

**BOARD OF COUNTY COMMISSIONERS, UTAH COUNTY, UTAH**  
**MINUTES OF PUBLIC MEETING**  
**COMMISSION CHAMBERS, ROOM 1400**  
**OF THE UTAH COUNTY ADMINISTRATION BUILDING**  
**January 7, 2014 - 9:00 A.M.**

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

**ALSO PRESENT:**

David Shawcroft, Utah County Deputy Attorney  
Robert J. Moore, Utah County Deputy Attorney  
Paul Jones, Utah County Deputy Attorney  
Scott C. Hogensen, Chief Deputy Clerk/Auditor  
Sandy Nielson, Clerk/Auditor's Office - Tax Admin.  
Julie Rollins, Utah County Purchasing Agent  
Peter A. Jeppsen, Utah County Assessor's Office  
Clarissa Reeve, Utah County Assessor's Office  
Jim Stevens, Utah County Assessor's Office  
Dr. Joseph K. Miner, Health Department Exec. Director  
Andrea Allen, Utah County Recorder's Office  
Sheryl Steele, Utah County Recorder's Office  
James O. Tracy, Utah County Sheriff  
Dalene Higgins, Utah County Sheriff's Office  
Gary Ratcliffe, Utah County Surveyor  
Jim Daniels, Utah Valley University Athletics  
Cathy Nixon, UVU Women's Basketball Head Coach  
Liz Darger, UVU Women's Basketball Assistant Coach  
Jason Glover, UVU Women's Basketball Assistant Coach  
Walter Hopkins, UVU Women's Basketball Assist. Coach  
Georgia Agnew, UVU Women's Basketball  
Whitney Jenkins, UVU Women's Basketball  
Mika Pinner, UVU Women's Basketball  
Rhaiah Spooner-Knight, UVU Women's Basketball  
Don Watkins, Alpine City Mayor  
Janice Reeb, Utah County Resident  
Robert Gurney, Utah County Resident - Sundance area  
Stephen Minton, Utah County Resident - Sundance area  
Cameron Gunter, -No further information given-  
Chrissy Hannemann, -No further information given-  
Christine Howell, -No further information given-  
Richard James, -No further information given-  
Bobby Patterson, -No further information given-  
Chad A. Poulsen, -No further information given-  
Linda P. Walton, -No further information given-  
Peggy Watkins, -No further information given-  
Tom Watkins, -No further information given-

Bruce Barlow, Utah County Resident - Alpine area  
Maureen Burnett, Utah County Resident - Alpine area  
Earl Christensen, Utah County Resident - Alpine area  
Tim Fisher, Utah County Resident - Alpine area  
Melissa Ford, Utah County Resident - Alpine area  
Charles Fox, Utah County Resident - Alpine area  
David K. Gehris, Utah County Resident - Alpine area  
Darren Gooch, Utah County Resident - Alpine area  
Gil Greer, Utah County Resident - Alpine area  
Bryan Hofhein, Utah County Resident - Alpine area  
Mark Howell, Utah County Resident - Alpine area  
Alan Jensen, Utah County Resident - Alpine area  
Jamey Johnston, Utah County Resident - Alpine area  
Maureen Kirkland, Utah County Resident - Alpine area  
Blyth Larrabee, Utah County Resident - Alpine area  
Tara Mickelsen, Utah County Resident - Alpine area  
Walter Miller, Utah County Resident - Alpine area  
Becky Rasband, Utah County Resident - Alpine area  
Dan B. Roberts, Utah County Resident - Alpine area  
Michael Robertson, Utah County Resident - Alpine area  
Mike Russon, Utah County Resident - Alpine area  
Craig Skidmore, Utah County Resident - Alpine area  
Jackie Smith, Utah County Resident - Alpine area  
Justin Spaulding, Utah County Resident - Alpine area  
Marcus Watkins, Utah County Resident - Alpine area  
Matt Watkins, Utah County Resident - Alpine area  
Ross Welch, Utah County Resident - Alpine area  
Tessa White, Utah County Resident - Alpine area  
Janet Williams, Utah County Resident - Alpine area  
Ross Wolfley, Utah County Resident - Alpine area  
Mike Kennedy, State House of Representatives  
Garrick Hall, Utah Farm Bureau Federation  
Ron Madson, Utah Wilderness Foundation  
Sean Monson, Bennett Tueller Johnson & Deere Attorneys  
John H. Sharpe, Sharpe Photography  
Mike Stansfield, Fairways Media  
Renée Huggins-Caron, Clerk/Auditor Admin. Assist.

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

**PRAYER/READING/THOUGHT:** Linda P. Walton, The Walton Group Inc. Public Relations & Advertising President  
**PLEDGE OF ALLEGIANCE:** Randy Edwards, American Legion Operation Comfort Warriors

The commissioners chose to address Regular Agenda Item No. 3 before continuing with the posted calendar.

**REGULAR AGENDA**

**3. ELECT A CHAIR AND VICE-CHAIR OF THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH FOR THE YEAR 2014, PURSUANT TO SECTION 17-53-203, UTAH CODE ANNOTATED, 1953 AS AMENDED**

Commissioner Witney explained that he had been serving as the Board Chair for 2013. He entertained a motion for a new Chair, as customary for the first session of the year.

**Commissioner Ellertson made the motion to elect Gary J. Anderson as Chair; Larry A. Ellertson as Vice-Chair; and Doug Witney as the third member of the quorum. The motion was seconded by Commissioner Anderson and carried with the following vote:**

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

Commissioner Anderson conducted the regular business of the meeting from this point. Eager to recognize special guests in the audience, the Board chose to immediately address Regular Agenda Item No. 1.

**REGULAR AGENDA**

**1. PROCLAIM JANUARY 7, 2014 AS UTAH VALLEY UNIVERSITY'S 2012-2013 WOMEN'S BASKETBALL TEAM DAY**

Commissioner Ellertson acknowledged a group of young women in the audience, specifically the 2012-2013 Utah Valley University Women's Basketball Team and their Head Coach Cathy Nixon. Commissioner Ellertson read the following proclamation for the record:

- ▶ **WHEREAS** the Utah Valley University's 2012-2013 Women's Basketball Team has the highest overall GPA in the Nation; and
- ▶ **WHEREAS** the Utah Valley University's 2012-2013 Women's Basketball Team overall grade point average (GPA) is 3.63; and
- ▶ **WHEREAS** the Utah Valley University's 2012-2013 Women's Basketball Team is a terrific representative of Utah County; and
- ▶ **WHEREAS** the Utah Valley University's 2012-2013 Women's Basketball Team deserve recognition of this achievement;
- ▶ **NOW, THEREFORE**, the Utah County Commission proclaims this 7<sup>th</sup> day of January, 2014 as **Utah Valley University's 2012-2013 Women's Basketball Team Day**.

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**Commissioner Ellertson made the motion to proclaim January 7, 2014 as the “Utah Valley University’s 2012-2013 Women’s Basketball Team Day” in Utah County as detailed in Regular Agenda Item No. 1. The motion was seconded by Commissioner Witney and carried with the following vote:**

**AYE: Gary J. Anderson  
Larry A. Ellertson  
Doug Witney**

**NAY: None**

PROCLAMATION NO. 2014-1

The commissioners invited the team and their coach forward for introductions and photographs. Coach Cathy Nixon thanked the Board for recognizing their accomplishments, and commended the women for the magnificent example of teamwork, dedication, and commitment to education that they present. They presented each of the commissioners with a knit university scarf in team colors of green, yellow, and gray.

The Board momentarily recessed to assemble as The Board of Equalization of Utah County from 9:13 A.M. to 9:15 A.M. The Utah County Board of Commissioners reconvened at 9:15 A.M., and the commissioners moved forward with the following agenda items.

**PUBLIC HEARING**

**PUBLIC HEARING TO DISCUSS THE POTENTIAL SALE OF PARCELS OF REAL PROPERTY OWNED BY UTAH COUNTY, CONSISTING OF PROPERTIES IDENTIFIED AS TAX SERIAL NUMBERS 05:013:0008, 05:013:0010, 05:013:0011, 05:013:0017, AND 05:013:0019, LOCATED AT OR NEAR 50 EAST, 200 SOUTH, PROVO, UTAH (Public Hearing set December 17, 2013)**

Commissioner Anderson explained that the discussion is being opened to whether or not the collection of properties located South, directly across the street from the Utah County Health and Justice Building should be listed for sale. The Board is currently of the opinion that there is no benefit to the county to retain the property. No members of the public came forward with comment.

**Commissioner Ellertson made the motion to close the public hearing to discuss the potential sale of parcels of real property owned by Utah County located at or near 50 East, 200 South, Provo, Utah as specified on the agenda. The motion was seconded by Commissioner Witney and carried with the following vote:**

**AYE: Gary J. Anderson  
Larry A. Ellertson  
Doug Witney**

**NAY: None**

While the Board would usually begin the session with the Consent Agenda, the various award presentations called for some flexibility in the schedule and the commissioners chose to proceed with Regular Agenda Item No. 2 before continuing discussion of other items.

**REGULAR AGENDA**

2. **RECOGNITION OF THE UTAH COUNTY EMPLOYEE OF THE MONTH FOR JANUARY 2014**  
Kate Holz of the Utah County Recorder's Office was recognized as the Utah County Employee of the Month for January 2014.

The commissioners moved forward with the agenda as numbered.

**CONSENT AGENDA**

1. **APPROVE THE 2014 PORTFOLIO ASSIGNMENTS FOR THE UTAH COUNTY COMMISSIONERS**
2. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE RENEWAL CLASS B RETAIL BEER LICENSE (ON-PREMISE CONSUMPTION) APPLICATION FOR SUNDANCE PARTNERS, LTD, BEAR CLAW CABIN LOCATED AT 8841 N ALPINE LOOP RD IN THE PROVO CANYON AREA OF UNINCORPORATED UTAH COUNTY**
3. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE RENEWAL CLASS B RETAIL BEER LICENSE (ON-PREMISE CONSUMPTION) APPLICATION FOR SUNDANCE PARTNERS, LTD, CREEKSIDE LOCATED AT 8841 N ALPINE LOOP RD IN THE PROVO CANYON AREA OF UNINCORPORATED UTAH COUNTY**
4. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE RENEWAL CLASS B RETAIL BEER LICENSE (ON-PREMISE CONSUMPTION) APPLICATION FOR SUNDANCE PARTNERS, LTD, TREE ROOM - FOUNDRY GRILL LOCATED AT 8841 N ALPINE LOOP RD IN THE PROVO CANYON AREA OF UNINCORPORATED UTAH COUNTY**
5. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE RENEWAL CLASS B RETAIL BEER LICENSE (ON-PREMISE CONSUMPTION) APPLICATION FOR SUNDANCE PARTNERS, LTD, GROCERY DELI LOCATED AT 8841 N ALPINE LOOP RD IN THE PROVO CANYON AREA OF UNINCORPORATED UTAH COUNTY**
6. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE RENEWAL CLASS B RETAIL BEER LICENSE (ON-PREMISE CONSUMPTION) APPLICATION FOR SUNDANCE PARTNERS, LTD, OUTDOOR THEATER - REHEARSAL HALL - SCREENING ROOM - CATERING - CONFERENCE CENTER LOCATED AT 8841 N ALPINE LOOP RD IN THE PROVO CANYON AREA OF UNINCORPORATED UTAH COUNTY**
7. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE RENEWAL CLASS B RETAIL BEER LICENSE (ON-PREMISE CONSUMPTION) APPLICATION FOR SUNDANCE PARTNERS, LTD, OWL BAR LOCATED AT 8841 N ALPINE LOOP RD IN THE PROVO CANYON AREA OF UNINCORPORATED UTAH COUNTY**
8. **APPROVE (OR DENY) THE BOX ELDER SOUTH SUBDIVISION, PLAT "A," SUBJECT TO THE CONDITIONS STATED IN THE STAFF REPORT**

The Board requested that Consent Agenda Item No. 8 be moved to the Regular Agenda, and tabled for further discussion.  
PULLED TO REGULAR

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

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9. APPROVE (OR DENY) SUNDANCE RECREATIONAL RESORT, PLAT "A," THIRD AMENDED AND RESTATED, BASED ON THE FINDING IN THE STAFF REPORT

10. APPROVE RELEASE OF LIEN RECORDED AGAINST PARCEL SERIAL NO. 08:155:0005 AS ENTRY NO. 27165:2011 FOR DELINQUENT PROPERTY TAXES [AGREEMENT NO. 2011-215]

11. APPROVE PROPERTY TAX ACTIONS CONTAINED IN RECOMMENDATION LETTER NO. 2014-1  
Commissioner Ellertson requested that Consent Agenda Item No. 11 be continued to the next meeting of the Board.  
CONTINUED TO JANUARY 14, 2014

12. ADOPT A RESOLUTION APPROVING VOLUNTEERS WHO WISH TO DONATE THEIR SERVICES TO THE CHILDREN'S JUSTICE CENTER AND THE UTAH COUNTY HEALTH DEPARTMENT

13. RATIFICATION OF PAYROLL FOR DECEMBER 31, 2013  
Period 26 5 Checks: \$ 3,995.67 1,095 Total Deposits: \$1,452,426.76 Total: \$1,456,422.43  
Federal Payroll Taxes Total: \$ 208,291.16

14. RATIFICATION OF WARRANT REGISTER SUMMARY FOR DECEMBER 24, 2013

Register No. 1,136	December 16, 2013	Purchasing Cards 1147-1148	Total: \$	29,002.49
Register No. 1,137	December 16, 2013	Direct Deposit:18459-18469	Total: \$	8,710.85
Register No. 1,138	December 16, 2013	Check Nos. 188688-188739	Total: \$	58,326.29
Register No. 1,139	December 16, 2013	Direct Deposit:18470-18470	Total: \$	88.00
Register No. 1,140	December 16, 2013	Purchasing Cards 1149-1154	Total: \$	470.35
Register No. 1,141	December 16, 2013	Check Nos. 188740-188787	Total: \$	136,129.34
Register No. 1,142	December 17, 2013	Direct Deposit:18471-18474	Total: \$	306.90
Register No. 1,143	December 17, 2013	Check Nos. 188788-188793	Total: \$	15,897.35
Register No. 1,144	December 18, 2013	Direct Deposit:18475-18475	Total: \$	212.50
Register No. 1,145	December 18, 2013	Purchasing Cards 1155-1155	Total: \$	17,982.02
Register No. 1,146	December 18, 2013	Bond Wires:204-208	Total: \$	25,860.04
Register No. 1,147	December 18, 2013	Check Nos. 188794-188834	Total: \$	43,837.77
Register No. 1,148	December 19, 2013	Purchasing Cards 1156-1156	Total: \$	288.07
Register No. 1,149	December 19, 2013	Check Nos. 188835-188852	Total: \$	50,858.42
Register No. 1,150	December 20, 2013	Check Nos. 188853-188853	Total: \$	1,960.78
Register No. 1,151	December 20, 2013	Direct Deposit:18476-18482	Total: \$	948.95
Register No. 1,152	December 20, 2013	Direct Deposit:18483-18485	Total: \$	207.78
Register No. 1,153	December 20, 2013	Check Nos. 188854-188888	Total: \$	101,410.50
Register No. 1,154	December 20, 2013	Direct Deposit:18486-18487	Total: \$	4,712.03
Register No. 1,155	December 20, 2013	Purchasing Cards 1157-1157	Total: \$	1,837.76
Register No. 1,156	December 20, 2013	Check Nos. 188889-188910	Total: \$	7,783.61
		<u>Total:</u>	<u>\$</u>	<u>506,831.80</u>

15. RATIFICATION OF WARRANT REGISTER SUMMARY FOR DECEMBER 31, 2013

Register No. 1,157	December 23, 2013	Bond Wires:209-211	Total: \$	2,489.85
Register No. 1,158	December 23, 2013	Direct Deposit:18488-18490	Total: \$	188.50
Register No. 1,159	December 23, 2013	Check Nos. 188911-188951	Total: \$	128,740.59
Register No. 1,160	December 23, 2013	Direct Deposit:18491-18491	Total: \$	110.00
Register No. 1,161	December 23, 2013	Check Nos. 188952-188960	Total: \$	12,374.65
Register No. 1,162	December 24, 2013	Purchasing Cards 1158-1158	Total: \$	736.41
Register No. 1,163	December 24, 2013	Direct Deposit:18492-18512	Total: \$	10,168.45
Register No. 1,164	December 24, 2013	Check Nos. 188961-189013	Total: \$	68,157.56

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Register No. 1,165	December 24, 2013	Check Nos. 189014-189038	Total: \$ 119,030.58
Register No. 1,166	December 24, 2013	Purchasing Cards 1159-1159	Total: \$ 41.23
Register No. 1,167	December 24, 2013	Direct Deposit:18513-18513	Total: \$ 15.00
Register No. 1,168	December 24, 2013	Check Nos. 189039-189065	Total: \$ 32,453.54
Register No. 1,169	December 26, 2013	Bond Wires:212-217	Total: \$ 10,556.37
Register No. 1,170	December 26, 2013	Direct Deposit:18514-18520	Total: \$ 701,661.25
Register No. 1,171	December 26, 2013	Check Nos. 189066-189095	Total: \$ 13,215.43
Register No. 1,172	December 26, 2013	Check Nos. 189096-189164	Total: \$ 2,490.00
Register No. 1,173	December 26, 2013	Direct Deposit:18521-18527	Total: \$ 665,936.17
Register No. 1,174	December 26, 2013	Check Nos. 189165-189173	Total: \$ 75,576.41
Register No. 1,175	December 26, 2013	Check Nos. 189174-189175	Total: \$ 58,356.53
Register No. 1,176	December 27, 2013	Check Nos. 189176-189179	Total: \$ 2,485.56
Register No. 1,177	December 27, 2013	Check Nos. 189180-189180	Total: \$ 32,298.62
Register No. 1,178	December 27, 2013	Check Nos. 189181-189213	Total: \$ 175,322.06
			<u>Total: \$2,112,404.76</u>

16. RATIFICATION OF WARRANT REGISTER SUMMARY FOR JANUARY 7, 2014

Register No. 01	January 2, 2014	Check Nos. 189377-189390	Total: \$ 12,704.53
Register No. 02	January 3, 2014	Direct Deposit:18539-18545	Total: \$ 1,127.59
Register No. 03	January 3, 2014	Check Nos. 189391-189419	Total: \$ 33,433.75
Register No. 04	January 3, 2014	Purchasing Cards 1213-1214	Total: \$ 91,677.07
Register No. 05	January 3, 2014	Direct Deposit:18546-18548	Total: \$ 233.50
Register No. 06	January 3, 2014	Check Nos. 189420-189424	Total: \$ 5,437.00
Register No. 07	January 3, 2014	Check Nos. 189425-189441	Total: \$ 40,400.47
Register No. 08	January 3, 2014	Check Nos. 189442-189485	Total: \$ 243,700.14
Register No. 09	January 3, 2014	Direct Deposit:18549-18565	Total: \$ 65,399.33
Register No. 10	January 3, 2014	Check Nos. 189486-189904	Total: \$ 795.25
			<u>Total: \$ 494,908.63</u>

Consent Agenda Item Nos. 1 through 7, 9 and 10, and 12 through 16 were approved as written. Commissioner Anderson recommended the following Regular Agenda items be moved to Consent:

4. **APPROVE EMPLOYEE DONATION OF LEAVE TIME WITHIN THE UTAH COUNTY SHERIFF'S OFFICE**
5. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A SERVICE CONTRACT WITH MOUNTAINLAND BUSINESS SYSTEMS FOR THE HASLER WJ185 POSTAGE MACHINE LOCATED IN THE ADMINISTRATION BUILDING**
6. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A SERVICE CONTRACT WITH MOUNTAINLAND BUSINESS SYSTEMS FOR A HASLER IM-420 MAIL MACHINE, SERIAL NO. DB08440190, LOCATED IN THE SHERIFF'S OFFICE - JAIL ADMINISTRATION**

Commissioner Ellertson noted that a budget transfer is needed for the service contract with Mountainland Business Systems.

8. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH ACCENAGROUP TO PROVIDE TRAINING FOR THE UTAH COUNTY STORM WATER COALITION**

Utah County Public Works Director Richard Nielson clarified some details for Commissioner Ellertson.

9. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO EXECUTE THE STIPULATION AND AGREEMENT PERTAINING TO UTAH COUNTY VS. ATKIN AND GAPPMAYER, FOR RESOLUTION OF ZONING VIOLATIONS**

**ACTIONS TAKEN**

**Consent Agenda Item Nos. 1, 9 and 10 were approved; Nos. 2 through 7 were approved and authorized; No. 8 was tabled for further discussion; No. 11 was continued to the January 14, 2014 meeting of the Board; No. 12 was adopted; and Nos. 13 through 16 were ratified. Regular Agenda Item No. 4 was approved; and Nos. 5, 6, 8, and 9 were approved and authorized.**

**AGREEMENT NOS.:** 2014-1, 2014-2, 2014-3, 2014-4, 2014-5, 2014-6, 2014-7, 2014-8, 2014-9, 2014-10, 2014-11, 2014-12, 2014-13 and 2014-14  
**RESOLUTION NO.:** 2014-1

**REGULAR AGENDA**

7. **APPROVE OR DENY A REQUEST FROM SPRINGVILLE ROTARY CLUB TO WAIVE THE EVENT PERMIT FEE IN THE AMOUNT OF \$300 FOR USE OF HOBBLE CREEK CANYON ROAD AND HOBBLE CREEK PARKWAY FOR THE POWERHOUSE 10K FUNDRAISER RACE TO BE HELD SEPTEMBER 27, 2014**

Commissioner Ellertson voiced a curiosity regarding the dollar amount raised for the Springville Rotary Club during this fundraiser. Commissioner Anderson provided contact information for Tyler Young, and suggested continuing the item for one week until that information became available.

**Commissioner Ellertson made the motion to continue Regular Agenda Item No. 7 regarding the request from Springville Rotary Club to waive the event permit fee for use of Hobble Creek Canyon Road and Hobble Creek Parkway on September 27, 2014 to the January 14, 2014 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Witney and carried with the following vote:**

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

CONTINUED TO JANUARY 14, 2014

10. **ADOPT A RESOLUTION AUTHORIZING THE SALE OF REAL PROPERTY**

Commissioner Anderson mentioned that this resolution is directly related to the Public Hearing at the beginning of this session regarding the sale of Utah County property located across the street from the Utah County Health and Justice Building.

**Commissioner Witney made the motion to adopt the resolution authorizing the sale of real property as outlined in Regular Agenda Item No. 10. The motion was seconded by Commissioner Ellertson and carried with the following vote:**

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

RESOLUTION NO. 2014-2

The commissioners returned to previously tabled Consent Agenda Item No. 8 at this point.

## **REGULAR AGENDA**

### **(PULLED FROM CONSENT)**

#### **8. APPROVE (OR DENY) THE BOX ELDER SOUTH SUBDIVISION, PLAT "A," SUBJECT TO THE CONDITIONS STATED IN THE STAFF REPORT**

Bryce Armstrong of the Utah County Community Development Office summarized that the staff have reviewed the application for the Box Elder South Subdivision, and have recommended approval as it meets the Land Use Ordinance requirements within a TR-5 Zone. Mr. Armstrong mentioned that the area has been zoned as TR-5 for more than thirty years, and a planned subdivision is a permitted conditional use. He reviewed that the item was presented to the Utah County Planning Commission in November 2013, which voted to continue the discussion to a February 2014 session. The applicant invoked a statute that requires response from the Utah County Board of Commissioners within 45 days, which necessitated a meeting of the Planning Commission in December 2013. The item received a deadlocked vote of 3/3 (three in favor and three opposed) during the December meeting of the Utah County Planning Commission. A special meeting the evening of January 6, 2014 updated the vote to 5/2, with the majority recommending denial.

Commissioner Anderson informed the audience that the Board is very informed on the passion for the matter; they have been receiving written public comment, as well as voiced opinions. Commissioner Ellertson comprised a list of the concerns presented by residents, and outlined them for discussion:

- debris blocking the road into the area
- concern about width of road and ninety-degree corner
- issues of debris and water drainage
- the "Quail fire" scar, and associated "wet" period
- fire coverage
- adequate fire breaks
- lack of proper notice to neighboring residents
- county ordinances
- Environmental Impact Study (EIS) requirements
- health and safety guidelines
- geologic review from State officials
- whether the property should be developed within Alpine City instead of Utah County

Commissioner Ellertson noted his confusion over Alpine City's stance on annexation for the area in question; there have been opportunities for annexation over the years, but the property has not been annexed. There are also statements from concerned citizens indicating that Alpine City would possibly annex the property.

Alpine City Mayor Don Watkins introduced State Representative Mike Kennedy, an Alpine resident of eleven years. Representative Kennedy acknowledged the position of the commissioners as factual judges in this matter. He expressed that owners have the right to develop property as they see fit, but the fifty-nine homeowners surrounding the area in question have a right to be safe. Representative Kennedy asked the commissioners to consider a deferral on the matter, stating that he is neither in support of or opposed to the proposed development. He admitted that the subject is emotional because of the burn scar left by the Quail Fire of 2012. Representative Kennedy referred to his practice as a family doctor to point out that scars indicate significant damage. In this case, the trauma includes experiences of digging mud out of neighbor's homes and watching fire race across the mountains from their backyards. Representative Kennedy urged the Board to allow the people more time to discuss their options, noting that future development is likely but should occur safely and follow the schedule of the residents.

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Bryce Armstrong of Community Development returned to begin addressing the points identified by Commissioner Ellertson, the first being access. Mr. Armstrong mentioned that from a planning perspective, the subdivision ordinance only deals with access of the plat, which requires two separate roads; essentially a loop road which connects to an existing city, county, or state road. The plat does connect at two different locations, so the ordinance requirements are met within the forty-acre plat.

Utah County Public Works Director Richard Nielson spoke about the ninety-degree bend. It is approximately half of a mile northwest of the subdivision site and is on an existing county road. Mr. Nielson noted that there have been three reported accidents involving that corner in the last twenty years. Mr. Nielson acknowledged the dramatic videos circulating online of water rushing past homes located just north of this site, caused by debris blocking drainage paths from Box Elder Canyon. This is caused by flow from the canyon depositing water debris material on the roadway, which takes several hours to clean up. Mr. Nielson added that the widths of the roads within the subdivision meet Utah County Land Use Ordinance standards, repeating that the off-site roads are existing roads typical of county roads: 18- to 20-foot of asphalt. The proposed roads also meet Alpine City requirements.

Brandon Larsen of the Utah County Community Development Office added details related to Alpine City road requirements. There is one section of road on the north side of the proposed development that would need to be built within Alpine City limits, to the standards defined in the early 1990's by a plat not yet recorded. When Commissioner Witney asked for clarification, Utah County Public Works Director Richard Nielson explained that it is an existing gravel road that will require improvements. Commissioner Ellertson asked if that road is one of the two access points, and Mr. Larsen confirmed.

Steve Sobe is a professional engineer who has been involved with this project for more than twenty years. He explained that Horrocks Engineers conducted a traffic study, updated January 24, 2008, in which all intersections leading to and from the development - and within the development - were studied. A Grade "A" level of service was received, which is the best. The study identified that the only change to the traffic flow would be a delay of approximately four seconds; there would otherwise be no problems. A suggestion was made for some minor curve alignments at the intersections. Mr. Sobe specified for Commissioner Ellertson the improvements suggested by Horrocks Engineers, which are not required but will be adopted by the developers. He provided copies of the traffic study for the commissioners.

Utah County Public Works Director Richard Nielson brought up the ninety-degree turn. Driving along Grove Drive, out of Alpine City and towards Alpine Cove, there is a fairly sharp corner with a posted speed limit of 25 miles-per-hour. There is 19 feet of asphalt, which just covers the 9-foot requirement for each direction of lane travel. It is a turn where the driver must slow down significantly. Large vehicles such as fire trucks and delivery trucks would not be able to remain solely in their lane while making the turn on the low-volume low-speed road. Commissioner Witney asked if there is any intention to change the details on this road, and Mr. Nielson stated no. Steve Sobe added from the audience that no changes were recommended for that point in the road by Horrocks Engineers.

Utah County Public Works Director Richard Nielson further addressed the improvements proposed by the developer to handle normal on-site rainfall runoff through a series of sumps and curb gutters. Commissioner Anderson mentioned the "hundred-year flood" that lately seems to occur much more often, and Commissioner Ellertson mentioned a study in which the frequency has been increased to every fifty years. Ken Berg of K. Berg Engineering replied that county code requires him to certify that the stormwater system within the subdivision can handle a hundred-year 24-hour storm event. Commissioner Ellertson summarized that Mr. Berg has engineered the capacity to the hundred-year timetable, not the fifty-year schedule, and Mr. Berg confirmed. Commissioner Witney asked where the water goes, and Mr. Berg explained that it infiltrates into the ground through sumps; it does not leave the subdivision to enter streams or tributaries.

Richard Nielson went on to speak about debris flow. The question has been asked, 'Will the stormwater system handle debris flow?'; the answer is no. It is not designed for that purpose. Mr. Nielson pointed out that there is not a storm drain system in existence for debris flow on a residential development. Debris flow is a separate issue regarded in the

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terms of keeping it off-site, rather than operating systems to alleviate it on-site. Commissioner Ellertson asked if potential flow is redirected, and Mr. Nielson responded in the negative. The main flow is to the north and south of the proposed subdivision, with a small amount to the east that did not make it to the property line. It mostly goes around and into the Alpine City open space Lambert Park area located below the subdivision. Mr. Nielson commented that debris flow is hard to predict and is always a possibility, but all measures have been taken to minimize the threat.

Commissioner Ellertson noted confusion about fire coverage, stating that clarification is needed from Lone Peak Fire District to determine their involvement on the proposal. Brandon Larsen of Community Development explained that Lone Peak was invited to the meetings, but did not review the application. They received notice of the public hearings. This application was reviewed by the Utah County Fire Marshal as instructed by the Utah County Land Use Ordinance. Bryce Armstrong of Community Development added that the ordinance requires a statement from the County Fire Marshal certifying that the proposal conforms to the pertinent regulations of the adopted county fire codes, and the fire protection provisions of the Land Use Ordinance; that statement was received and is on file. Commissioner Ellertson summarized his understanding from previous meeting minutes that a specific contract needs to be put in place, and much work needs to be done before progressing forward. Utah County intends to be responsible for the issues associated with county coverage, and coordinate with the city for the payment process on existing homes. Commissioner Ellertson admitted that there is a difference between fire coverage and EMS (Emergency Medical Services) - further discussion needs to occur on that matter as well, but Utah County intends to pay for required coverage at the time it is needed. In short, the services can be provided once an agreement is worked out to address reimbursement.

Chief Brad Freeman of the Lone Peak Fire District approached the bench. Chief Freeman declared that he does not speak for the Public Safety District, but is familiar with their operations. This is a unique situation in which the Utah County Fire Marshal is making decisions for an area in which that Fire Marshal will not be held responsible; it is the Lone Peak Fire District that will be in harm's way. Their main complaint is that there is not a commitment in place more detailed than "we'll add fifty-nine homes and work it out later," especially considering the vast wildland risk for the location. Chief Freeman stated that they have not been fairly compensated by Utah County for structural fires. The approval of the development should be contingent upon issues specified by the Fire District, a list of which Chief Freeman provided to the commissioners.

Commissioner Witney noted that an agreement was approved in the last year to facilitate payment on a per-structure basis in Utah County. Chief Brad Freeman admitted that is true, but argued that there are quite a few structures in the county - the money received does not come close to the amount actually spent per household. When Chief Freeman mentioned EMS coverage, Commissioner Anderson pointed out that those areas are assigned by the state. Chief Freeman returned that it is not a free service and someone needs to pay for it.

Ross Welch came forward on behalf of Patterson Construction, the applicant developer. He met with Lone Peak Public Safety District Chair and Cedar Hills Mayor Gary Gygi on January 6, 2014 to discuss the concerns brought up by Lone Peak Fire District Chief Brad Freeman. Mr. Welch stated that the developer is willing to assist by allocating some fees from the Homeowner's Association dues for emergency medical services, estimated to be approximately \$140 per household. Chief Freeman reiterated the importance of clarifying details, and Mr. Welch addressed Chief Freeman's list of concerns (*a copy of which can be found attached to these minutes*). Mr. Welch announced for the official record that Patterson Construction is willing to meet the items contained on the submitted list of concerns. Chief Freeman clarified that he is not taking sides on the matter of approval of the subdivision; he is only concerned about the safety of the citizens and his firefighters.

Bryce Armstrong of Community Development added for the record that this property is within the Urban Wildland Interface Area, adding a layer of protocol at the Utah County level in identifying and resolving higher risks as determined by the Utah County Fire Marshal, Dennis Barker. Fire Marshal Barker explained that Utah County has adopted portions of the state-approved code that require extra precautions for structures in the area, including specific types of roofing, soffit, sprinkling systems, and exterior materials. County ordinances and state codes instruct that subdivisions with more

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than thirty households must have two ways in and two ways out of the lot, unless the homes include sprinkler systems; then one way in and one way out is acceptable. Fire Marshal Barker would like to require a secondary means of egress for the subdivision.

Utah County Fire Marshal Dennis Barker further detailed fire codes and discussions with the developer. Fire Marshal Barker recognized the question of assumed responsibility for the required secondary road, mentioning that he had told the developer to work out the situation with Alpine City. There is also confusion surrounding the definition of maintenance for the road; Fire Marshal Barker described it as remaining open at all times. He indicated that a secondary means of egress is of no use to the residents if inaccessible due to snow or other blockages, repeating Lone Peak Fire District Chief Brad Freeman's concerns for the safety of the community and emergency responders. Fire Marshal Barker also mentioned that they are working on updated contracts.

Commissioner Witney asked for information regarding the impact of the proposed subdivision on trails. Utah County Deputy Attorney David Shawcroft stated that a lawsuit has been filed in the Fourth District Court asserting that there are public roads and trails across this property. Since it is a pending issue, a note would be placed on the plat if approved in order to let all buyers know that the matter is under potential litigation.

When Commissioner Ellertson asked for the solution to the secondary access road requirements, Utah County Public Works Director Richard Nielson pointed out that there is a signed agreement on file between Patterson Construction and Alpine City identifying Alpine as the party responsible for road maintenance. There also happens to be a subsequent letter from Alpine City claiming that the road will be left as is - hence the confusion on the matter.

Utah County Public Works Director Richard Nielson talked about the geological reports related to the subdivision. The initial geotechnical report was performed in 2007 by Earthtec Engineering, followed by updates in September 2013 and November/December 2013 from GSH Geotechnical, Inc. and GeoStrata Engineering & Geosciences. There was also a request from Alpine City and several concerned citizens to meet with an individual from the Utah Department of Natural Resources - Utah Geological Survey (DNR). All three separate firms and the DNR representative suggested mitigation for the unique foothills location, and the developers have proposed to include those plans with their project. Commissioner Witney asked Mr. Nielson for his opinion on the plans, and Mr. Nielson stated that while he is not a geotechnical engineer, they seemed adequate.

Brandon Larsen of the Community Development Office addressed the noticing concerns raised by the public. He explained that the staff followed all notice requirements, including notifying adjacent property owners and affected entities about the development proposal. Several meetings were also held.

Brandon Larsen went on to address safety and good planning practices. The ordinances were thoroughly reviewed, and fulfilled by the developer. The zoning has been in place for about forty years. While Utah County prefers to defer dense development to cities, the best has been done to follow the General Plan. Bryce Armstrong added that some of the concerns outlined are more related to the applicability and appropriateness of TR-5 zoning, which was a legislative action determined in the late 1970's. This would be a different discussion if it were a request for a zone change. Mr. Armstrong stated that the subdivision ordinance requirements are met. Commissioner Ellertson asked about potential impacts to the health, safety, and welfare of the community, and Mr. Armstrong repeated that all subdivision ordinance requirements have been met.

Commissioner Ellertson asked for more information regarding the report from the DNR Utah Geological Survey contact, and newly-elected Alpine Mayor Don Watkins approached the bench to respond. Mayor Watkins noted that there is no way to predict debris flow in relation to alluvial fans, and indicated that the majority of Alpine area residents are worried for their safety. The mayor mentioned that Tessa White, one of the residents, spoke to a debris flow expert from the state and relayed the same concerns to him. The expert has volunteered to conduct a proper evaluation on the area, seeing as the named engineering firms are not specified experts in the matters of burn scars and other post-fire issues. Mayor

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Watkins suggested that this report could be paid for by Alpine City and the developers. Commissioner Ellertson noted that the preliminary letter from the expert only contained general statements of precaution, and Utah County Public Works Director Richard Nielson confirmed that the individual informally and briefly reviewed the plans but did not thoroughly investigate; the engineers employed by the developers have conducted extensive reviews over several years.

Commissioner Ellertson noted the futility of debating whether or not the area in question should be annexed into Alpine City. Though discussion has gone both ways in the past, the fact of the situation is that the application is currently open before Utah County. Bryce Armstrong of the Community Development Office concurred, adding that the intent to annex is not a requirement for a subdivision application; it would not impact the decision to approve or deny the plat. Mr. Armstrong and Commissioner Ellertson further detailed requirements for properties within the TR-5 Zone, including the base density of one house per five acres. There is a provision for subdivisions with separate central water supplies for culinary and fire protection being able to reduce the lot size to 20,000 square feet. The reduced lots could theoretically maintain septic tanks - the water system is the key point.

Utah County Deputy Attorney David Shawcroft explained that staff reviews all of the materials to determine if requirements have been met. If so, the application is forwarded to the Utah County Attorney's Office and undergoes a second review. The Attorney's Office has determined that all obligations are met for this application, subject to conditions outlined in the staff report.

Commissioner Anderson asked about legal exposure to Utah County should the Board approve or deny the application, acknowledging that there is no way to simultaneously please all parties involved. He mentioned the recent court ruling in favor of Tooele Associates Limited Partnership in their case against Tooele City regarding the "Overlake Community." Utah County Deputy Attorney David Shawcroft stated that if Utah County denies the application without a valid basis, there may be liability problems as there were in the Tooele City case. Mr. Shawcroft clarified that this situation is an administrative action rather than legislative, which lessens the discretion of the Board. In administrative proceedings, the application should be approved if the applicant meets the requirements, barring extraordinary conditions that cannot be otherwise mitigated or terms of significant weight that were not contemplated in the original ordinance. Commissioner Anderson summarized that the Board cannot be arbitrary and capricious in their decision.

With factual information having been presented by Utah County staff, the commissioners called for a brief recess before opening the floor to public input. They disbanded at 10:27 A.M. and returned to order at 10:35 A.M.

Alpine City Mayor Don Watkins stated the responsibility of elected officials to represent their citizens. This subdivision application involves deep, safety, and emotional issues. Mayor Watkins noted the importance of allowing the residents to be heard, and Commissioner Anderson pointed out that many opinions have been shared over the last several months; the Board has taken them into account and are not ignoring the public. Mayor Watkins mentioned that the citizens were initially told in November 2013 that a decision on the matter would not take place until February 2014; the abbreviated timeline for the meeting today caused a rush and dampened the holiday festivities for many who thought they would have a longer chance to prepare information.

Attorney Sean Monson of Bennett, Tueller, Johnson & Deere introduced himself as the representative for Alpine City resident Gil Greer. He also serves for the Bountiful City Planning Commission in Davis County. Mr. Monson reviewed the process for subdivision approval, emphasizing the fact that the Planning Commission recommended to deny this Box Elder South petition. He expressed that the ultimate call is made by the County Commissioners because the Board wants decisions made by those who live in the county and can bring individual experiences and emotions to the discussion. These factors help determine whether public safety, and the health and welfare, are promoted. If it was simply a process of developers submitting documents and staff confirming that requirements have been met, there would be no need for the Planning Commission or the Board of Commissioners to become involved. Public policy defines the need for the human aspect.

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Sean Monson outlined his personal process in reviewing subdivision applications as a member of the Bountiful City Planning Commission. Mr. Monson asks himself if the development is something he would be comfortable having as his next-door neighbor, and urged the Utah County Board of Commissioners to do the same. He reminded the Board that fire trucks and other emergency vehicles would have a difficult time getting through the Box Elder South subdivision, and indicated that there are two or three accidents on a weekly basis at the ninety-degree turn in the road. There is also no agreement regarding the secondary access road, as Alpine City has stated that they will not plow that road during Winter. Mr. Monson reiterated the value of concerns about the safety and welfare of the community, compared to filling in the boxes on a checklist. Mr. Monson also expressed suspicion over the speed in which the application is being pushed forward, repeating Alpine City Mayor Don Watkins' statement about the rushed timeline hindering the opportunity to collect countervailing statistics and opinions. Mr. Monson noted that the commissioners should be concerned about having the best information available and having time to hear both sides, including a more thorough report from the State Debris Flow Expert mentioned earlier, in order to perform their duties of protecting the public and Utah County.

Commissioner Anderson asked Sean Monson for a response to Utah County Deputy Attorney David Shawcroft's words about legal ramifications of any decision of the Board. Mr. Monson used the comparison of employment litigation: clients cannot make employment decisions based on fear of litigation; they must be made under consideration of what is best for the business. Mr. Monson translated the concept to this situation, noting that the commissioners must decide what is most in line with carrying out their duties to the public.

Commissioner Ellertson pointed out that Sean Monson had indicated there are two or three accidents per week on the property, while Utah County Public Works Director Richard Nielson had only discovered a total of three accidents over the last two decades. Mr. Monson clarified that the numbers he received were from a resident of the neighborhood, and not all vehicular collisions are reported to the police.

Alpine City resident Tessa White stated that there is a valid basis to reject the subdivision application based on safety; there are extraordinary circumstances. While Patterson Construction may have met the regulations for their proposal, it only addresses that specific piece of property. Ms. White pointed out that many of the concerns and dangers that may not be mitigated lie outside of those borders. She presented a slide show for the audience and the Board, identifying the area in question. Ms. White pointed out a gulley that was washed out three times in one year due to flooding; it is one of the proposed subdivision exits. She explained that it is difficult to mitigate an alluvial fan, and there is a high probability of the second road being obstructed if the first one is unavailable.

Commissioner Anderson asked about the homes currently in the area, and questioned why they were allowed to be built if the dangers are so high. Tessa White clarified that the properties are part of the original Box Elder subdivision which was contested by Alpine City approximately twelve years ago. Commissioner Witney asked if there has been damage to the homes within the existing subdivision, and Ms. White explained that the Quail Fire of July 2012 triggered the lack of vegetation and sped up the process and circumstances of danger.

Tessa White reiterated that mountain post-fire experts are not involved in the engineering firms employed by Patterson Construction. She also repeated that the hazards surrounding the subdivision borders are not addressed as part of the development application. Ms. White spoke about the wilderness surrounding the proposed subdivision. It is an ecosystem, and it would be short-sighted to allow the developer to move forward based solely on ordinance requirements. Ms. White presented a picture of the ninety-degree turn of nineteen feet of asphalt with no shoulder. There is also a bridge slightly above the turn that is only seventeen feet wide. Ms. White noted that between the potential inaccessibility of the two exit roads, the sharp turn, and the bridge, it would be impossible to remove citizens from the area during an emergency.

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When Tessa White called the development dangerous and stated that the city has no appetite for it, Commissioner Anderson refuted that Alpine City would have control over the situation had they annexed the property. Ms. White said they would never annex it because of density, road requirements, and liability issues. She repeated that it is hazardous and noted that the city is already paying for events, and Commissioner Anderson responded that those are all arguments in favor of annexation. Ms. White noted that subdivision requirements prohibit the degradation of public health, safety, and welfare, and must be compatible with public interest and characteristics of the surrounding area. It cannot be unduly difficult for the provision of essential services, including emergency vehicles. Ms. White stated Box Elder South does not meet that criteria, and an online petition currently standing at 1,000 signatures shows agreement with that opinion.

Commissioner Witney brought up that Alpine City had the chance to annex the land, and even offered water and sewer services. Until recently, everything needed for the proposed subdivision has in fact been provided by Alpine City. Tessa White countered that any provisions by the city were part of a settlement agreement of the lawsuit from twelve years ago for the previous Box Elder subdivision. Commissioner Witney reflected that subdivisions in this area have been discussed for twenty years; this is not a surprise. Ms. White argued that while the concept has generally been available, the only guaranteed way for an average citizen to be informed of an active proposal is to wait for it to show up on a weekly Commission meeting agenda. Commissioner Witney reminded Ms. White about the county newsletter.

Alpine City Mayor Don Watkins returned to go into more detail as to why the city will not annex the area. Alpine City initially desired the land for a park, but did not have the authority to do so. Mayor Watkins explained that the annexation is determined by the developer, who can demand contingencies. Mayor Watkins expressed that Alpine City would annex the property, but not under the frightening terms that the developer has requested. There are already lawsuits against the developer; he mentioned over \$1,000,000 of taxpayer money already being spent to control some flooding issues.

Mayor Don Watkins spoke about the ninety-degree turn, noting the requirements for a 24-foot wide road for new subdivisions - the one in question is only nineteen feet. Three feet of road base on each side would also be necessary. When speaking to another Alpine City representative on the matter, Mayor Watkins discovered that approving a new subdivision with a road that is out of compliance could be an important legal issue. The bridge width is also concerning. Mayor Watkins addressed the previously mentioned settlement agreement, agreeing with Tessa White's comments that water provisions were part of the lawsuit ruling. He also referred to the online petition with over 1,000 signatures opposed to this development, noting that many of the petitioners are not Alpine City residents; this supports the idea that common sense for public safety rejects the approval of this subdivision. Mayor Watkins stated the fact that this is even under consideration for approval is mind-blowing.

Tessa White resumed her presentation. She summarized that while the developer is willing to make improvements to the road, there is no way to completely arrest flooding. Ms. White equated that the developers have no more right to determine the use of the road than she does to landscape another person's yard. Ms. White called the area sacred ground, surrounded by wilderness and used by the public for hiking and cycling.

Ross Welch came forward on behalf of the applicant, Patterson Construction, and provided documents to the commissioners. He expressed frustration over the repeated accusations against development, pointing out that experts have thoroughly reviewed the application; the opposing side is making representations that are not true. Patterson Construction even hired professional geologists and engineers to fly over the area by helicopter and look through the entire grounds - not just the proposed subdivision as previously suggested.

Ross Welch explained that the area in question was zoned for park use through Alpine City. Patterson Construction approached the city to propose a subdivision. When told that Alpine City wanted the grounds for parks, the developer responded that the city would need to buy the land in order to annex. Patterson Construction had the property appraised, and Alpine City replied by letter that the city is unable to purchase. Alpine City stated in the letter dated January 5, 2007 that the company is "welcome to pursue development of the property in Utah County," reasoning that there is residential value in the land for the county. Thus began the process of designing a water system.

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Ross Welch clarified that outstanding issues with Alpine City led to a negotiation that included the following details: the city will provide water and sewer system to the proposed subdivision consisting of a maximum of 59 lots. In return, Patterson Construction would construct a 400,000-gallon water tank to combat the public safety issues in Alpine City. This must be done before the plat is recorded. Mr. Welch read from the letter, "It is the city's continued position that it has no desire to annex the subdivision. The property is not in the city's annexation plan, and the only development that will take place on the property will be through the county." Mr. Welch reiterated that Alpine City agreed to provide these services to the subdivision because of a previous settlement agreement, and some pending lawsuit items.

Ross Welch corrected earlier points that the previous Box Elder subdivision was not twelve years ago, but twenty; beginning in 1992. He admitted that there have been significant problems related to flooding in a culvert. Alpine City subsequently replaced that culvert, and applied remedies to prevent future blockage. Mr. Welch commented on the biased opinions about safety within the proposed subdivision when Alpine City currently has significant public safety problems. The secondary access road is the city's emergency access road for Box Elder and Alpine Cove - if anything happens to Grove Drive, this is the only access for those homes. Therefore Alpine City is liable to maintain the roads for its own citizens. Patterson Construction identified that better water capacity is needed, along with secondary access; they have agreed to provide the water tank and maintain the road at no cost to the city, whether by paving the road with asphalt or allowing it to remain as gravel and installing the necessary structures along the ravine to handle the water.

Ross Welch pointed out that the 2008 Transportation Master Plan for Alpine City already proposed to have the secondary access road paved. There is an inherent risk along the 100 miles of every development at the foothills of the Wasatch Front, but Patterson Construction is taking every measure possible to prevent and reduce hazards. Mr. Welch reiterated that experts have reviewed the plans, including three geologists and six professional engineers. As for the claims that the rushed timeline is suspicious, Mr. Welch clarified that the construction company only invoked the statute for a response within 45 days because they have already gone above and beyond due diligence, receiving consensus from several firms. There is no agenda to hide or avoid concerns. The water system can handle a hundred-year event repeated twelve times. The project has been vetted by professionals and county staff; even a hydrologist with thirty years of post-fire experience was involved in the process. The subdivision is even comparable to other developments when considering density. Mr. Welch concluded that the application is safe, reasonable, and should be approved.

Mayor Don Watkins noted for the record that Alpine City is not against development, mentioning the two developers on the Alpine City Council. What they are is very passionate about the honest worries of their people. He returned to the concern that if there are more floods like the three that occurred in 2013, or fires, they cannot get the residents to safety. Mayor Watkins reminded the Board that the fire chiefs agree with him; the secondary road is not accessible if left unplowed during the snowy season. Alpine City has been advised by their attorney that they do not need to snow plow that road, and the City Council has stated they will not maintain it. Mayor Watkins exclaimed that they would put pavement in the historical Lambert Park over his dead body. He acknowledged that Alpine City does have problems, but they are their problems to handle. The solution to an isolated family in a house on the hill is not to build a million-dollar road - there are other ways to help. Mayor Watkins shared a story about sharing in the hardships and fears of his neighbors. This is an emotionally charged issue with consequences on the lives of real people. Mayor Watkins warned the Board that following through with this application will eventually lead to a situation of others asking, "Why didn't they put public safety first?"

Commissioner Witney reflected that Patterson Construction has agreed to provide a 400,000-gallon water tank to help fighting fires. Mayor Don Watkins replied that Alpine City does not have a problem with water, adding that many of the statements from Ross Welch were untrue. Commissioner Anderson said he appreciates the ardor and enthusiasm of Mayor Watkins; he knows the mayor has the welfare of the citizens at heart. Mayor Watkins returned the compliment by noting that the commissioners responded immediately when called to look at issues.

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Utah County resident Janice Reeb lives in the Springville area, and is a board member of the Utah County Planning Commission. She is a proponent for development, but also feels strongly about her roots as a descendant of a woman who lost her life in a low-river crossing. This ambivalence leads Ms. Reeb to agree that this is a unique situation. Ms. Reeb mentioned that the only adjoining municipality border for the proposed Box Elder South subdivision is Alpine City, and is separated by a gorge.

While the Utah County staff have done excellent work regarding the standards in place for the Land Use Ordinance, this is a microsystem. Janice Reeb quoted Commissioner Witney, stating "We are trying to mitigate downstream issues for an upstream problem." It is true that water will be supplied, but individuals cannot fight against nature. Ms. Reeb wondered aloud whether the expert studies have investigated whether or not road access will be available for the surrounding area despite the alluvial fan. It has flooded in the past and will flood again in the future. Ms. Reeb emphasized that people cannot get out from the South side of the ravine during a disaster. She urged the Board to consider the true issue: not if there will be litigation, and not who is most vulnerable to a lawsuit, but whether anyone can guarantee safety.

Walter Miller is an attorney who lives on the East Bench of Alpine City. He was concerned about general legal statements glossed over during the meeting. Mr. Miller noted that by stating she has been careful in whom she communicates with, the previous speaker may have implied that she operates in a quasi-judicial function. He explained that she is in a very delicate non-legislative role in which emphasis falls on the due process rights of the property owner applicant. Mr. Miller warned against glib treatment of the difference between legislative and administrative functions.

Walter Miller referred back to Commissioner Anderson's comments about being arbitrary and capricious, clarifying that the essence of capricious action is to ignore your own rules and regulations. Mr. Miller reminded the Board that members of their own staff, and their attorney, spoke today and confirmed that the property owner has met all requirements for development. Mr. Miller stated "It is frightening to think that you would be urged to ignore all that and just do what you think is comfortable, as suggested earlier." Mr. Miller called such an action "a death sentence." It is against the principles of administrative justice and due process rights.

Walter Miller explained that he was one house away from open space when building first began on his lot twenty-six years ago. Mr. Miller hated to lose the feel of nature as it changed over the years, but respected the fact that he could not do anything about it because he did not own the remaining land on the hill - somebody else had the right to develop it. He is now glad for those changes. There are currently four streets between his property and the wilderness area; those streets are now a protection to Mr. Miller. Those same streets were used by firefighters for access in the last two years. Mr. Miller noted that he has the opportunity to drive down a multi-million dollar road each day on the way to work; he benefits from the improvements by the developer even though he is not part of their subdivision. Mr. Miller summarized that the safety of his home has been enhanced, and encouraged the residents to consider the potential benefits for all.

Mark Howell lives in the Alpine Cove area of Utah County. He lived in Draper, Utah for twenty years, and witnessed firsthand the floods caused by developments on South Mountain. Mr. Howell noted for the record that those developments were all approved by the city council. He worked to bring people together in an attempt to solve the flooding issues which still plague that region.

Mark Howell mentioned that there had been a meeting shortly after the fires in the Alpine area, and the Fire Chief had played audio clips of correspondence between the firefighters and their command post during the disaster. Mr. Howell recalled how the firefighters were warned to evacuate before getting trapped, but chose to remain while stating "we have a house to protect." Mr. Howell explained that three firefighters almost lost their lives during the blazes due to access issues. He indicated that the real-life experiences of three fires and three floods in a short period of time are as much of a study as the academic reports by the professional engineers. Mr. Howell questioned the liability and responsibility of the Board in moving forward when there is so much evidence against the safety of the residents, and urged them to delay any decision about the subdivision application until the State Debris Flow Expert could conduct an investigation.

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Mark Howell reiterated previous suspicions about the rush for approval by Patterson Construction, pointing out that some of the studies conducted by their hired experts occurred before the fires that changed the landscape of the area. Mr. Howell stated that he is generally in favor of development, but believes this property has some very special characteristics and history that warrant more time for review.

Commissioner Anderson thanked the audience for their input, and Commissioner Witney voiced appreciation specifically for Walter Miller's comments. Commissioner Witney stated that the Board would never intentionally place the citizens in the way of harm, reminding those present that his career in law enforcement spanned 32 years. That being said, statute exists to protect the rights of the people. Commissioner Witney has personal experience because he chose to maintain five and a half acres of property as other homes were built around him, while his brothers chose to sell their land. Commissioner Witney agreed with Mr. Miller's statements that he had no control over the destiny of property that did not belong to him. He declared that the developers have met all code requirements and responsibilities.

**Commissioner Witney made the motion to approve the Box Elder South Subdivision, Plat "A," subject to the conditions stated in the staff report, as detailed in Consent Agenda Item No. 8. The motion was seconded by Commissioner Ellertson, and discussion continued.**

Commissioner Ellertson recognized that there are a lot of feelings among the residents to ensure safety. He added that some of the concerns exist with or without this subdivision; the developer has taken proactive steps to assist those issues. Commissioner Ellertson noted the Board's thorough review of the facts, discussion, and documents provided from all parties. He expressed hope that everyone will continue to work together to make the area a great community. Commissioner Ellertson also mentioned that Utah County would approach any potential changes or future concerns to the best of their ability. He emphasized that each individual should be confident their opinions were heard; a decision does not equate a lack of consideration.

**The motion carried with the following vote:**

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

AGREEMENT NO. 2014-15

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

Utah County Deputy Attorney David Shawcroft clarified for the record that the approval of the Box Elder South Subdivision is subject to the conditions stated in the staff report, the statements from Ross Welch on behalf of Patterson Construction during the meeting today, and indemnification with regard to the road issue. Mr. Shawcroft also mentioned that the Findings of Fact, Conclusions of Law, and Decision regarding this application will be prepared for formal approval during the next Commission meeting.

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

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

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

**Commissioner Ellertson made the motion to strike Regular Agenda Item Nos. 12 and 15 to set dates, times and locations for closed meetings for a strategy session to discuss pending or reasonably imminent litigation; and to discuss commercial information as defined in Section 59-1-404, U.C.A., as amended. The motion was seconded by Commissioner Witney and carried with the following vote:**

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

**11. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL OR INDIVIDUALS**

**Commissioner Ellertson made the motion to set a date, time and location for a closed meeting to discuss the character, professional competence, or physical or mental health of an individual or individuals to immediately follow the public comment portion of the regular public meeting today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Witney and carried with the following vote:**

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

SET

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

**Commissioner Ellertson made the motion to set a date, time and location for a closed meeting for a strategy session to discuss the purchase, exchange, or lease of real property to immediately follow the previously scheduled closed meeting today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Witney and carried with the following vote:**

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

SET

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

**Commissioner Ellertson made the motion to set a date, time and location for a closed meeting for a strategy session to discuss the sale of real property to immediately follow the previously scheduled closed meetings today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Witney and carried with the following vote:**

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

SET

**WORK SESSION**

NO WORK SESSION ITEMS WERE SUBMITTED

**PUBLIC COMMENTS**

Utah Wilderness Foundation Attorney Ron Madson asked for clarification regarding a previous mention of “notice to the buyer.” Commissioner Anderson explained that one of the terms for approval of the Box Elder South Subdivision (Consent Agenda Item No. 8) is for a note to be included on the plat. That way, any potential buyers will be able to see that there is a pending lawsuit; any purchase would be subject to the results of said lawsuit.

This concluded the public comment portion of the open meeting, and the meeting recessed again at 11:48 A.M. to go into closed meetings. The public meeting reconvened at 12:22 P.M.

**Commissioner Witney made the motion to adjourn the January 7, 2014 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Ellertson and carried with the following vote:**

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

There being no further business nor public comment, the meeting adjourned at 12:23 P.M. The minutes of the January 7, 2014 Commission Meeting were approved as transcribed on February 25, 2014.

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GARY J. ANDERSON, Commission Chair

ATTEST:

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BRYAN E. THOMPSON  
Utah County Clerk/Auditor

\*Consent Agenda Item No. 8:

The commissioners addressed Consent Agenda Item No. 8, regarding the Box Elder South Subdivision, Plat “A,” before setting the closed meetings, and approved the item by unanimous vote.