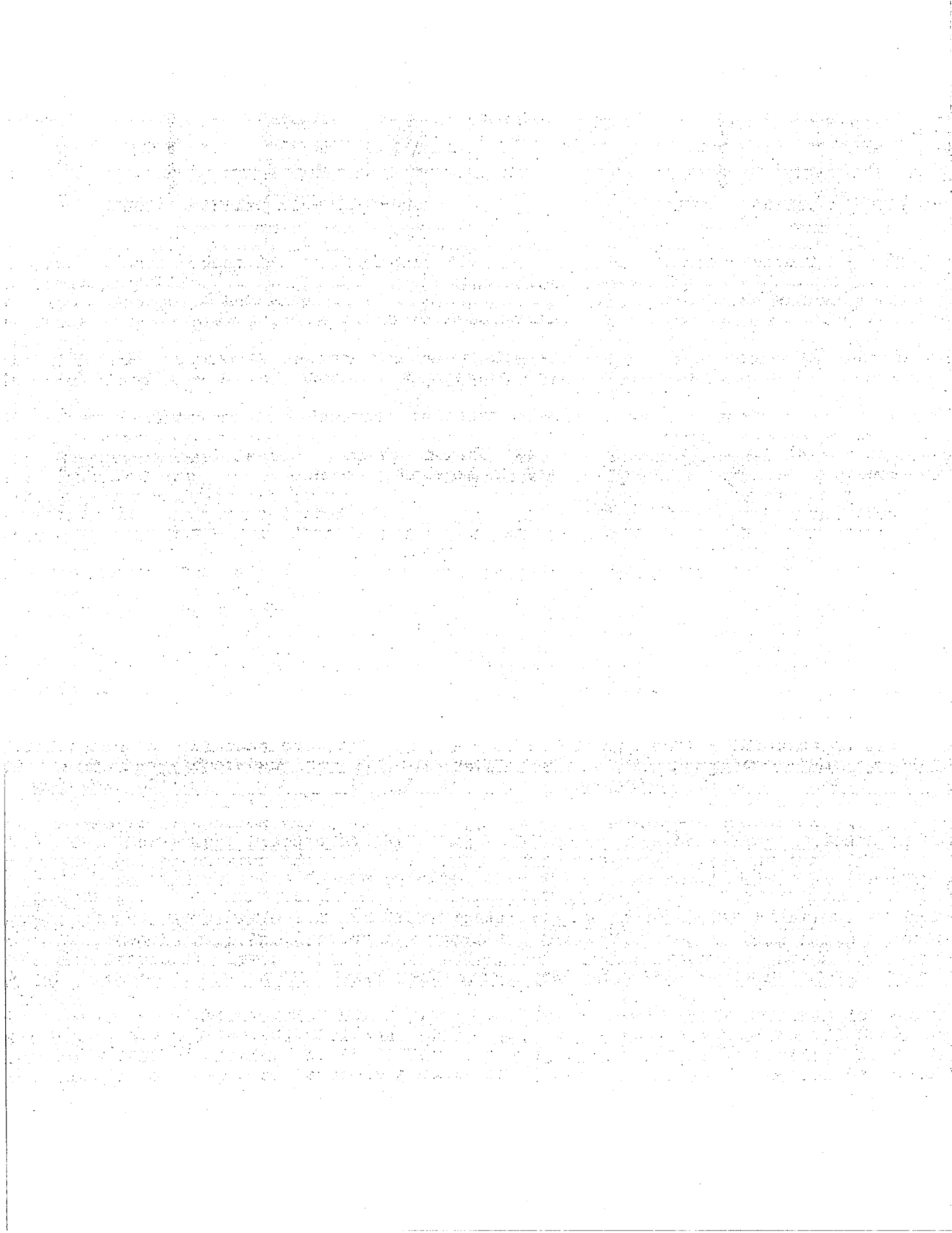


COUNCIL MEETING
MINUTES 01/10/95

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COUNCIL MEETING
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THE CACHE COUNTY COUNCIL MEETING MINUTES

January 10, 1995

The Cache County Council met in regular session on the 10th day of January, 1995 in the County Council Chambers located at 120 North 100 West, Logan, Utah 84321.

ATTENDANCE

Council members present: Chairman Sarah Ann Skanchy, Vice Chairman C. Larry Anhder, Council members: Guy Ray Pulsipher, Layne M. Beck, H. Craig Petersen, Jerry L. Allen, Darrel L. Gibbons.

Others present: Cache County Executive M. Lynn Lemon; Cache County Clerk Stephen M. Erickson; Cache County Attorney Scott Wyatt. Representatives from the local news media and other interested citizens.

CALL TO ORDER

Council Chairman Sarah Ann Skanchy called the meeting to order at 5:00 p.m. and welcomed all who were in attendance. Special welcome was given to the two new Councilmen Mr. Beck and Mr. Petersen and the new County Attorney Scott Wyatt.

INVOCATION

The invocation was given by the County Executive M. Lynn Lemon.

COUNCIL CHAIRMAN & VICE CHAIRMAN: ELECTION

Chairman Skanchy opened nominations for the position of Council Chairman. It was moved by Councilman Gibbons that Sarah Ann Skanchy be elected the Council Chairman for 1995. It was seconded and passed unanimously.

Councilman Allen moved that C. Larry Anhder be elected Council Vice Chairman. It was properly seconded and carried unanimously.

AGENDA & MINUTES

The agenda for the meeting was adjusted and approved.

The minutes of the Council meeting held on December 13, 1995 and sent to all members of the Council were discussed, corrected and approved.

COUNCIL MEETING
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REPORT OF THE COUNTY EXECUTIVE

The County Executive M. Lynn Lemon reported on the following items:

1. Appointments: The following were presented as appointments for Council approval.

Appointment: Mayers, Michael Shane Deputy Sheriff
Appointment: Groll, Sidney P. Records Management Com.
Appointment: Howell, Kathleen C. Records Management Com.
Appointment: Wyatt, Scott Records Management Com.
Appointment: Erickson, Stephen M. Records Management Com

A motion to approve the appointments was made by Councilman Petersen. It was properly seconded and carried unanimously.

2. Notice of Appeal: William & Georgette McCreary have appealed a decision by the County Planning and Zoning Commission.

(See attachment #1)

Executive Lemon told the Council that he had met with the County Attorney on the appeal. And other parties concerning the appeal. It was determined that the McCrearys property was not within the required 300 Ft for an appeal. Therefore he denied the appeal.

3. Appeal-Providence City, Fisher & Pulver: Providence City and Dr.'s Fisher & Pulver are appealing a decision made by the Planning and Zoning Commission. The appeal was addressed previously in a Public Hearing and was denied. The changed process dealing with appeals allows them the right to re-appeal before the County Executive.

Lemon recommends that another Public Hearing be scheduled. A Public Hearing was scheduled on February 14, 1995 at 6:00 p.m. in the Council Chambers.

4. Boundary Commission: Lemon reported that terms for members of the County Boundary Commission has expired and the County Surveyor was chairman. It now becomes necessary to reorganize that Board. He asked the Council for appointment recommendations.

5. Planning District Proposal: Lemon presented a proposed plan that has been discussed by the County Planner and Planning Board. The plan is to create Planning Districts through-out the County for future planning. Pro's & Con's of the proposal were discussed. The County Planner is in the process of taking the

COUNCIL MEETING
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proposal to the County Municipalities for study and review.

Council members suggested that the County-Wide Planner present to the Council a review of the planning process and proposals during a future Council meeting.

6. Home Owner Tax Exemption: There is a proposal before the State Legislature to increase the home owners tax exemption from 32% to 40%. Lemon said that in 16 Counties this would put them over the limited tax increase. There are now questions concerning the increase or decrease in tax rates.

7. Housing & Development Plan: The 1995 Housing & Development plan will also list road chipping projects. The new plan will be presented in a future Council meeting.

8. Juvenile Court Case Screening: Juvenile Court Cases are being screened through the Juvenile Court System. That process allows case load reduction in the County Attorney's Office. Attorney Wyatt, said the process helps his office and he would like to have the option to continue having the Juvenile Court do the screening. Or to have the County Attorney's Office do the work according to the work load.

9. Logan City Annexation: Logan City has been asked to annex 14.29 ac. of property South West of Logan between 10th and 12th West. Executive Lemon would like the Council to consider the issue and make recommendations.

Chairman Skanchy said that we can't stop the process of annexation but we can raise issues that may effect any decision. Councilman Gibbons said that proper planning for that area has not been done and any annexation should be put on hold until planning has been completed. Councilman Petersen said that he is on the Logan Zoning Commission and a meeting is being held to discuss the proposed annexation. He invited input from the Council.

Vice Chairman Anhder moved that the Councils position should be to oppose annexation by Logan City at the present time, for the following reasons:

1. Planning for development in that area has not been completed.
2. The annexation would create a peninsula.
3. It may affect future road development in the area.

The motion was properly seconded.

Councilman Beck expressed concern about the rights of the property owner and said that the owners property rights should be considered. Councilman Petersen said that he also has concerns

COUNCIL MEETING
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about the property owners rights. Executive Lemon said that without the proper planning we could have problems in the future especially with traffic movement. Councilman Gibbons said that the Councils responsibility is to govern for the whole county and to do what is best for the citizens that live here.

Question on the motion was called for and the motion passed on a 5 "Yes" to 2 "No" vote.

10. Hyde Park ICETEA Application: Hyde Park City is asking the County to join them as they apply for ICETEA funding to build a trail for walking and riding bicycles between Hyde Park and Smithfield. This item will be on a future Council meeting agenda.

11. Mineral Lease Targeted Funding Applications: Two more applications for funding from the Mineral Lease Targeted Fund have been received by the County Executive. The Cache Metropolitan Planning Organization (CMPO) is requesting through the County-Wide Planner money to study transportation in the county. USU Department of Human Environment are requesting funding to finance a study on how to help low income families. Lemon is recommending that the Council approve the application for studying transportation.

A motion to support the recommendation of the County Executive was made by Councilman Allen. It was properly seconded and carried unanimously.

BUDGETARY MATTERS

Chairman Skanchy told the Council that a letter has been received from the State Auditor regarding the 1995 County Budget. The State Auditor thanked the Council and said that the 1995 budget was in compliance with state regulations.

RESOLUTION NO. 95-01: TAX ANTICIPATION NOTES

The adoption of Resolution No. 95-01 will allow the County to join with other Counties through UAC to sell \$4,500,000.00 in Tax and Revenue Anticipation Notes. The Resolution and Contract is on file in the County Clerk's Office.

A motion to adopt Resolution No. 95-01 was made by Vice Chairman C. Larry Anhder and seconded by Councilman Jerry L. Allen. The motion carried unanimously.

THE COUNCIL ADJOURNED FROM THE REGULAR COUNCIL MEETING INTO A BOARD OF EQUALIZATION

COUNCIL MEETING
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IHC PERSONAL PROPERTY: DISCUSSION

Executive Lemon reported to the Board of Equalization that a letter has been received from Attorneys for IHC concerning the Assessors levy on personal property at the Logan Regional Hospital.

(See attachment #2)

Lemon said that the County Assessor has stated that according to the code, the Board of Equalization has no jurisdiction in the matter. Lemon further said that IHC has appealed to the State Tax Commission concerning the issue and he is recommending that the Board waits for the Commission's decision.

It was moved by Councilman Pulsipher that the Board support the County Assessor position and to wait for any action from the State Tax Commission. It was seconded and passed unanimously.

THE BOARD OF EQUALIZATION ADJOURNED BACK INTO THE REGULAR COUNCIL MEETING.

THE COUNCIL THEN ADJOURNED FROM THE REGULAR COUNCIL MEETING INTO AN BOARD OF TRUSTEES SOLID WASTE SERVICE AREA # 1.

RESOLUTION NO. 95-01: \$1.00 PER MONTH FEE INCREASE

The Board of Trustees had previously adopted by motion to increase the monthly fee for solid waste pickup to \$1.00. However the Board has been advised that it should have been done by Resolution.

A motion to waive the rules of first and second reading and adopt Resolution No. 95-01 was made by Trustee Gibbons. It was seconded and passed on a 6 "Yes" to 1 "No" vote.

(See attachment #3)

Point of explanation: Res. No. 95-01 shown as attachment #3 is associated with the Board of Trustees Service Area #1 and not the regular Resolutions passed by the Council.

THE BOARD OF TRUSTEES ADJOURNED FROM THEIR MEETING BACK INTO THE REGULAR COUNCIL MEETING.

COUNCIL MEETING
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MENTAL HEALTH OFFICER CERTIFICATION: FIRST READING

The Bear River Mental Health Officer needs to be certified and approved by the Mental Health Authority. The procedure is on the agenda for first reading and it will be addressed in a future Council meeting. Staff members from BRMH will be asked to appear before the Council at the next meeting.

COUNCIL MEMBER 1995 INDIVIDUAL PROJECTS:DISCUSSION

Chairman Skanchy reviewed the various Committees and Boards that Council members serve on. Councilman Allen agreed to serve on the BRAG Governing Board and Councilman Beck would like to help with transportation. Executive Lemon will look at individual Committees and Boards and will make recommended changes. Lemon will also look into the possibility of eliminating all or some positions on the different Boards.

Council member projects for 1995 were discussed. Councilman Gibbons would like to see something done about the County-wide Library Issue. Executive Lemon suggested that it may be possible to have a County Master Plan in place by the end of the year.

Chairman Skanchy informed the Council on the following items:

1. UDOT Annual Meeting: UDOT will hold their annual meeting to receive input and to update local citizens on highway matters. The meeting will start at 9:00 a.m. on January 26, 1995.

2. Utah State Legislature Briefings: Council members are invited to attend Legislative Briefings at the State Capital on January 26, February 9 & 23.

3. Newly Elected Officials Workshop: Council members are invited to attend a workshop for newly elected Officials in Ogden on the 12th & 13th of January. Councilman Gibbons is on the program and asked for suggestions for discussion.

COUNCIL MEMBER REPORTS

Councilman Pulsipher: The sign installed by UDOT near Sherwood Hills is a disgrace to our intelligence. Pulsipher suggests that the county do something as soon as possible to solve the problem. Attorney Wyatt said that an agreement has been signed by the county and the Weston family and any action being done is following that agreement.

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Vice Chairman Anhder: Suggested that the Council be represented on the UAC Board of Directors. Chairman Skanchy said that she has been elected to the UAC Mutual Insurance Board of Directors. Clerk Erickson stated that he represents the State Clerks Association on the UAC Board of Directors. Executive Lemon represents the County on the Board from BRAG.

Councilman Petersen: Would like to know more about BRAG and the CDBG process. Petersen was invited to the BRAG meetings and the Director of BRAG will be asked to appear before the Council.

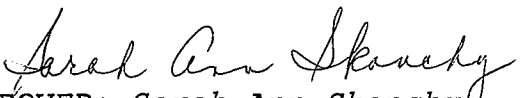
The County Attorney Scott Wyatt told the Council that he or someone from his office will attend each Council meeting.

ADJOURNMENT

Chairman Skanchy adjourned the meeting at 7:10 p.m.



ATTEST: Stephen M. Erickson
Cache County Clerk



APPROVED: Sarah Ann Skanchy
Council Chairman

7. _____ Cache County Council

NOTICES OF APPEALS FROM DECISIONS OF THE PLANNING COMMISSION MUST BE FILED AT THE OFFICE OF THE COUNTY CLERK, 170 NORTH MAIN, LOGAN, UTAH 84321, AND COPIES MUST BE FILED IN ADDITION WITH THE OFFICE OF THE ZONING ADMINISTRATOR, 179 NORTH MAIN STREET, ROOM 210, LOGAN, UTAH 84321, AND THE OFFICE OF THE COUNTY EXECUTIVE, 120 NORTH 100 WEST, LOGAN, UTAH 84321.

_____ Board of Adjustment

NOTICES OF APPEALS TO THE BOARD OF ADJUSTMENT MUST BE FILED IN THE OFFICE OF THE ZONING ADMINISTRATOR, 179 NORTH MAIN STREET, ROOM 210, LOGAN, UTAH 84321.

- 8. The appellant should attach copies of any documents to be considered on appeal such as permits, applications, deed, maps, correspondence, or otherwise.
- 9. Appellant may attach additional sheets if needed.
- 10. The appellant must attach a list stating the names and addresses of the owners of all property located within 300 feet of any property line of the subject property and of any other known interested parties such as mortgage holders or otherwise. The list must also specify the property tax numbers of each of those properties. *ON FILE AT P&Z IN SUMMERS FILE*

THE UNDERSIGNED:

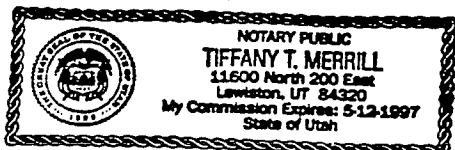
- 1. VERIFIES THAT THE INFORMATION SET FORTH IN THIS NOTICE OF APPEAL AS WELL AS IN ANY ATTACHED LISTS OR DOCUMENTS ARE TRUE AND CORRECT.
- 2. ACKNOWLEDGES THAT HE HAS THE DUTY TO DELIVER OR CAUSE TO BE DELIVERED A COPY OF A NOTICE OF THE APPEAL HEARING ON FORMS PROVIDED BY THE OFFICE OF THE ZONING ADMINISTRATOR, TO THE OWNERS OF ALL PROPERTY LOCATED WITHIN 300 FEET OF ANY PROPERTY LINE OF THE SUBJECT PROPERTY AND OF ANY OTHER KNOWN INTERESTED PARTIES AT LEAST TEN (10) DAYS BEFORE THE APPEAL HEARING.
- 3. ACKNOWLEDGES THE FAILURE TO PROVIDE NOTICE TO ANY OF THE SAID PROPERTY OWNERS AS REQUIRED AS WELL AS THE MAKING OF ANY UNTRUE OR MISREPRESENTATIVE STATEMENTS OR INFORMATION IN THIS APPEAL OR ANY ATTACHMENTS MAY CONSTITUTE GROUNDS FOR THE IMMEDIATE TERMINATION OF THE APPEALS PROCESS OR THE SETTING ASIDE OF ANY RELIEF GRANTED ON THE APPEAL.

Dated this 16 day of DECEMBER, 1994.

William McCreary
Theright McCreary
Appellant

State of Utah)
)
County of Cache)

Subscribed and sworn to before me this 16th day of December, 1994.



Tiffany T. Merrill
NOTARY PUBLIC

VAN COTT, BAGLEY, CORNWALL & MCCARTHY

A PROFESSIONAL CORPORATION

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50 SOUTH MAIN STREET

SALT LAKE CITY, UTAH 84144

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ADDRESS ALL CORRESPONDENCE TO
POST OFFICE BOX 45340
84145-0450

WRITER'S DIRECT DIAL NUMBER

December 20, 1994

VIA FAX NUMBER (801) 752-9169

ORIGINAL TO FOLLOW BY MAIL

DAVID C. SALISBURY
M. SCOTT WOODLAND
NORMAN S. JOHNSON
STEPHEN D. SWINOLE
P. D. MERRILL
T. FOWLER
P. WILLIAMS
E. CHAM
GIAUQUE
COTT SAVAGE
TH W. YEATES
COOK
SNOW
A. GREENWOOD
MAXILIAN A. FARBMAN
ARTHUR B. RALPH
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S. BLAKE FARRISH
PRESTON C. REGEHR
A. CRAIG MALE
MICHAEL T. ROBERTS
TODD M. SHAUGHNESSY
ERIC E. VERNON

BENNETT, HARKNESS & KIRKPATRICK
1874-1890
BENNETT, MARSHALL & BRADLEY
1890-1896
BENNETT, HARKNESS, HOWAT
SUTHERLAND & VAN COTT
1896-1902
SUTHERLAND, VAN COTT & ALLISON
1902-1907
VAN COTT, ALLISON & RITER
1907-1917
VAN COTT, RITER & FARNSWORTH
1917-1947

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Mr. Gary O. McKean
Cache County Attorney
110 North 100 West
Logan, Utah 84321

Dear Mr. McKean:

This firm represents IHC Hospitals, Inc. ("IHC"), who is the owner and operator of the Logan Regional Hospital.

I have been furnished with a copy of a decision of the Board of Equalization of Cache County dated December 6, 1994 ("Decision") which purports to approve a levy of \$23,083.92 in penalties by the Cache County Assessor for failure of the hospital to file an affidavit as to its personal property. I have enclosed a copy for your convenience. I have attempted to reach you by telephone to discuss this matter, but have been unsuccessful.

Several years ago the Cache County Assessor was notified in writing to address all tax notices and correspondence relating to property owned by IHC Hospitals Inc. in Cache County to "IHC Hospitals Inc., % Van Cott Bagley Cornwall & McCarthy, 50 South Main Street #1600, Salt Lake City, Utah 84144." Since that time tax notices and valuation notices have been so addressed. The principal reason for this was to insure that property tax matters were directed to IHC's authorized representative to permit direct contact between the County and IHC to provide for payment of property taxes when due and for the prompt and efficient resolution of any questions which may arise concerning property tax issues.

I have learned that correspondence was sent by the Cache County Assessor's Office concerning personal property directly to the Logan Regional Hospital as early as September 16,

Mr. Gary O. McKean
December 20, 1994
Page 2

1993. Copies of that material did not reach this office until December 16, 1994 and only after a request to the Assessor's Office from our office after learning of the Decision. The lack of notice to this office has caused confusion and evidently resulted in a misunderstanding concerning the responsibility of providing the information which was requested by the Assessor's Office about personal property connected with the Logan Regional Hospital. The confusion was further compounded by the fact that the Hospital does file an affidavit of personal property each year for its personal property which is taxable.

As the Board recognized, Logan Regional Hospital qualifies in every way for exempt status. It has consistently filed the Affidavit of Exempt Status required by Utah Code Ann. § 59-2-1101(3) and Utah Admin. R. R884-24P-35. Because IHC is an exempt organization, there is no basis for imposition of a penalty for failure to file an affidavit of personal property. Section 59-2-306 of the Utah Code states the county assessor "may" request an affidavit from any person setting forth "all the real and personal property assessable by the assessor." Because the Logan Regional Hospital is an exempt organization, its personal property is not "assessable" by the Cache County Assessor, except to the extent such property is not used exclusively to provide hospital care, promote health care, provide health-related care, and for other charitable purposes. As indicated above, the Logan Regional Hospital files an affidavit as to its taxable property and pays the tax associated therewith. The property which will be listed on the affidavit requested by the Cache County Assessor is all exempt from taxation.

Furthermore, the penalty allowed by § 59-2-307 for failure to file an affidavit is based on an estimated tax due. Because IHC is exempt from taxation, the estimated tax would be zero. Even if Logan Regional Hospital were subject to a penalty, and all of the required steps were taken by the County Assessor, the most it could be fined is the minimum \$100.00 penalty. I should also note that while § 59-2-311(3)(b) does not permit an appeal of the valuation the Assessor places on property, it in no way prohibits appeal of the imposition of the penalty or the amount of the penalty.

IHC in paragraph 6 of its Affidavit to Continue Property Tax Exemption filed with Cache County each year has offered to provide a list of its personal property and it has every intention to follow through of that commitment. I am advised that it will take several days to prepare the list and

Mr. Gary O. McKean
December 20, 1994
Page 3

will arrange to furnish it to the Cache County Assessor as soon as possible.

In view of the circumstances and the apparent lack of authority of the Assessor to levy and the Board of Equalization of Cache County to determine that a penalty is due, I would request that the levy and the determination that IHC Hospitals, Inc. owes a penalty be withdrawn.

I would appreciate knowing the position of the Board of Equalization of Cache County on this matter as soon as possible so that I may take the necessary steps to appeal these penalties if it becomes necessary.

Respectfully,

Richard C. Skeen

ACH: jhw
Enc.

cc: David S. Geary
Douglas J. Hammer, Esq.
Alan L. Sullivan, Esq.

CACHE COUNTY, UTAH

RESOLUTION NO. 95 -01

A RESOLUTION CONVERTING THE MOTION TO RESOLUTION PASSED BY THE BOARD OF TRUSTEES FOR CACHE COUNTY SERVICE AREA NO. 1 ON MAY 10, 1994 APPROVING AN INCREASE IN SOLID WASTE COLLECTION FEES FOR CACHE COUNTY SERVICE AREA NO. 1.

The Board of Trustees of Cache County Service Area No. 1, in a regular meeting, lawful notice of which have been given, pursuant to the Utah County Service Area Act as set forth in Chapter 29 of Title 17 of the Utah Code and based upon recommendations submitted to it by the Solid Waste Advisory Board and Resolution No. 90-01 of the Board of Trustees, finds that because of increased maintenance and operational costs as well as an increase in capital expenditure requirements for solid waste collection and disposal, it is necessary to increase fees for the collection of solid waste from users within the county service area.

BE IT THEREFORE RESOLVED that:

Section 1. Fees

The solid waste collection fees be increased at the rate of \$1.00 per month.

Section 2. Repealer

This resolution and the fee increase therefore replaces the motion passed by the Board of Trustees for Cache County Service Area No. 1 on May 10, 1994 and the rate increase supersedes all prior resolutions and fee schedules as of the effective date of the motion.

ADOPTED this 10th day of January, 1995.

Board of Trustees, Cache County Service
Area No. 1

By: Sarah Ann Skanchy

ATTESTED:

By: Stephen M. Erickson
Stephen M. Erickson
County Clerk