempt from the subdivision plat requirements of this Title.

D. Exemption from Plat Requirements; Recording: Parcels or lots meeting the criteria in subsection B above are exempt from the requirements of a subdivision plat however, the boundaries of each lot or parcel exempted under subsection B, above, shall be either described in a deed through a metes and bounds description recorded with the County Recorder or graphically illustrated on a record of survey map recorded with the County Recorder.

E. If a lot or parcel that is subdivided pursuant to this section is thereafter used for a nonagricultural purpose, the lot or parcel must comply with the requirements of Section 11-4-6.

11-4-6: CONVERSION OF A DIVISION OF AGRICULTURAL LANDS AND AGRICULTURAL SUBDIVISION TO A NONAGRICUTURAL SUBDIVISION:

The conversion of a division of agricultural lands and agricultural subdivision lot(s) to nonagricultural subdivision lot(s) shall result in the creation of legally created

lot(s).

For the purposes of nonagricultural development, the minimum land area requirements of the underlying zone district and development standards of this Title will be used to determine the eligibility of the property owner to apply for residential density, or other nonagricultural uses.

The lot(s) or parcel(s) shall require the review and approval of a subdivision plat in accordance with the subdivision regulations of this Title. All existing dwelling units of the original agricultural parcel shall be evaluated and accounted for within the overall density of the nonagricultural subdivision.

"Lot of record" or "legally created lot" status is not required if the property was originally divided for agricultural purposes, as documented by the land owner, in accordance with the following provisions of the Utah Code Annotated or as amended:

1. The existing lot(s) or parcels(s) meet the minimum size requirement of the underlying zone district, and;

2. The boundaries of each lot or parcel shall be either described in a deed through a metes and bounds description recorded with the County Recorder or graphically illustrated on a record of survey map recorded with the County Recorder, and;

3. The land has been actively devoted to agricultural use producing in excess of 50% of the average agricultural production per acre of similarly situated land for each of the preceding two (2) years, and;

4. The land has been devoted to the raising of useful plants and animals with a reasonable expectation of profit, and;

5. The property includes at least five (5) contiguous acres and is either currently enrolled in or qualifies for greenbelt tax assessment.

Development Code Definitions

LOT: A parcel of real property describable either by metes and bounds, or by another legal plat designation held or intended to be held in separate ownership, or a parcel or unit of land shown as a lot or parcel on a recorded subdivision map. The existence of a lot does not necessarily mean that a structure can be constructed thereon. In order to obtain a building permit to construct a building on a lot, the lot must have been legally created. (See definition of Lot of Record, Legally ~~Platted~~ Created Lot).

LOT, LEGALLY ~~PLATTED~~CREATED: 1) ~~A~~a lot within an existing platted and approved subdivision which was legally created in accordance with the subdivision regulations of Summit County and recorded in the office of the County Recorder, or 2) a lot that was created from the conversion of agricultural land divisions to a nonagricultural subdivision in accordance with the Utah Code and this Title, or 3) a lot that successfully completes one of the development processes as outlined in Section 11-4-3(E). (*see also 11-4-3*)

LOT, LOT OF RECORD: Any parcel/lot described in a deed, sales contract, or survey, that was recorded in the office of the Summit County Recorder before August 1, 1977, is a “lot of record.” Any parcel/lot described in a deed, sales contract, or survey, that was recorded in the office of the Summit County Recorder between August 1, 1977 and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation, is also a "lot of record”. (*see also 11-4-2*)

EXHIBIT A

11-4-1: PURPOSE:

The purpose of this chapter is to provide both a simple and comprehensive explanation for consideration of development applications. (Ord. 481, 3-1-2004)

A "lot of record" or "legally platted lot" is required for the development of a single family dwelling, subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title. The "lot of record", or "legally platted lot" status of a property, gives the land owner, or designated representative, the right to apply for such entitlement.

Land divisions for agricultural purposes do not qualify as building lots unless the property is converted to non-agricultural use through the subdivision process.

11-4-2: LOT OF RECORD:

A. Any parcel/lot described in a deed, sales contract or survey, that was recorded in the office of the Summit County Recorder before August 1, 1977, is a "lot of record." Any parcel/lot described in a deed, sales contract, or survey that was recorded in the office of the Summit County Recorder between August 1, 1977 and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation, is a "lot of record".

A "lot of record" is eligible for the development of a single family dwelling, subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title. The "lot of record" status of a property gives the land owner or designated representative the right to apply for such entitlement.

The allowable density for a "lot of record" is determined by the underlying zone district. A "lot of record" that is smaller than the applicable minimum parcel size for the zone district in which it is located may be eligible for one (1) unit of density, if all applicable provisions of this Title can be satisfied.

Any parcel/lot that was not created in accordance with the land use ordinances of Eastern Summit County is not entitled to "lot of record" status. The owner of any parcel/lot which has lost its "lot of record" status may be eligible to restore that status as provided for in Section 11-4-2-E herein.

There are parcels/lots within Eastern Summit County that, while their existence may be recorded in the office of the Summit County Recorder, were not created in accordance with the land use ordinances of Eastern Summit County as described herein. Summit County will not process a development application or

issue a building permit for such parcels/lots except as provided for in Subsection 11-4-2:F herein

B. Lot of Record Verification: The CDD or designated planning staff member shall verify "lot of record" status on all parcels for development applications in which an associated building permit will be issued, including requests to subdivide property, except as provided for in Subsection 11-4-2:F herein. The CDD or designated planning staff member decision on the lot of record status will be made in writing and provided to the applicant and land owner.

In the event that two (2) or more "lots of record" are combined through a lot line adjustment process in accordance with this Title, the newly created parcel shall be considered one "lot of record". Any further subdivision of the property would be subject to the underlying zone district with respect to density.

C. Appeal Procedure: A "lot of record" determination may be appealed to the County Council within ten (10) calendar days from the date of the decision in accordance with Section 11-7-17 of this Title.

D. Standards for Verification: There are situations where the legal description of a Lot of Record may have changed without losing the "lot of record" status:

1. If a government action creates a public road that bisects a lot of record, the parcels on either side of the road are considered to be separate "lots of record". If a government action results in the widening of a road within a lot of record, the parcel shall maintain its "lot of record" status.

2. If the Union Pacific Rail Trail which follows the historic rail bed divides a lot of record, then the parcels on either side of the Rail Trail are considered to be separate "lots of record".

3. If a property owner petitions to have only a portion of a "lot of record" annexed into a city, the portion of the property remaining under County jurisdiction loses its "lot of record" status unless the property is subdivided in accordance with this Title prior to or concurrent with the annexation.

4. Government survey lot(s), although shown as individual lots on ownership plat maps, are not considered to be "lots of record" unless the lot(s) otherwise conform to the definition of a "lot of record" and there is clear evidence that the government survey lot was owned, conveyed, or patented independent of the quarter section of which they are a part.

5. Section lines do not divide a parcel into two (2) or more "lots of record" unless the parcel(s) otherwise conform to the definition of a "lot of record".

6. If the description of a "lot of record" has changed due to an updated survey for the purpose of confirming property boundaries, and the description does not create additional, separately described parcels, the "lot of record" status will remain intact.

7. Multiple Assessor Parcel or property tax identification numbers are not conclusive proof of "lot of record" or lawfully created lot status.

E. The owner of any parcel/lot which has lost its "lot of record" status may be eligible to restore that status by completing one of the following development processes, as defined and outlined in Chapter 4 of this Title, provided all Code and General Plan criteria can be met. In the case of recombining parcels, the revised description of the parcel(s) must match the previous description that complied with the "lot of record" definition, subject to modifications permitted under the preceding Section D.

1. Lot Line Adjustment/Boundary Line Agreement
2. Subdivision
3. Plat Amendment
4. Special Exception as granted by the County Council if the criteria for approval as outlined in Section 11-4-11:B of this Title can be satisfied.

F. Exceptions:

1. Verification of "lot of record" status is not required for the following building improvements, permits, subdivisions, or structures:

   a. Agricultural exempt buildings
   b. Grading permits
   c. Division of agricultural land for agricultural purposes in accordance with Section 17-27a-605 of the Utah Code Annotated and Section 11-4-4 of this Title
   d. Building additions, remodels, detached garages, or other accessory structures less than 2,000 square feet which are associated with an existing residential dwelling

11-4-3: LEGALLY PLATTED LOT:

A. A "legally platted lot" is a lot within an existing platted and approved subdivision which was created in accordance with the subdivision regulations of Summit County and recorded in the office of the County Recorder. A legally platted lot also includes a lot that was created from the conversion of agricultural land divisions to a non-agricultural subdivision in accordance with the Utah Code and this Title.

A "legally platted lot" is eligible for the development of a single family dwelling, re-subdivision, or other development action, permit, or use identified in Section 11-3-13 of this Title. The "legally platted lot" status of a property gives the land owner or designated representative the right to apply for such entitlement.

The density of a legally platted lot is determined by the approved subdivision plat. In the event a lot owner of a legally platted lot applies for a re-subdivision, the density is determined by the underlying zone district in accordance with the development approval process. A legally platted lot that is part of a home owners association and is governed by CC&R's that prohibit re-subdivision is not eligible for re-subdivision without the consent of all owners of record within the home owner's association subdivision.

Any lot that is not created in accordance with the land use ordinances of Eastern Summit County is not entitled to "legally platted lot" status. The owner of any lot which has lost its "legally platted lot" status may be eligible to restore that status as provided for in Section 11-4-3-E herein.

There are lots within Eastern Summit County that, while their existence may be recorded in the office of the Summit County Recorder, were not created in accordance with the land use ordinances of Eastern Summit County as described herein. Summit County will not process a development application or issue a building permit for such parcels/lots except as provided for in Subsection 11-4-3:F herein

B. Lot Combinations: In the event that two (2) or more "legally platted lots" are combined through a plat amendment/lot line adjustment process in accordance with this Title, the newly created lot shall be considered one "legally platted lot". Any future re-subdivision of the lot would be subject to the underlying zone district with respect to density.

C. Standards for Verification: There are situations where the legal description of a

"legally platted lot" may have changed without losing the "legally platted lot" status:

1. If a government action creates a public road that bisects a "legally platted lot", the lots on either side of the road are considered to be separate "legally platted lots". If a government action results in the widening of a road within a "legally platted lot", the lot shall maintain its "legally platted lot" status.

2. If the Union Pacific Rail Trail which follows the historic rail bed divides a "legally platted lot", then the lots on either side of the Rail Trail are considered to be separate "legally platted lots".

3. If a property owner petitions to have only a portion of a "legally platted lot" annexed into a city, the portion of the property remaining under County jurisdiction loses its "legally platted lot" status unless the lot is re-subdivided in accordance with this Title prior to or concurrent with the annexation.

4. Government survey lot(s), although shown as individual lots on ownership plat maps, are not considered to be "legally platted lots" unless the lot(s) otherwise conform to the definition of a "legally platted lot" and there is clear evidence that the government survey lot was owned, conveyed, or patented independent of the quarter section of which they are a part.

5. Section lines do not divide a lot into two (2) or more "legally platted lots" unless the lot(s) otherwise conform to the definition of a "legally platted lot".

6. If the description of a "legally platted lot" has changed due to an updated survey for the purpose of confirming property boundaries, and the description does not create additional, separately described lots, the "legally platted lot" status will remain intact.

7. Multiple Assessor Parcel or property tax identification numbers are not conclusive proof of "legally platted lot" status.

E. The owner of any parcel/lot which has lost "legally platted lot" status may be eligible to restore that status by completing one of the following development processes, as defined and outlined in Chapter 4 of this Title, provided all Code and General Plan criteria can be met. In the case of reconstituting "legally platted lots", the revised description of the lot(s) must match the previous description that

complied with the "legally platted lot" definition, subject to modifications permitted under the preceding Section D.

1. Lot Line Adjustment/Boundary Line Agreement
2. Subdivision
3. Plat Amendment
4. Special Exception as granted by the County Council if the criteria for approval as outlined in Section 11-4-11:B of this Title can be satisfied.

F. Exceptions:

1. Verification of "legally platted lot" status is not required for the following building improvements, permits, subdivisions, or structures:

   e. Agricultural exempt buildings
   f. Grading permits
   g. Division of agricultural land for agricultural purposes in accordance with Section 17-27a-605 of the Utah Code Annotated and Section 11-4-4 of this Title
   h. Building additions, remodels, detached garages, or other accessory structures less than 2,000 square feet which are associated with an existing residential dwelling.

11-4-4: AGRICULTURAL SUBDIVISION:

A. Exemption from Plat Requirements - Agricultural Land Division: Parcels qualifying as land in agricultural use under Section 59-2-502 of Utah Code Annotated may be legally subdivided for agricultural purposes in accordance with Section 17-27a-605 of the Utah Code Annotated or as amended, subject to the following requirements:

1. The land division shall meet the minimum size requirement of the applicable land use ordinances (underlying zone district), and;

2. The land is not used and will not be used for any nonagricultural purpose, and;

3. The boundaries of each lot or parcel shall be graphically illustrated on a record of survey map and shall be recorded with the County Recorder.

11-4-5: CONVERSION OF AN AGRICULTURAL SUBDIVISION TO A NON-AGRICUTURAL SUBDIVISION:

The conversion of agricultural subdivision lot(s) to non-agricultural subdivision lot(s) shall result in the creation of legally platted lot(s).

For the purposes of nonagricultural development, the minimum land area requirements of the underlying zone district and development standards of this Title will be used to determine the eligibility of the property owner to apply for residential density, or other nonagricultural uses.

The lot(s) or parcel(s) shall require the review and approval of a subdivision plat in accordance with the subdivision regulations of this Title. All existing dwelling units of the original agricultural parcel shall be evaluated and accounted for within the overall density of the non-agricultural subdivision.

Lot of Record verification is not required if the property was originally divided for agricultural purposes, as documented by the land owner, in accordance with the following provisions of the Utah Code Annotated or as amended:

1. The existing lot(s) or parcels(s) meet the minimum size requirement of the underlying zone district, and;
2. The land is not used and will not be used for any nonagricultural purpose, and;
3. The boundaries of each lot or parcel shall be graphically illustrated on a record of survey map recorded with the County Recorder, and;
4. The land has been actively devoted to agricultural use producing in excess of 50% of the average agricultural production per acre of similarly situated land for each of the preceding five (5) years, and;
5. The land has been devoted to the raising of useful plants and animals with a reasonable expectation of profit, and;
6. Each lot or parcel is at least five (5) acres in size and is eligible for greenbelt tax assessment.

Development Code Definitions

LOT: A parcel of real property describable either by metes and bounds, or by another legal plat designation held or intended to be held in separate ownership, or a parcel or unit of land shown as a lot or parcel on a recorded subdivision map. The existence of a lot does not necessarily mean that a structure can be constructed thereon. In order to obtain a building permit to construct a building on a lot, the lot must have been legally created. (See definition of Lot of Record, Legally Platted Lot).

LOT, LEGALLY PLATTED: A lot within an existing platted and approved subdivision which was legally created in accordance with the subdivision regulations of Summit County and recorded in the office of the County Recorder.

LOT, LOT OF RECORD: Any parcel/lot described in a deed, sales contract, or survey, that was recorded in the office of the Summit County Recorder before August 1, 1977, is a “lot of record.” Any parcel/lot described in a deed, sales contract, or survey, that was recorded in the office of the Summit County Recorder between August 1, 1977 and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation, is a "lot of record”.

SUMMIT COUNTY, UTAH
ORDINANCE NO. 768

AMENDING THE EASTERN SUMMIT COUNTY DEVELOPMENT CODE

WHEREAS, the current Eastern Summit County Development Code was adopted on May 6, 1996 by Ordinance No. 278; and

WHEREAS, the County is amending the Eastern Summit County Development Code to add provisions for Lots of Record, Legally Platted Lots, Agricultural Subdivisions and Conversion of Agricultural Subdivisions to Non-Agricultural Subdivisions; and

WHEREAS, the Eastern Summit County Planning Commission held several public hearings and on September 7, 2011 and October 19, 2011 recommended approval of amendments to the Eastern Summit County Development Code to the Summit County Council; and

WHEREAS, the Summit County Council held an initial public hearing on January 25, 2012 and continued the public hearing to subsequent Council meetings on February 1, 15 and 29, 2012 .

NOW THEREFORE, the County Legislative Body of the County of Summit, the State of Utah, hereby ordains the following:

Section 1. EASTERN SUMMIT COUNTY DEVELOPMENT CODE
The Eastern Summit County Development Code is amended as depicted in Exhibit A.

Section 2. Effective Date
This Ordinance shall take effect fifteen (15) days after the date of its publication.

APPROVED, ADOPTED, AND PASSED and ordered published by the Summit County Council, this 29th day of February, 2012.

SUMMIT COUNTY COUNCIL
SUMMIT COUNTY, UTAH

By: _____
David Ure, Council Chair

Councilor Elliott voted _____
Councilor Hanrahan voted _____
Councilor McMullin voted _____
Councilor Robinson voted _____
Councilor Ure voted _____

EXHIBIT C