

APPROVED

**CACHE COUNTY
COUNCIL MINUTES
14 AUGUST 2001**

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CACHE COUNTY COUNCIL MEETING
August 14, 2001

The Cache County Council met in a regular session on 14 August 2001 in the Cache County Council Chamber at 120 North 100 West, Logan, Utah.

ATTENDANCE:

Chairman: Darrel L. Gibbons
Vice Chairman: Layne M. Beck
Council Members: John Hansen, H. Craig Petersen, Kathy Robison,
C. Larry Anhder (*arrived at 5:13 p.m.*)
Council Member: Cory Yeates - *excused*
County Executive: M. Lynn Lemon
County Clerk: Jill N. Zollinger

The following individuals were also in attendance: Charles Batten, Karen Bodrero, Brenda Brown, Kevin Brown, Craig Buttars, Jerry Dahlberg, Thad Erickson, Lorene Greenhalgh, Cindy Hall, Kathleen Howell, Karl Jensen, Lane Jensen, Dave Nielsen, Evelyn Palmer, Pat Parker, Bruce Petersen, Gary Samples, Jim Smith, Mike Stauffer, Mike Twitchell, Von Williamson, Scott Wyatt, Paul Allen (Herald Journal) and Jennie Christensen (KVNU).

The following individuals were in attendance for the CDBG hearing: Kim Datwyler, Jeff Gilbert and Katie Jensen.

CALL TO ORDER:

Chairman Gibbons called the meeting to order at 5:03 p.m.

INVOCATION:

The invocation was given by Layne Beck.

REVIEW AND APPROVAL OF AGENDA:

1. Executive Lemon requested a short Executive session at the end of Council Meeting in order to address a litigation matter.

Vice Chairman Beck moved to approve an Executive Session at the end of Council meeting. Council member Petersen seconded the motion and it carried all members voting in favor. (Council members Anhder & Yeates absent)

2. Items 9c. *Discussion - Willow Park Master Plan* and 10b. *Discussion - Zoning Fee Changes* were carried over to the next agenda.

The agenda was approved as amended.

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REVIEW AND APPROVAL OF MINUTES:

The minutes of the regular Council meeting held on July 31, 2001 were discussed, corrected and approved.

REPORT OF THE COUNTY EXECUTIVE: LYNN LEMON

County Executive Lemon reported on the following items:

Appointments: There were no appointments at this time.

Warrants: Warrants for the periods of July 30th to August 2nd of 2001 were presented to the County Clerk for filing.

Other Items:

1. Utah State Association of County Commissions and Councils: Meetings will be held September 12, 13, and 14, at Utah State University in the Eccles Conference Center.
2. Forest Revision Plan: The Forest Service has extended the comment period regarding the revision of the Wasatch-Cache Forest Plan to November 1, 2001. A public oral comment opportunity is scheduled for October 11, 2001 at the Logan High School Auditorium, 162 W. 100 S., Logan, UT.
3. Trade Property for TV Translator on Clarkston Peak: The county is finalizing documents for the translator site. The County will be responsible for constructing the road; the electrical lines to the microwave; and the translator building. The FCC has approved the move forward; the State will buy the microwave transmitter for the site.

PUBLIC HEARING: COMMUNITY DEVELOPMENT BLOCK GRANT

Executive Lemon, opened the first public hearing for the CDBG Small Cities Program for Program Year 2002-2003. Executive Lemon stated that this hearing is to gain input from citizens as to their needs and potential CDBG projects. Input will be considered for the consolidated Capital Improvement Plan. Approximately \$900,000.00 is expected to be available in the Bear River Region for CDBG projects. All of the allocated funds must meet HUD National Objective and benefit low/moderate (LMI) income individuals. Projects displacing LMI persons are not likely to receive funding. An attached eligible activity list was made available to the public.

(See Attachment #1)

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Executive Lemon, then opened the meeting up to comments from the audience.

COMMENTS:

Kim Datwyler, Executive Director of Neighborhood Non-profit Housing Incorporation:

Ms. Datwyler came before the Council to talk about sponsorship of a project to do an affordable housing development in the County. It is similar to a project that they are doing now. She explained a little bit about that project. The project that we are currently doing is a 29 lot development for people with average to low incomes. The majority of the homes that are being developed are being done by families that are participating in a world-wide, self-help housing development program. Each of the families now are at ground-breaking. It is a tough program for them. They all work at least 30 hrs a week as a group and they do that from 8 to 10 months as they build their homes. This program will give each of them new skills and a real sense of accomplishment. They are required to build 65 percent of the home. It also gives them a real sense of the neighborhood because they have to work in a group. They understand that nobody moves in until all of the homes are done and that they have to resolve issues as they go along. They already have a home-owners association with a President elected; and by the time they move in, they really are a community. I believe in the program; I am pleased with what we have been able to do; and I have actually used CDBG money from the County from 1998 on this round to help make this project happen.

I believe in the program, but one of the things that it takes to make it happen is assistance in buying down the cost of the land. We do everything that we can for the cost of the home, but to get the cost of the land down, we need CDBG money. We have a list with 77 names on it of people who are interested in the program. We can do about 24 homes in a two-year period. That's about the most that our construction supervisors can handle.

The reason that I am coming to you now is because it really is a 2-year project to get the land and to build the structure and to get the infra-structure in place. Homes that we are building now will be finished in 2 years from this past July. We are asking that you consider giving us money so that we can locate land; so that, when this phase is done we can be getting the money in place to start another phase.

My request is for \$140,000.00 The World Development has placed parameters on this: 1) That the land be in a rural part of the County. 2) To make it affordable, it must be in a City or County where there is already a sewer system. What I am proposing is that I would go out and look for the most affordable land that meets those two parameters. I need to consider a fairly central location.

Ms. Datwyler also commented that several non-profit groups have gotten together and talked about the possibility of forming a coalition and would come before the Council next year to ask for help in funding a program for a building that those groups could share.

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Vice Chairman Beck moved to close the public hearing. Council member Robison seconded the motion. All members voted in favor. (Yeates absent)

ITEMS OF SPECIAL INTEREST

EMPLOYEE OF THE MONTH - JIM SMITH

Jim Smith presented **Karen Bodrero** to the Council as "Employee for the Month" of August. He read the following about Karen: "Karen's career with Cache County began back in January of 1995. For the past six and one-half years, Karen has been an active member of our Motor Vehicle Division. As part of her duties, Karen assists customers with their vehicle registration. She also interfaces with law enforcement offices, insurance companies, auto dealerships, National leasing companies, and financial institutions on vehicle issues and questions. Karen is required to learn and keep current with the laws, policies, and procedures pertaining to the State's motor vehicle registration process. She also must use creative problem solving techniques for those more demanding customers. Karen also has been responsible for over-seeing the taxation of mobile homes located in various parts of the County. She works with owners, managers, and residents to help insure taxation is as fair as possible. Karen is the wife of the late John L. Bodrero. She is the mother of 7 children and the Grandmother of 15 and currently resides in Nibley."

Executive Lemon and Kathleen Howell made the award presentation.

CACHE COUNTY SHERIFF REPORT - MIKE STAUFFER/VON WILLIAMSON

Mike Stauffer and Von Williamson addressed the Council with several concerns that Sheriff Nelson has towards the building of a new jail facility: 1) One concern was that since the letter from the Department of Corrections was received, there seemed to have been a diminish in the momentum towards the building of the new building and laying plans to do that. 2) The Sheriff was also convinced that the Department of Corrections may not bring inmates for about two years, but that once those two years go by, the facility will be in need again and Cache County along with Weber County and some others that are mentioned in the letter were on the list of the Department of Corrections to have inmates housed on a first-come basis. 3) The Sheriff wanted to know what the Council's intentions are. With respect to bonding, he was wondering if the Council would consider the possibility of holding an election to approve a bond? He also felt that public education would be required to insure that the bond pass. 4) Would the Council consider including the new jailhouse with the new Administration Building with respect to that financial package? 5) The final issue that the Sheriff Nelson wanted Mr. Stauffer to convey was to put this matter on the "front burner" and to have a public education campaign, which would be vital to the proposal.

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Chairman Gibbons felt that there needed to be further discussion on this matter with respect to the direction that the Council would want to pursue. This issue would be put on the next agenda for discussion.

Mike Stauffer went on to say that the Sheriff felt a public educational campaign would be vital to insuring that the bond passed. A few "PR" firms and advertising firms locally here in the Valley have been invited to come and give a presentation as to what they can do for us and at what cost.

Discussion:

Council member Petersen: You have already scheduled that?

Mike Stauffer: We have not scheduled it.

Von Williamson: We have sent out the letter and given them a deadline of when to reply back.

Mike Stauffer: When we get that set up, we'll coordinate that with you folks. We'd like you to be present. We feel we will have to open an account with about \$90. We should know by next week when we are going to schedule it.

Council member Hansen: It sounds like the water is clearing a little bit in regards to what the State's intentions are. That was the concern that I had.

Williamson: In the meetings we have attended with the State, the State has pretty well presented and committed to the State Legislature that for the next two years, the State can handle the growth in the inmate population internally. How they are doing that is they have removed themselves from the contract they had with that Management Training Corp. for the crime-fighting facility at the point of the mountain. They have closed the unit down they were planning on opening. They have implemented early releases and also a program that reduces the amount of time spent for parole violators that they have returned back to the facility. All of these measures that they have taken they figure will take care of have providing enough bed-space for their inmates' expanded growth over the next two years; but in two years they are going to be needing bed-space. At this time of the facilities that had building projects under-way have stopped those projects. Two Counties that were ready to break ground and they had contracts; those two contracts have come to a halt because of what has taken place. In two years the State is going to need bed-space and right now nobody is going to be around to provide it.

Lynn Lemon: Do you have any idea, Vaughan, what those two Counties are planning on doing? Are they going to try to build in two years or are they going to try and build next year?

Williamson: Right now their plans are indefinitely on hold as far as I know and there are no definite dates when they anticipate bringing it back.

Lemon: Millard and Beaver Counties have stopped construction?

Williamson: They have stopped everything.

Council member Anhder: Is there some way that we can coordinate with them? What if in two or three years from now everybody brings a lot of beds on line?--I think we should have some written assurance.

Williamson: The coordination was being handled through inmate placement in a master plan. In their 5-year master plan all three of those projects were included. They were not all going to be coming on line at the same time. Right now what Beaver and Millard Counties will do is anybody's guess. They've stopped their projects completely and there is no date that I've heard of when they might bring it back.

Council member Beck: Is the reason they stopped their project because of the indecisiveness upon the part of Committee not be able to reach an agreement with the Department of Corrections and the State Legislature?

Williamson: As I understand it, it was because of the recent issues made in the Legislative session and the tightening up of the Department of Corrections' budget. The Department of Corrections was not going with the budget cuts that they had to have to take at the direction of the Legislature, they were not going to be able to guarantee them the original amount of inmates that the State had planned on placing with them.

Beck: How many beds is Weber County short from what they were promised by the State?

Williamson: It was somewhere in the neighborhood of probably from 100 to 175 beds. The collective Legislature did not fund the inmate placement program as the Department of Corrections had anticipated they would.

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Lemon: Vaughan, at one time they scheduled us to be on line in 2004. Is the Department of Corrections doing anything as far as saying we are going to need space from you in any year now?

Williamson: We haven't been told any new dates. The only thing we know is that they have enough bed-space for two years into the year 2004.

Stauffer: I don't think that we can ignore the contracts that have been made and are in place with the State are very important. At the same time we shouldn't lose sight of the fact that if we had the bed-space I am convinced that we could fill up the space the County.

Williamson: The major difference between us and Millard and Beaver Counties is that they are expanding their facilities to build an economic base for their County. We aren't. We are not looking at this from an economic development issue. We are building a new facility based on study and projection of a consultant, who has told us that in 20 years we are going to need this size of facility regardless of whether we have the State in it or not.

Petersen: ...How does the State decide where they put the inmates? Does it have to do with the severity of the crime?

Williamson: That potential, I guess, exists. You know, anything is possible. That was one of the reasons they were looking at us so closely and placed us in the list at the level we are in. They wanted a program and that's why it is important that we be on the list ...I don't anticipate it is going to become a matter of competing; Corrections is going to have the final say of where they place inmates and we have the final say as to who they place with us.

Gibbons: What date did you have in mind for response letters.

Williamson: Monday, August 20, at the close of business.

BUDGETARY MATTERS

There were no budgetary items.

PUBLIC HEARING SET - OPEN 2001 BUDGET - August 28, 2001 at 6:00 p.m.

Council member Anhder moved to set the public hearing to open the 2001 Budget. Council member Beck seconded the motion. Motion carried. (Yeates absent)

BOARD OF EQUALIZATION HEARING DATE ASSIGNMENTS - AUGUST 15, 2001 THRU SEPTEMBER 14, 2001

Auditor, Tamra Stones noted that the County has had 20 applications filed. There are 4 appointments set for August 15, 2001. Executive Lemon said there were 3 in the morning and 1 in the afternoon. The times being 9:00 a.m., 9:15 a.m., 9:30 a.m., and 4:00 p.m.

Schedule of Council-Member Assignments:

August 15 (Wednesday): Layne Beck

August 20 (Monday): Darrel Gibbons

August 22 (Wednesday): Craig Petersen - afternoon

FINAL PLAT APPROVAL: PHEASANT RIDGE SUBDIVISION - Lorene Greenhalgh
PHEASANT RIDGE ESTATES SUBDIVISION

Council member Anhder asked Ms.Greenhalgh to explain the evaluation process for plat approval. The point system evaluation includes a report of the type of road fronting the property, what

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classification it has and the type and size of road surface. Positive points are given for a 1st, 2nd, and 3rd priority roads. Negative points are given for private and no-service roads. The evaluation includes the type of soil present on the parcel. Positive points are given for soil which is of a lower class or not prime or statewide significant soil. Negative points are given if the soil is Class II or Prime soil. Other points are based on the use of the property and how much will be required to take out of agricultural use; if there are sensitive or hazardous areas on the property such as steep slope and flood-plain and whether the property is close to services (fire protection and school bus stop).

All of the lots can be accessed from that private road if they chose to do so. The Pheasant Ridge plat has a negative 140 points and the Pheasant Ridge Estates has a negative 40.

Council member Robison proposed a quarterly workshop with the Planning Commission, to have a better idea, of their thoughts on Land Use issues.

Chairman Gibbons felt that the Planning Commission would probably appreciate some kind of communication from the Council as well. From his perception their primary interest is in helping people. Gibbons will look into seeing what could be done about a workshop.

(See Attachment #2)

Council member Petersen moved for plat approval of the Pheasant Ridge and Pheasant Ridge Estates Subdivision requests. The motion was properly seconded and approved. 5 "yes" 1 "abstention". (Yeates absent)

PUBLIC HEARING: PROPOSED PROPERTY TAX INCREASE - TAMRA STONES

Auditor Stones told the Council that last December when the budget was adopted for the 2000 calendar year, it was known that the County had a deficit for assessment and collection operations. At the end of 1999 we were at a \$206,000.00 deficit. State law requires that we budget and pay back the deficit in the next budget year; this was not done until 2000. We are also required to hold public hearings twice because we are a County-year entity. In December of 2000 it was indicated that the County would increase the levy to pay back the deficit. It was anticipated to pay a \$75,000 payment, which was not the full amount of the deficit, and advertised for that; so, the increase in budget was limited to that. The actual deficit at the end of the year 2000 was \$247,219.00.

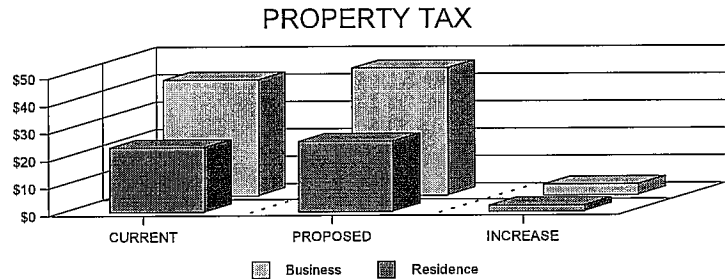
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On \$135,000 revenue it was proposed to increase taxes as follows: Residence from \$23.39 to \$25.54 with an increase of \$2.15 and Business from \$42.53 to \$46.44 with an increase of \$3.91. This gives about \$.18 a month on the residence and for the business \$3.91 a year.

The total budget for property tax revenues will go from \$856,049.00 to \$943,886.00.

Chairman Gibbons asked for public comment. There was no public comment given.

Vice Chairman Beck moved to close the public hearing. Council member Petersen seconded the motion. All were in favor. (Yeates absent)



It was noted that the tax notices that went out to the public do reflect this proposed tax change/increase.

RESOLUTION NO. 2001-31: ADOPTING FINAL TAX RATES AND BUDGETS

(See Attachment # 3)

Council member Anhder moved approval of Resolution No. 2001-31. Vice Chairman Beck seconded the motion. All members were in favor. (Yeates - absent)

AGRICULTURAL PRESERVATION REQUEST: CINDY HALL

Cindy Hall told the Council that purchasing of Development Rights is one of the best methods of protecting our agricultural base. It allows the public to get involved with determining key properties that should be protected and it also allows the farmer the option to either sell to the outside or to sell to the public the conservation easements; the proceeds of which could either go into their retirement or could be invested back into the farm; or the farm could be more affordable for future farmers. The issues are 1) How do we buy these rights? and 2) How is the program to be funded?

The request put forward to the Council originally was to have an opinion question in regards to those issues placed on the November 6th 2001 ballot asking if the voters could support a purchase of development rights program with their property taxes. Since last Council meeting, Ms. Hall had become aware that "Opinions" on the ballot have to first be authorized by the State Legislature. That is a slow and costly process. So, the Council was requested to consider the "Truth in Taxation" method of gaining the opinion of the public through an actual vote upon the ballot and to hire a

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pollster, such as Dan Jones, to develop a question with which all Council members were comfortable. The amount of increase in Property tax proposed would be .0005.

The conservation of easement is typically 50-90 percent of the actual value of the property. On an average value of conservation of easements being \$6,500 assuming closing costs of 12 percent having no other funds leveraged other than the 1.2 Million, 190 acres per year could be bought. If that were leveraged that once, that would be 2.8 Million dollars, 380 acres could be purchased. If that were leveraged twice, that would be 4.2 Million dollars, 570 acres could be bought.

Residential property is taxed at 55 percent of the value. For a home valued at \$131,000 the tax increase would be \$37.00. Commercial and industrial property being taxed at full value; so, for every \$100,000 their tax increase would be \$50.00. For Green-belt land, of which there are 16 Classes, tax increase for 100 acres of Class-1 irrigated land would be \$30. For 600 Acres of Class-3 dry farm, tax increase would be \$22; and for 10 acres of orchard, that would be \$2.

There has been a lot of discussion of resurrecting the sales tax option. Councilman Anhder had brought up the option of having a sales tax option with the Legislature that would be available to Cache County. This option was felt to be unconstitutional. It would have to be handled by targeting the County as third class and third-class County development is from \$18,000 to \$35,000; and it would have to include Box Elder, Cache, Carbon, Iron, Sanpete, Sevier, Summit, Tooele, Uinta and Washington Counties.

Rather than to stall or step backward, Ms. Hall requested to have an opinion poll for public input of a property tax increase to fund purchase of development rights program. Regardless of the outcome of that poll or regardless of whether property tax or sales tax is used to fund the program, it may still be appropriate to try to work though some things with the State Legislature, but we can't count on that to happen this year or next year.

Discussion:

Council member Petersen: I can see a good reason for the survey verses doing it on the ballot, but tell me why you can't do it.

Cindy Hall: We can't put it on the ballot.

Petersen: You can through our authorization.

Hall: No, the State Legislature has to authorize it.

Vice Chairman Beck: That's for an opinion ballot. The one way we could technically get around that issue with respect to an opinion issue on the ballot is we could put a general obligation bond out for "X" hundred dollars and then the people who vote for the issuance of the bond and would essentially give you the same opinion.

Council member Anhder: If I'm not mistaken, we do have an initiative authority.

Executive Lemon: But we can't make the initiative and require it to be put on the ballot?

Anhder: That's right and it is important to start an initiative. There are two ways to make it know. One is by a legislative body and the other is by an initiative.

Hall: But the initiative doesn't have to be approved by the State Legislature.

Anhder: No. I don't think so on a County-wide basis, but I think you may have to on a State-wide basis.

Petersen: That's the whole purpose of the initiative is to get it on the ballot so the Legislative body can approve that

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Hall: This is from the State Code: "Ballot proposition means opinion questions specifically authorized by the Legislature: Constitutional amendments, initiatives, referendums and judicial protection questions that are submitted to the voters for their approval or rejection.

Anhder: You'll need to read further, because there is a method that does not require the State Legislature approval for the initiative.

Beck: It requires a percent of voters in a certain number of Counties

Anhder: The next issue is that --Tamra, we have probably passed the deadline for the tax levy for this up-coming tax year haven't we?

Auditor Stones: Yes, we can't levy a tax this year. We would have to hold our public hearing in December with a quote made up saying our intent to go with that extension levy and then hold another hearing at the end that would take time in 2002; but It has to be on our intent when we adopt our 2002 budget in December.

Petersen: Which means, if the whole thing boils down, when would funds become available to us?

Stones: November 30, 2002 or maybe possibly even in 2003; If there were a sales-tax option passed with the State legislature allowing the Counties to put it to a vote, then that vote would be next Fall and that money would not be available till the next Fall. So, it's a long process. There was discussion about a sunset of property tax if a sales tax were to become available.

Chairman Gibbons: How much of a sunset would there be on property tax?

Council member Hansen: If we couldn't foot the bill for that, it wouldn't be a lot of money, but you would hire Dan Jones for that?

Hall: We have \$18,000 for public education and polling That is something that æcould draw from. We have requested funds from the Quality of Growth Commission which if approved will be under \$12,000 and we already have \$6,000 in hand.

Gibbons: Does the Council have an idea of the course that you would like to go? I get a little nervous. I think it's easier to call on the telephone than to say tax increase is the only way to go.

Petersen : Of course you have got to fund that. Once it has gone to the polls it's genuine. Theoretically as opposed to proposed it's prearranged, full-pledged help.

Beck: I agree, but the polling questions is going to be worded to drive the results of the poll

Gibbons: Cindy has indicated that it would be her intent that the Council be in agreement in regards to the polling question so we were comfortable way it's written. We don't have to be biased one way or the other.

Hall: Absolutely. If you were going to take steps and if you were to measure public opinion, you would have to be included in just how that is done in the sense of attorneys and in essentially approving which ever polling firm we'll use. There will be a major educational campaign that goes on before the polling. The public needs to know a lot more about this before they are called on to cast a vote.

Hansen: No matter what you are saying, the State Legislature may consider this very seriously this upcoming session.

Hall: Representative Buttars is here from the State Legislature; maybe he would like to comment.

State Representative Craig Buttars: It is my intention to be in touch with Representative Olson's and get a copy of his bill and to go with the option of sales tax and to pursue that with the State Legislature and see how much interest there is there in having something like that. It could be limited to Class 3 Counties and worded in such a way that it would affect only those counties were this problem really exists

Beck: Class three counties?

Buttars: With the vote of the public. I wouldn't want to do it any other way other than with the vote of the people.

Gibbons: If you were to pursue that with the State Legislature and maybe at the same time pursue an opinion pole, I would be for it if it wasn't for property tax

Buttars: It would be my intent that it would the option of a sales tax.

Gibbons: Asked for a Straw Pole from the Council in form of a survey.

Beck: I think it could affect the budget either way. I think it is very important the way the question is worded.

Anhder: Give go ahead

Hansen: I would thing we ought to reflect whether it is property and/or sales tax.

Hall: We have to be really careful that we are not misleading. We would have to have one pole for property tax and one for sales tax. It's really not sales tax that is in question; it is wether the public will vote for property tax or not.

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Gibbons: If property tax is the only option, I'm not sure I would support it.

Hansen: I'm not sure what you gain if we go this way and the State Legislature goes a different direction, then we are kind of stymied as to what to do.

Hall: If the sales tax is adopted then we don't have to go with property tax. What I want to find out from you is that were property tax is our only option at this point and if the opinion pole were to show that the public would support property tax, would you use that as the basis to increase property tax?

Gibbons: Not without a vote of the people.

Hall: Is that how all of you feel?

Anhder: No, I disagreed. How would the Council feel about a two-year property tax that would sunset automatically that would be used as a caret to get some of the sales tax going? I guess it's dependent on you view as to what your role is as a Council member. In a representative form of government, my view is that I'm elected to make choices. I have the responsibility to make those decisions completely within the expectations of those that elected me that I do that. For the idea of property tax, I would be willing to support that kind of an idea to get it started that we as a Council can in-act the proper treatment of taxation bill, that we listen to what people are saying and that . I'm of the opinion that very few people come; that has been my experience and then the County Council make the decision and that we do it with the idea of a two-year caret. In that two-year time frame go to the voters with a group such as the group that has come before us and offer the group our support and get voted in a sales tax to take the place of it. People that are afraid that we are not going to increase the property tax without the vote of the people, I'm not sure that is the right thing to do that right now. There is no right thing to do.

Beck: Of course there is.

Anhder: A bond, but why do a bond and create the debt of a bond and everything that goes with that because we ourselves are not willing to make that decision. Let's conduct truth in taxation hearings. That way everybody would know were each of the Council members' feel about that. Cache County make that decision.

Gibbons: Either way you are making a decision. If one of us chose to vote "No" we have made a decision.

Anhder: Exactly, that's my point. Let us vote as a Council.

Buttars: One other question. If the opinion pole were to be favorable, you might be of the opinion that this is great, but the other thing is there are other pressing issues of the County. Another thing in other years we have raised taxes for other purposes. You talk about creating a budget. I can't consider this tax increase because of the opinion pole in isolation from other things that we may need. I think we have to look at other things realistically in value, for instance: How much do we value the new jail and things like that. Cindy, there is no way I can answer your question right now. The opinion pole will certainly help us make a decision; but I think we still have to consider the totality of our budget.

Hall: I guess you are giving me the green light with the pole; but whether or not that pole will mean anything to you, I still don't know.

Gibbons: Cindy I think you would need to structure the poll to offer a response as to whether they want property tax or sales tax to fund the program.

Hall: Okay then it is very likely that we will do that then. Thank you.

FINAL PLAT APPROVAL - BRANDON HANSEN MINOR SUBDIVISION

Lorene Greenhalgh explained to the Council that the Benson Planning District Commission has approved the plat and the Board of Adjustments has approved the two lots with no frontage on a public road. The mylar has been changed to reflect the required information.

(See Attachment #4)

Council member Robison moved to waive the rules and approve the plat. Vice Chairman Beck seconded the motion. All members voting in favor. (Yeates - absent)

Council Meeting
14 August 2001

PUBLIC HEARING: DECLARE ROAD SURPLUS / PARADISE AREA - REQUESTED BY LANE JENSEN

Chairman Gibbons opened the Public Hearing explaining that a request was made by Lane Jensen to declare a road near Paradise surplus. Executive Lemon explained that it also was his understanding that this road had been gated for a number of years and that some of the property owners do have keys so they can get through that gate. Copies of a court ruling to make the road a public road were distributed to the Council. The council also had been given memorandums from the attorney for those who were in opposition to the closure of the road and photos of the road were also extended to the Council. Chairman Gibbons asked for comments from the public in respect to the road closure in the Paradise area.

Lane Jensen: As a point of clarification, our intent in asking the Council to abandon this road was not to block access to any of the neighbors or adjoining properties. Our intent was to close the road as far as the public was concerned. There were two other land owners involved, the Browns and the Petersens, that owned ground in that area and did have a key to the gate and actually a third, the Swans, who were on the East side of Petersen's property; and he had contacted them. Reading from a letter written by T.K. Swan which stated to the County Council his position of the canyon road from the frontage road in abandoning the road. He states that Swans and other land owners are in agreement that the road crossing the Swan's property is not a public road and that the only easement granted is a private right away not a public road. They therefore support the land owner's in petitioning closure or abandonment of the South Canyon road.

Bruce Petersen: In the letter Mr. Jensen mentioned that we were in agreement, but we have never agreed to anything. The fact is we even had a lawsuit with the Jensen's and spent quite a bit of money to prove it is a public road and feel that it should be left that way. Mr. Brown is here and he takes the same position.

Discussion:

Chairman Gibbons: Why haven't you complained about the gate.

B. Petersen: We haven't objected to the gate being locked because we have keys; and we can use it; and we have lent the key to other people also. Because we were just trying to be good neighbors, we haven't complained about it.

Council member Petersen asked if he could give the key to all who wanted it? Response was yes.

Chairman Gibbons asked if the road was open to public use then.

B. Petersen: responded by saying: "As far as we're concerned, yes." That was why we went through the public Courts and in 1982 when we created another court case, Judge Christoffersen re-affirmed that.

Petersen asked if he had access, why did he want it to remain a public road.?

B. Petersen: For future access for the development of that property and for the value to our property.

Kevin Brown: I'm worried about the next generation. If you shut the road down and I can't get in there I'm not for it because then I would be trespassing to get into my ground. If the next generation decides that they no longer want me to travel across that land, that's what my concern was. I think it should remain a public road and that it would need to be maintained and patrolled.

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Discussion:

Chairman Gibbons asked Scott Wyatt to explain to the Council the right-by-use of a public road if someone else closed it down.

Scott Wyatt: If you have a public road and people have been using it for a long time, my assumption is that they all could have easements across that land. They paid a public right-of-way for specific use. The State law specifically says that if you vacate a public right-of-way, you are not doing anything to those private rights that have been pre-approved. My assumption is that everyone who is using that road, if the County vacated it, would continue to have a legal right to use it because the use had happened over such a long period of time they have gained an easement by use.

Petersen: Then does the person who had the gate have a legal obligation to provide them with a key or a combination to the lock.

Wyatt: I'm assuming they right to that property by use. If they do, then the gate would have to be open to everyone that has property along that road.

Anhder: That's kind of a scary assumption that you are trying to make because currently now it is a public road which the Courts have declared. These people don't have an easement; all they have is the reliability of it being a public road. If Council abandons it, they would have no access because there is no easement on public road. Before we make a decision on an assumption, we ought to make a title search or something like that.

Wyatt: As I read the court case, they didn't go to court to establish easements they went to have a public right-of-way declared and to affirmed it was a public road. My assumption is that use along that road has occurred for so long prior to it being declared a public road, they all have right-of-ways to where they live independent to that road.

Brown: Our problem is that it won't be legal because it won't be a public road.

Wyatt: My personal opinion is that I wish it would be left as a public road and I wish they would take those pearly gates and locks off from it so the public can use it.

Anhder: And if is left as a public road and they needed disciplinary rules, that would have to be mandated.

Wyatt: The Council could handle that; and so, it is a continuous effort. The direct answer is that you won't find in Recorder's Office any right-of-way by use. That would have to be proven or established, but the vacating of a public road does not affect it users as defined by State law.

Gary Samples: Our property in this case is around the Jensens' four miles down the road. I'm against maintaining it as a Public Road. I have a question for the Council: If it remains a public road are you people going to patrol it, maintain it, and put a bridge over the washed-out area? Are you going to make sure that trespassers are not going through on private property? You do a poor job of maintaining the road over in South Canyon when it came to patrol; so I can image what type of a job you'll do on that road. I've been using the road for 37 years and I've never yet seen one person on it when it was wet. You can hardly travel that road when it is dry; it is difficult to travel that road all year. There is no road. The road doesn't go through my property, but it does affect me if you open it up to trespassers.

Karl Jensen: I'm Lane's father. I've been on that mountain since 1960. Part of the problem is that we do not want to see non-stop traffic. We own this property in Cache County for the sole purpose of ranching and not for making condos and homes. We are not there for the Government or for skiing or for development. We put the gate up because the public can't get across Davenport Creek. There is no record of anybody going across that. The road ends there; so, give us those three miles back... We would like to see it stay as a ranching operation.

Dave Nielson: Bruce and I drove over the road this last Friday. We went down to Davenport. The road is a little bit testy but we got through there. I've researched this and found where the Judge,

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Melvin Harris, was originally the one who dedicated that as a public road according to the laws of the State of Utah. I think we've got the legal description where the State intended the road to go all the way through. Over the years because the Jensen's felt that they had been ranching and desired to keep the public out, he put a gate on the East end. As far as the public, I think that it should be kept opened.

Jerry Dahlberg: Just for your consideration, if the Council did decide to reverse the decree from the Court and allow permissive access to the Browns and the Petersens, does that allow each generation thereafter the right to go through that property. If you do, then I would be for it.

Guy Ray Pulsipher: A written statement was received by the Council from Mr. Pulsipher supporting closure of the road.

Council member Petersen moved to close the public hearing. Council member Hansen seconded the motion. The vote was unanimous. (Yeates absent)

Further discussion is in order and this matter would be put on the next agenda for discussion. Chairman Gibbons thanked the public for their input.

RESOLUTION NO. 2001-30: AUTHORIZING EXECUTIVE TO EXECUTE FIRE PROTECTION AGREEMENT

Executive Lemon explained that the resolution authorizes him to execute the agreement between the County and the Utah Division of Forestry, Fire and State Lands for participation in the Cooperative Wildland Fire Protection Program.

(See Attachment #5)

Council member Anhder moved for approval of the resolution. Council member Robison seconded the motion. All members voting in favor. (Yeates absent)

LETTER OF SUPPORT OF DREDGING BEAR LAKE

A letter has been drafted supporting the dredging of Bear Lake. This letter will be submitted to the Idaho Department of Lands, U.S. Army Corps of Engineers.

Council member Anhder moved to approve the signing of the letter. Council member Robison seconded the motion. All members were in favor. (Yeates absent)

(See Attachment #6)

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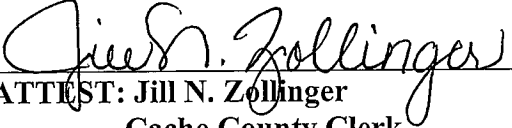
Council member Anhder made the motion to go into the Executive Session. Council member Beck seconded the motion. All members were in favor (Yeates absent)

EXECUTIVE SESSION:

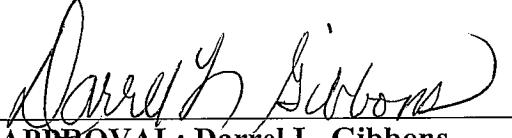
The Council adjourned into an Executive session at 7:00 p.m.

ADJOURNMENT:

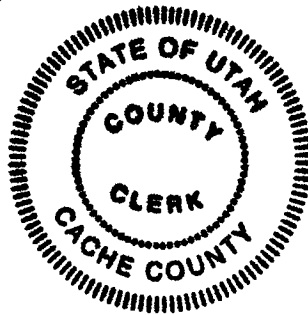
Chairman Gibbons adjourned the Council meeting at 7:04 p.m.



ATTEST: Jill N. Zollinger
Cache County Clerk



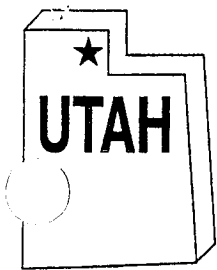
APPROVAL: Darrel L. Gibbons
Council Chairman



ELIGIBLE ACTIVITIES:

Grantees may use CDBG funds for activities that include (but are not limited to):

- Acquiring real property (primarily land, buildings, and other permanent improvements to the property) for public purposes. This type of activity might include, for example, buying abandoned houses for rehabilitation or an old industrial site in a distressed neighborhood for redevelopment. CDBG also helps communities demolish property and clear sites to prepare the land for other uses.
- Reconstructing or rehabilitating housing and other property. From homeless shelters to single-family homes and from playgrounds to shopping centers, CDBG enables communities to improve properties that have become less usable, whether due to age, neglect, natural disaster, or changing needs. New construction of housing is allowed only in certain circumstances.
- Building public facilities and improvements, such as streets, sidewalks, sewers, water systems, community and senior citizen centers and recreational facilities.
- Helping people prepare for and obtain employment through education and job training, welfare-to-work activities, and other services.
- Assisting for-profit businesses for special economic development activities. Such projects might include microenterprise loans to low-income entrepreneurs, assembling land to attract new industry, or business expansion loans to help retain existing businesses that employ low-income workers.
- Providing public services for youths, seniors, or the disabled. These might include day care centers, youth services and meals on wheels for the elderly, health care facilities, transportation, or counseling.
- Carrying out crime reduction initiatives such as establishing neighborhood watch programs, providing extra police patrols, rehabilitating or constructing police substations, and clearing abandoned buildings used for illegal activities.
- Assisting low-income homebuyers directly through, for example, downpayment assistance, subsidizing interest rates or helping with closing costs for first-time buyers.
- Enforcing local building codes to reverse housing deterioration and other signs of blight.
- Paying for planning and administrative expenses, such as costs related to developing a Consolidated Plan and managing CDBG funds.




Cache County Corporation

LORENE GREENHALGH
Zoning Administrator
(435) 716-8350

179 North Main, Room 210
Logan, Utah 84321

MEMORANDUM

TO: Cache County Council

FROM: Lorene Greenhalgh, Zoning Administrator 

DATE: June 28, 2001

SUBJECT: Subdivisions for Council Approval

Layne Smith, agent for Charles A. Miller, is requesting approval of a four lot minor subdivision to be called Pheasant Ridge Subdivision on 79.65 acres of property in the Agricultural Zone for the construction of a single family dwelling on each lot with no frontage on a public road to be located at 6427 West, 6475 West, 6523 West, and 6573 West 500 South (a private road), west of Mendon. This request was heard by the Planning Commission on 7 May 2001, and has been recommended for approval. Since all four lots front on a private road the Board of Adjustment granted a special exception on 21 June 2001. There are four stipulations listed in the minutes from the Planning Commission for this request. The minutes from the Board of Adjustment meeting state the Findings of Fact for the approval from that meeting.

Layne Smith, agent for Charles A. Miller, is requesting approval of a four lot minor subdivision to be called Pheasant Ridge Estates on 75.20 acres of property in the Agricultural Zone with one existing single family dwelling located at 6575 West 600 South, and for the construction of a single family dwelling on each of the remaining three lots located at 6425 West, 6475 West, and 6525 West 600 South, west of Mendon. The Planning Commission heard this request at the 7 May 2001 meeting and have recommended approval of the request since it meets the requirements of the land use ordinance. At the time this request was heard it was thought that the County Executive could sign the plat, but since there is road dedication shown on the plat it is required that the County Council approve and that the Chairman sign the plat. Minutes of the Planning Commission meeting are enclosed.

of the protective covenants on the approved subdivision states that the lots cannot be divided further. After reviewing the private road access at their meeting on 19 April 2001 and based on Findings of Fact 24-3.F.2.a. through h. and j., the Board of Adjustment approved the special exception for no frontage on a public road with the following stipulations: 1) The applicant shall receive approval for this subdivision amendment by the Planning Commission and County Council. 2) The surface for the private road 4260 North shall be widened to the required 20 feet; construction work on the private road shall be completed with written approval given to staff from the County Road Superintendent and County Fire Chief's Office prior to the release of a zoning clearance for a building permit on Lot 4. And 3), the County is not responsible to provide any services to the private road 4260 North, nor to increase services to the county roads in this area beyond what is currently being provided. Staff received two letters from adjacent property owners who object to further development in this area since the county road 800 East from Hyde Park to the entrance of the subdivision is substandard with less than a 33-foot right-of-way and less than a 20-foot wide driving surface. The board received copies of these letters in their packets. Hyde Park City is currently providing culinary water to the three existing homes and has agreed to provide culinary water to the proposed new Lot 4 which shows an intent to annex this property at some time in the future. Mr. Selvage stated that since the Board of Adjustment meeting, he had spoken with Ian Chase-Dunn and showed him the plat of what this request involved. Mr. Chase-Dunn told him he had no problem with the request. Clements asked if all property owners of the original subdivision had signed off on the plat containing the protective covenants including the one stating the lots would not be divided further. Mr. Selvage answered in the affirmative; however, those same property owners have all signed the amended plat agreeing to the additional lot. Davis asked if the mortgage owners or lenders had also been required to sign the plat as they are also part owners of each of those lots now. Greenhalgh stated that would be a good idea since the office has had a problem surface with the Robinson Minor Subdivision; a mortgage company had a lien on a 5-acre parcel and has repossessed it. That 5-acre parcel is part of a residential lot and part of a remainder parcel in that subdivision. The parcel was reconfigured in the subdivision at the time of its approval, but apparently was not cleared with the lender and could cause problems now. Mr. Selvage responded that he owns Lot 2 and that would be the only lot changed in the previously approved subdivision. He currently has a mortgage on the home on that lot, but expects to pay it off in full when the home is sold. Don Linton stated he agreed with Davis; the lender is technically an owner; you do not want to digress unilaterally or divest the interest they currently have in the property. He agreed with Greenhalgh and felt the lenders should be considered owners in these situations. In this particular case, the lender would still have a lien on both pieces even after it was split. Mr. Selvage stated that even if he were to build a home on the second lot, the bank would have first lien on it; the property value would increase, not decrease, with the added improvements. Johnson stated that a letter from the lender should be presented to staff showing the lender is aware of and agrees with the proposed division. Several board members felt that in this case it would not be a problem for the lender since the value of the property would increase. There was a discussion concerning the State Law change requiring final approval of subdivisions to be by the County Executive instead of the County Council; Teuscher thought that the new law went into affect 30 April 2001. If that is the case, the Planning Commission will make their recommendation to the County Executive. *L. Nelson made the motion to recommend approval to the County Executive for this proposed subdivision amendment. It was seconded by Taylor and passed unanimously.*

Layne Smith, agent for Charles A. Miller (01-25MS), requested a recommendation of approval to the County Executive of a 4-lot minor subdivision to be called Pheasant Ridge Subdivision on 79.65 acres of property in the Agricultural Zone for the construction of a single family dwelling on each lot with no frontage on a public road to be located at 6427 West, 6475 West, 6523 West, and 6573 West 500 South (a private road), west of Mendon. This property is the north parcel of two pre-1970 parcels that are being subdivided; item #8 on this agenda is the request for the other parcel. The Pheasant Ridge Subdivision has Class II Prime soil and has been vacant or used for pasture. Spring Creek runs through the property and there is some mapped FIRM Floodplain along the creek which is shown on the subdivision plat. The County requires a 100-foot construction setback from the mapped floodplain which is also shown on the survey. The lots in this subdivision will be accessed by a private road (500 South) which must be constructed to County standards with a 20-foot wide surface. The construction, maintenance, and snow

removal of this private road is the responsibility of the property owners using the road to access their lots. The County is not responsible to provide any services to the private road, nor to increase services to the county roads in this area beyond what is currently being provided. Because of the prime soil classification, the sensitive area (floodplain), and the private road, the point total has a high negative value. The feasibility report from Bear River Health Department dated 17 April 2001 states that the proposed septic tank systems may require additional soil study and some lots may require a shallow system. With the large acreage for each lot, there should be no problem finding adequate drainage for a septic tank system on each lot providing the placement of the home is appropriate. A change of use application for culinary water with a priority date of 30 January 2001 for the eight lots has been filed with the State Water Engineer's Office. If the homes are constructed 150 feet or more from the private road, the driveway must be constructed to be 20 feet wide with an approved turnaround near the home site for emergency vehicles. The Garbage Service Approval Form states that access for garbage collection may be difficult in winter months; they will evaluate this further at a later date. Fire protection will be from Mendon City, less than four miles away. The school bus stop is about 1.4 miles away. County Executive review and approval is required with appropriate signatures added to the mylar (including the Chief Deputy County Surveyor and County Attorney). The Staff Evaluation point total is -140. Three letters were received by staff from adjacent property owners. Leslie Larson asked what concerns were expressed in the letters received by staff. The letters were from Don G. Blair, Sherrie B. Reich, and Gaylen Baker and listed the following objections and concerns: 1) this is prime farm ground and should not be broken up into lots for homes; 2) wells for eight additional homes may deplete the water in their existing springs; 3) when Mr. Miller originally bought this property and built his home, he stated he would be retiring to this area and would not be subdividing the property further; 4) they wish to preserve the pristine esthetic value of this area; 5) there is a concern for lack of adequate planning in Cache Valley leading to sprawl development; and 6), additional traffic congestion on existing rural roads which would also increase pollution and danger to the children in this area. A discussion ensued regarding the water rights for these four lots: 1) No wells will be drilled on any of the lots until after subdivision approval. 2) An application for a culinary water right has been filed with the State Water Engineer for each lot. 3) If approved, the subdivision plat may not be recorded until the water rights have been approved by the State Water Engineer's Office. All requirements of the Subdivision Ordinance have been met for a minor subdivision application allowing the Planning Commission to review this request. Clements informed Mr. Smith that the private road would need to be constructed to county standards and that this subdivision is located in the Agricultural Zone and that the buyers of these lots should be aware that agricultural activities are the permitted uses. Mr. Smith replied that the owner of the property (Mr. Miller) was aware of the construction requirements for the roads; Mr. Miller also wanted the "Ag Clause" added as a note to the subdivision plat even though it is not required in the new Subdivision Ordinance. Board members told staff they wanted the "Ag Clause" as a required note on every subdivision plat and that change should be included in the public hearing to be scheduled for State Law changes and other changes for clarification. *Because this request meets the requirements of the new Subdivision Ordinance, Clements made the motion to recommend approval of this minor subdivision to the County Executive with the following stipulations: 1) The applicant shall receive approval of a special exception for all four lots of this subdivision. 2) The private road 500 South shall be constructed to County standards with a minimum 20-foot width on the 50-foot wide right-of-way; the construction work shall be completed with written approval given to staff from the County Road Superintendent and the County Fire Chief's Office prior to the release of a zoning clearance for a building permit on any of the four lots in this subdivision. 3) The County is not responsible to provide any services to the private road 500 South nor to increase services to the county roads in this area beyond what is currently being provided. And 4), if the home is to be constructed 150 feet or further from the private road 500 South, the driveway shall be constructed to be 20 feet wide with an approved turnaround near the home site; construction work shall be completed on the driveway and turnaround with written approval given to staff from the County Fire Chief's Office prior to the release of a zoning clearance for a building permit on that lot. The motion was seconded by L. Nelson and passed unanimously.*

Layne Smith, agent for Charles A. Miller (01-26MS), requested a recommendation of approval to the County Executive of a 4-lot minor subdivision to be called Pheasant Ridge Estates on 75.20 acres of

on the Findings of Fact a. through h. and j. and since the patio has been in existence at this location for approximately 35 years, Weeks made the motion to approve this request. Gunnell seconded the motion. Erickson made a motion to amend Weeks' motion to include the stipulation that a written document shall be given to staff from the irrigation canal's official stating they have no objection to this structure being constructed on the bank of the canal. The motion was seconded by Nielsen. Nielsen felt written approval from the canal company would provide protection for Mr. Nelson, this board, and the canal company if a future incident should occur which might be detrimental to the canal. Erickson added that the board has no written documentation before them that verifies the easement for the canal is only on the north side of the canal; a written document from the canal company approving the structure may prevent future litigation problems. A discussion ensued among the board members regarding the amendment to the motion and if it goes beyond what is required presenting a hardship on the applicant. Also, that the patio may not create problems if it lies within the canal easement, but a structure would. Mr. Nelson stated that the well house is only eight feet from the patio and the home is also within just a few feet of the canal. There was no 50-foot setback from open waterways at the time these structures were built. The board concurred that when those structures were built, Mr. Nelson met the requirements in effect at that time; however, they were to make their decision on the current request. Mr. Nelson was asked if it would be a problem for him to obtain this documentation. He replied that it would not be a problem. A discussion ensued regarding the safety of having this structure so close to the canal bank because of the size and swiftness of the canal. Griffin wanted it stated that Mr. Nelson would be liable because of the safety issues and should the structure have to be removed at some point in the future by the canal company. The chairman called for a vote on Erickson's amendment to Weeks' motion. The board voted three (Erickson, Nielsen, and Griffin) in favor of the amendment and two (Weeks and Gunnell) opposed. The chairman called for a vote on the amended motion. It was approved by the board unanimously.

G. Nelson took his place back on the board.

Layne Smith, agent for Charles A. Miller (01-25MS), requested a special exception to allow all four lots of a minor subdivision to be called the Pheasant Ridge Minor Subdivision for the construction of a single family dwelling on each lot with no frontage on a public road on 79.63 acres of property in the Agricultural Zone and located at 6427 West, 6473 West, 6523 West, and 6573 West 500 South (a private road), northwest of Mendon. Preliminary plat approval was reviewed by the Planning Commission on 7 May 2001 and approved with the following stipulations: 1) The applicant shall receive approval of a special exception for all four lots of this subdivision. 2) The private road 500 South shall be constructed to County standards with a minimum 20-foot wide surface on a 50-foot wide right-of-way; construction work shall be completed with written approval given to staff from the County Road Superintendent and the County Fire Chief's Office prior to the release of a zoning clearance for a building permit on any of the four lots in this subdivision. 3) The County is not responsible to provide any services to the private road 500 South or to increase services to the county roads in this area beyond what is currently being provided. And 4), if the home is to be constructed 150 feet or further from the private road 500 South, the driveway shall be constructed to be 20 feet wide with an approved turnaround near the home site; construction work shall be completed on the driveway and turnaround with written approval given to staff from the County Fire Chief's Office prior to the release of a zoning clearance for a building permit on that lot. The

Planning Commission found that the preliminary plat met all the requirements of the new Subdivision Ordinance of Cache County except for the lack of frontage on a public road. Nielsen asked if the floodplain issue had been addressed. Greenhalgh explained that the subdivision survey shows the mapped FIRM floodplain and the County's 100-foot setback from that floodplain. At the time a lot owner asks for a zoning clearance and provides a site plan to build a home or other structure, the floodplain will be addressed. Nielsen asked if the floodplain would affect the septic tank systems for these lots. Greenhalgh replied that the feasibility report states that further study may be required at the time the lot owner determines the placement of his home; however, the lots appear to be large enough that a septic tank system can be installed on each lot without contamination. Griffin asked if the private road 500 South is existing. Mr. Smith stated the private road has not been constructed. Gaylen Baker, adjacent property owner asked if the new lot owners are aware of the kind of winters they will have on this property. He and his brothers had stored hay on this property one year and had to use a cat in order to bring the hay down. Carl Baker, adjacent property owner, added that when Mr. Miller bought this property, he wrote a letter to him stating that he only wanted to build a single cabin/summer home on the property. Mr. Miller had asked Mr. Baker for an access right-of-way along the west side of their property to the north. Allen Baker, adjacent property owner, stated he was going to use that right-of-way to access the property until the Bakers blocked it off because it is a private road. Mr. Carl Baker stated concern that with eight additional wells, it will dry up the springs he uses to water his cattle; he also expressed concern that with the additional homes this subdivision will bring to the area, they will have people trespassing through the fields on their property. He and his brothers strongly objected to the approval of this request. Greenhalgh stated that the only appeal process for decision made by this board was through the District Court. Nielsen added that the appeal would need to be filed within 30 days of the decision for it to be heard by the court. Allen Baker asked if they had access to the minutes of the approval by the Planning Commission. He was told they are public records and that he and his brothers would be welcome to review them. Mr. Baker continued that Mr. Shelton continually plows in the access right-of-way to their property. Griffin explained this board has no jurisdiction over that matter; they would need to pursue resolution in court. Nielsen stated that perhaps as part of the motion to approve this request, they could include, "subject to any existing legally established deeded or prescriptive rights-of-way." Erickson explained that a prescriptive right-of-way is allowed only if there is no other access to a property. *Based on Findings of Fact a. through h. and j., Erickson made the motion to approve this request with the following stipulations: 1) The private road 500 South shall be constructed to County standards with a minimum 20-foot wide surface on the 50-foot wide right-of-way shown on the survey; construction work shall be completed on the private road with written approval given to staff from the County Road Superintendent and County Fire Chief's Office prior to the release of a zoning clearance for a building permit on any of the four lots in this subdivision. 2) The County is not responsible to provide any services to the private road 500 South or to increase services to the county roads in this area beyond what is currently being provided. 3) If a home is constructed 150 feet or more from the private road 500 South, the driveway shall be constructed to be 20 feet wide with an approved turnaround near the home site; construction work shall be completed on the driveway and turnaround with written approval given to staff from the County Fire Chief's Office prior to the release of a zoning clearance for a building permit on that lot. 4) Each lot owner must obtain a septic tank permit from the Bear River Health Department prior to the release of a zoning clearance for a building permit on their lot. And 5); the subdivision*

approval is subject to any existing legally established deeded or prescriptive rights-of-way. Nielsen seconded the motion; and it passed unanimously.

Jeff Hansen, agent for Jean Leatham Trust, Mike Leatham, and Wesley Peterson (01-33LSS), requested a special exception for two lots in a lot-split subdivision for the construction of a single family dwelling on each lot with no frontage on a public road on approximately 40 acres of property in the Agricultural Zone located at 3110 South 5800 West and 3100 South 5750 West (a private road), northeast of the Maple Rise Camp Ground between Mendon and Wellsville. The 40-acre parcel located to the south of this parcel was successfully subdivided into five lots. There is an inadequate 3rd priority county road (5800 West) accessing Lot 1 of the proposed lot split subdivision. The survey shows 5800 West to have a 15-foot wide gravel surface on a 33-foot wide right-of-way; however, the County Road Review states it has a 20-foot wide surface and a 45-foot wide right-of-way. Lot 2 is accessed by a 50-foot wide private road right-of-way on which no road has been constructed. A 50-foot radius turnaround is shown on both Lot 1 and Lot 2 at the property line on the north end of both of these road rights-of-way. The turnarounds for emergency vehicles would need to be developed and approved by the County Fire Chief's Office prior to the release of a zoning clearance for a building permit on either lot. If the site plan for either lot shows the home to be located 150 feet or more from the turnaround, the driveway would need to be constructed to be 20 feet wide with an additional approved turnaround near the home site. Construction work on the driveway and turnarounds would need to be completed with written approval given to staff from the County Fire Chief's Office prior to the release of a zoning clearance on that lot. Lot 2 may be divided into three lots at some future time. This would require that both lots of the lot split subdivision be included in this future 4-lot minor subdivision. Owners would need to be aware that they are next to a camp ground that is in constant use during the summer months; and that the noise from the camp ground may be heard on their property. The owners must also be aware that this property is located in an Agricultural Zone and they may be subject to the sights, sounds, and smells of agricultural activities which are the permitted uses in this zone. The Staff Evaluation point total is +35. A discussion ensued regarding the roads accessing these two lots. Mr. Hansen stated the county road 5800 West is currently used for agricultural access and does not meet county standards; the private road 5750 West has not been constructed. Greenhalgh explained that each road with turnaround would need to meet County standards with written approval given to staff from the County Road Superintendent and County Fire Chief's Office prior to the release of a zoning clearance for a building permit on each respective lot. Nielsen also explained that the property owner must be aware that the Subdivision Ordinance only allows one lot split subdivision on an approved lot; additional divisions would require subdivision approvals including these lots. *Based on Findings of fact a. through h. and j., Nielsen made the motion to approve this request with the following stipulations: 1) The county road 5800 West and the private road 5750 South shall be constructed to County standards with a minimum 20-foot wide surface on the 50-foot wide right-of-way shown on the survey; construction work shall be completed on the private road with written approval given to staff from the County Road Superintendent and County Fire Chief's Office prior to the release of a zoning clearance for a building permit on either of the lots. 2) The County is not responsible to provide any services to the private road 5750 South nor to increase services to the county roads in this area (including 5800 West) beyond what is currently being provided. And 3), if a home is constructed 150 feet or more from the turnaround on the north end of each of these roads, the driveway shall be constructed to*

removal of this private road is the responsibility of the property owners using the road to access their lots. The County is not responsible to provide any services to the private road, nor to increase services to the county roads in this area beyond what is currently being provided. Because of the prime soil classification, the sensitive area (floodplain), and the private road, the point total has a high negative value. The feasibility report from Bear River Health Department dated 17 April 2001 states that the proposed septic tank systems may require additional soil study and some lots may require a shallow system. With the large acreage for each lot, there should be no problem finding adequate drainage for a septic tank system on each lot providing the placement of the home is appropriate. A change of use application for culinary water with a priority date of 30 January 2001 for the eight lots has been filed with the State Water Engineer's Office. If the homes are constructed 150 feet or more from the private road, the driveway must be constructed to be 20 feet wide with an approved turnaround near the home site for emergency vehicles. The Garbage Service Approval Form states that access for garbage collection may be difficult in winter months; they will evaluate this further at a later date. Fire protection will be from Mendon City, less than four miles away. The school bus stop is about 1.4 miles away. County Executive review and approval is required with appropriate signatures added to the mylar (including the Chief Deputy County Surveyor and County Attorney). The Staff Evaluation point total is -140. Three letters were received by staff from adjacent property owners. Leslie Larson asked what concerns were expressed in the letters received by staff. The letters were from Don G. Blair, Sherrie B. Reich, and Gaylen Baker and listed the following objections and concerns: 1) this is prime farm ground and should not be broken up into lots for homes; 2) wells for eight additional homes may deplete the water in their existing springs; 3) when Mr. Miller originally bought this property and built his home, he stated he would be retiring to this area and would not be subdividing the property further; 4) they wish to preserve the pristine esthetic value of this area; 5) there is a concern for lack of adequate planning in Cache Valley leading to sprawl development; and 6), additional traffic congestion on existing rural roads which would also increase pollution and danger to the children in this area. A discussion ensued regarding the water rights for these four lots: 1) No wells will be drilled on any of the lots until after subdivision approval. 2) An application for a culinary water right has been filed with the State Water Engineer for each lot. 3) If approved, the subdivision plat may not be recorded until the water rights have been approved by the State Water Engineer's Office. All requirements of the Subdivision Ordinance have been met for a minor subdivision application allowing the Planning Commission to review this request. Clements informed Mr. Smith that the private road would need to be constructed to county standards and that this subdivision is located in the Agricultural Zone and that the buyers of these lots should be aware that agricultural activities are the permitted uses. Mr. Smith replied that the owner of the property (Mr. Miller) was aware of the construction requirements for the roads; Mr. Miller also wanted the "Ag Clause" added as a note to the subdivision plat even though it is not required in the new Subdivision Ordinance. Board members told staff they wanted the "Ag Clause" as a required note on every subdivision plat and that change should be included in the public hearing to be scheduled for State Law changes and other changes for clarification. *Because this request meets the requirements of the new Subdivision Ordinance, Clements made the motion to recommend approval of this minor subdivision to the County Executive with the following stipulations: 1) The applicant shall receive approval of a special exception for all four lots of this subdivision. 2) The private road 500 South shall be constructed to County standards with a minimum 20-foot width on the 50-foot wide right-of-way; the construction work shall be completed with written approval given to staff from the County Road Superintendent and the County Fire Chief's Office prior to the release of a zoning clearance for a building permit on any of the four lots in this subdivision. 3) The County is not responsible to provide any services to the private road 500 South nor to increase services to the county roads in this area beyond what is currently being provided. And 4), if the home is to be constructed 150 feet or further from the private road 500 South, the driveway shall be constructed to be 20 feet wide with an approved turnaround near the home site; construction work shall be completed on the driveway and turnaround with written approval given to staff from the County Fire Chief's Office prior to the release of a zoning clearance for a building permit on that lot. The motion was seconded by L. Nelson and passed unanimously.*

Layne Smith, agent for Charles A. Miller (01-26MS), requested a recommendation of approval to the County Executive of a 4-lot minor subdivision to be called Pheasant Ridge Estates on 75.20 acres of

property in the Agricultural Zone with one existing single family dwelling located at 6575 West 600 South, and for the construction of a single family dwelling on each of the remaining three lots located at 6425 West, 6475 West, 6525 West 600 South, west of Mendon. This property is the south parcel of two pre-1970 parcels that are being subdivided; item #7 on this agenda is the request for the other parcel. This proposed subdivision has frontage on a county road 600 South. With the 50-foot wide right-of-way dedication shown on the survey and a 20-foot wide road surface constructed to County standards, the County Road Superintendent, Joe Kirby, has indicated that the County would accept the two roads 600 South and 6400 West. This means the applicant will be required to bring the road up to County standards prior to his acceptance. The soil evaluation is Class II Prime with the surrounding area in agriculture. This subdivision may meet the requirements for annexation into Mendon City because of the frontage of all lots on the county road. If any of the purchasers of these lots choose to front on the private road or access the back of their lot from the private road, they should be required to help with the maintenance and snow removal of that road. There are no hazards on this property and the school bus stop is approximately 1.5 miles away. If the homes are constructed 150 feet or more from the road, the driveway must be constructed to be 20 feet wide with an approved turnaround near the home site for emergency vehicles. The Garbage Service Approval Form states that access for garbage collection may be difficult in the winter months; they will evaluate this further at a later date. Fire protection will be from Mendon City, less than four miles away. County Executive approval is required with appropriate signatures added to the mylar (including the Chief Deputy County Surveyor and County Attorney). The Staff Evaluation Point total is -40. Three letters were received by staff from adjacent property owners (Don G. Blair, Sherrie B. Reich, and Gaylen Baker) listing the following objections and concerns: 1) this is prime farm ground and should not be broken up into lots for homes; 2) wells for eight additional homes may deplete the water in their existing springs; 3) when Mr. Miller originally bought this property and built his home, he stated he would be retiring to this area and would not be subdividing the property further; 4) they wish to preserve the pristine esthetic value of this area; 5) there is a concern for lack of adequate planning in Cache Valley leading to sprawl development; and 6), additional traffic congestion on existing rural roads which would also increase pollution and danger to the children in this area. Johnson asked Mr. Smith if he had discussed adding the protective covenant that these lot owners would be required to help with the maintenance and snow removal of the private road 500 South if they chose to access their lot from the private road with the property owner, Mr. Miller. Mr. Smith replied that he would. *Because this request meets the requirements of the new Subdivision Ordinance, Clements made the motion to recommend approval of this minor subdivision to the County Executive with the following protective covenant or note added, "Lot owners who access their property from the private road 500 South will be responsible to contribute to the maintenance and snow removal of that private road."* The motion was seconded by Taylor and passed unanimously.

Gina Wickwar, agent for Cache Humane Society (96-57PubSrv), requested renewal of a conditional use permit issued 3 June 1996 which expired 3 June 1997 to allow an existing single family dwelling to be modeled for use as an office and treatment facility for a non-profit animal shelter and to include the construction of a dog and cat kennel on 1.422 acre of property in the Agricultural Zone located at 2250 West 200 North (Valley View Highway), west of Logan. When this request was first heard in June 1996, the discussion included: how the kennels would be constructed and where; noise anticipated; the facility which is to be a nonprofit shelter with donations; kennel fees; and other options available for the funding. It was determined that there was little development in this area and the animals should not be a problem to surrounding uses. The only stipulation placed on the approval was that the animals would be kept inside to eliminate any noise problems. The applicants are still uncertain as to when funds will be available to begin construction for the remodeling of the existing home and for the construction of the new facility, but a ground breaking ceremony is scheduled for the middle of May. The property was divided after 1970 and the current Ordinance requires that the process for a lot split subdivision be completed for this division. An application for the lot split subdivision has been filed with the Zoning Office and will be processed as quickly as possible. Under the new Ordinance, the subdivision can be processed in the Zoning Office with the Zoning Administrator and Chief Deputy County Surveyor reviewing and approving the subdivision plat; it does not require Planning Commission or County Council approval. With the approval of the lot split subdivision and the renewal of the conditional use permit,

Resolution Adopting Final Tax Rates and Budgets Report 800	Form PT-255 pt-255.xls Rev. 1/00
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County: **CACHE**

Year: **2001**

It is hereby resolved that the governing body of (entity name): **CACHE COUNTY CORPORATION** approves the following property tax rate(s) and revenue(s) for the year: **2001**

1 Levy/Fund	2 Revenue	3 Tax Rate
Assess & Collect - State	522,500	0.000190
Assess & Collect - County	421,713	0.000154
Totals	944,213	0.000344

This resolution is adopted after proper notice and hearing, and in accordance with UCA 59-2-919, and shall be forwarded to the County Auditor and the Tax Commission in accordance with UCA 59-2-913 and 29-2-920.

Signature of Governing Chair

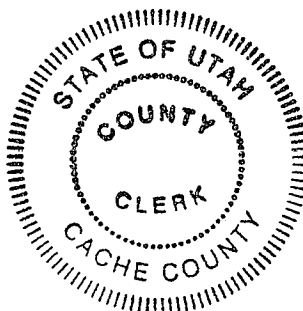
Signature: *[Handwritten Signature]*

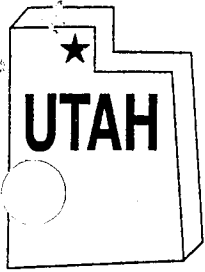
Date: August 14, 2001

Title: Cache County Council Chairman

ATTEST:

[Handwritten Signature]
By: WILL N. ZOLLINGER
Cache County Clerk





Cache County Corporation

LORENE GREENHALGH
Zoning Administrator
(435) 716-8350

179 North Main, Room 210
Logan, Utah 84321

MEMORANDUM

JUL 27 2001
EXECUTIVE
EXL

TO: Cache County Council
FROM: Lorene Greenhalgh, Zoning Administrator
DATE: July 26, 2001
SUBJECT: Brandon Hansen Subdivision

Please put this item on the agenda for August 14th so that it can be reviewed with the other two pending subdivisions.

Brandon Hansen, agent for himself and Dean Ricks is requesting approval of a 4-lot minor subdivision to be called the Brandon Hansen Minor Subdivision with two existing single family dwellings located at 3890 West and 3900 West 3000 North and for the construction of two additional single family dwellings to be located at 3872 West and 3878 West 3000 North, Benson.

The Benson Planning District Commission has approved the plat and the Board of Adjustment has approved the two lots with no frontage on a public road. The mylar has been changed to reflect the required information and must be signed by the Chairman of the Benson Planning District Commission, the Vice Chairman of the Board of Adjustment and the Chairman of the County Council attested by the Clerk. The signature of the Attorney and Deputy Surveyor are required prior to recording.

CACHE COUNTY, UTAH
BENSON PLANNING DISTRICT
STAFF EVALUATION

DATE: 17 July 2001

NO. ACRES: 3.16

APPLICANT: Brandon Hansen, agent for himself and Dean Ricks

ZONE: Ag

PROPERTY ADDRESS: 3890 West, 3900 West, 3872 West
and 3878 West 3000 North, Benson

NATURE OF REQUEST: Approval of a 4-lot minor subdivision to be called the Brandon Hansen Minor Subdivision with two existing single family dwellings and for the construction of two additional single family dwellings.

A. Water Supply: Benson Culinary Water System

E. Road Conditions: Private -50

B. Sewage Disposal: 1 permit issued 4/3/01

F. Sensitive or Hazardous area: none +25

C. Farmland Evaluation: Class II Prime -95

G. Mitigation of Sprawl: +10

D. Land Use Compatibility: agricultural /com. -55

H. TOTAL POINTS: -165

STAFF RECOMMENDATION: Continue until required information is correct and on file and all lot sizes meet minimum County standards.

COMMENTS: This request can not be approved as presented. The 1st deficiency is that lot 4 consists of two parcels, divided by 3000 North street, with a combined total of only .33 acre. If more property is added to make the lot the minimum .50 acre and is taken from lot 2, there will not be enough frontage for that lot and it may also need to be cleared through the Board of Adjustment for insufficient frontage on a public road along with lot 1. Minimum county standards for a lot is .50 acre or more as determined by the Board of Health for a septic tank to function properly. The septic drainage from the home on the small lot goes into the slough and must have a new septic tank installed to meet Health Department standards and the entire system must be included on the property where the home exists. There is a septic tank permit for the new lot but there must be a feasibility report stating that a septic tank can be installed on the lot with the commercial business and that the other existing home has an adequate septic system. There is culinary water for the two existing homes and a report stating the new home can hook on to the Benson Culinary Water system when certain standards are met. One commercial business is on lot 2. There is no indication that the lot with the commercial business can hook up to the water system. If it is to be a lot in the subdivision cleared for residential purposes it must be eligible for a culinary water hookup at some point. The soil is Class II Prime with the surrounding area in agriculture. Lot 4 and Lot 3 have frontage on 3000 North street and are accessed from separate driveways off 3000 North. The private road will access the new lot and the lot with the commercial business. It must have a 20-foot wide surface and a 50-foot wide right-of-way. If the homes are placed 150 feet or further from 3000 North there must be a turnaround for emergency vehicles near the home site. The road requirements must be met and approved by the County Fire Chief's Office prior to a zoning clearance for a building permit being released on either lot. There are no sensitive or hazardous areas on the property. The school bus stops near the property and fire protection would be tankers from Smithfield about 7 1/2 miles away. There is a fire hydrant about 300 feet from the proposed home on lot 1.

BOARD OF ADJUSTMENT EVALUATION
BRANDON HANSEN & DEAN RICKS
SPECIAL EXCEPTION
19 JULY 2001

Brandon Hansen, agent for himself and Dean Ricks, is requesting a special exception to allow two lots of a 4-lot minor subdivision with no frontage on a public road to be called the Brandon Hansen Minor Subdivision in the Agricultural Zone located at 3878 West and 3872 West 3000 North, Benson. The layout for this subdivision has been changed several times to accommodate the property owner and the requirements of the Subdivision Ordinance. The most recent change requires two lots be given a special exception instead of the one lot Mr. Hansen hopes to build on. The lot where the older home is located was drawn to be .33 acre, smaller than minimum Ordinance requirements, and had to be changed. The change took the road frontage from Lot 2. A special exception is required for Lots 1 and 2 because of no frontage on a public road. These two lots will be accessed by a private road. If the proposed homes are 150 feet or more from the county road 3000 North, they will be required to have an approved turnaround for emergency vehicles near the home site. Construction work on the private road and turnaround must be completed and approved by the County Road Superintendent and County Fire Chief's Office with written verification given to staff prior to the release of a zoning clearance for a building permit on either lot. There is currently a commercial storage business on Lot 2. There may be a home added to this lot sometime in the future. A note has been added to the subdivision plat stating that prior to residential development of Lot 2, culinary water and an approved septic tank permit must be obtained by the owner of the lot. Findings of Fact must be used in determining a decision on the request for a special exception for each of these lots. The Benson Planning District Commission will review the request for approval of a minor subdivision on this property at their meeting on 17 July 2001.

an individual, have the authority to add notes to Subdivision plats. The motion died for lack of a second. Cardon stated he would prefer the Board of Adjustment or the Planning Commission have authority to make decisions rather than one individual. Teuscher stated it was the choice of the County Council to designate the Zoning Administrator as the individual to take care of lot split subdivisions. The only appeal would automatically go to the District Court. Wayne Cardon stated he did not like the idea that after an applicant has met all the requirements for an application it could be denied at the discretion of the Zoning Administrator. He feels the decision should not be made by one individual. Allen asked if the Zoning Administrator could deny the request of a lot split subdivision. Teuscher stated that neither the Zoning Administrator nor the County Council can turn down a plat. The applicant has to meet the conditions of the ordinance. This section gives the Zoning Administrator the ability to add something to the plat that may have been left off by the surveyor, draftsman, or engineer preparing the plat. Once the plat is recorded it is the instrument of information to the prospective buyer of the property. The Zoning Administrator has to follow the ordinance or answer to the County Executive. Maughan asked that if the County Council could over ride a decision made by the Zoning Administrator if the applicant does not agree with the request. Teuscher stated that the County Council gave the Zoning Administrator the authority to act on lot split subdivisions to simplify the process. If there was a conflict the applicant could request clarification from the County Council. Cardon question why "natural features as required by the Zoning Administrator" was included in this draft. Teuscher replied there may be circumstances that notes be added.

8:00 p.m.

Tracy Reese made the motion to interrupt the discussion on the changes of the Subdivision Ordinance and review the Brandon Hansen Subdivision request. The motion was seconded by Lois Ballard and unanimously approved.

Brandon Hansen, agent for himself and Dean Ricks, (01-38MS), requested approval of a four lot minor subdivision to be called the Brandon Hansen Minor Subdivision on 3.16 acres of property in the Agricultural Zone with two existing single family dwellings located at 3890 West and 3900 West 3000 North, and for the construction of two additional single family dwellings to be located at 3872 West and 3878 West 3000 North, Benson. Greenhalgh explained there have been several changes to this plat. The right-of way was extended to the south property line to give access to the parcel belonging to Dean Ricks south of this subdivision. Lot #4 was originally only .33 acre. In order to expand this lot to the minimum size required in the County of .50 acre the frontage on Lot #2 did not meet County requirements. Therefore Lot #1 and Lot #2 must request approval from the Board of Adjustment for lots with no frontage on a public road. There is no water for the commercial lot #2 at this time. If a residence is requested for this lot in the future water must be obtained. Cardon asked why this Board is reviewing this request if it has to go to the Board of Adjustment. Greenhalgh

explained that the normal procedure is review by the Planning Commission first and then to the Board of Adjustment who only review the lack of frontage on a public road. Cardon questioned if this plan shows the required turn-around for emergency vehicles. Greenhalgh replied that the turn-around would show on the site plan when submitted to staff. However there would be a T turn-around because of the way the access road is being constructed. Cardon stated that Brandon Hansen's septic system must be a minimum of 100 feet from the canal. *Richard Maughan made the motion to approve the 4 lot minor subdivision to be called the Brandon Hansen Minor Subdivision with the stipulations listed on the plat. Tracy Reese seconded the motion and it was unanimously approved.*

The discussion on the changes on the Subdivision Ordinance resumed at 8:08 p.m. Teuscher stated that this section allows the Zoning Administrator to deal with situations under unique circumstances. There are no pieces of property in the County that are the same. The Zoning Administrator does not have the ability to deny a subdivision. *Kenneth Cardon made the motion to recommendation that the County Council or some other body have the authority to make the decisions rather than an individual. The motion died for lack of a second.* Wayne Cardon stated that if all the provision have been met for an application, a Zoning Administrator is not needed. Greenhalgh explained that without the ability to advise the applicant they may never reach the Board. Maughan stated that if an applicant does not agree with the Zoning Administrator they have the right to go to the County Council for a decision. The Planning Commission makes a recommendation to the County Council who in turn approves or denies the request. W. Cardon asked why the Brandon Hansen Minor Subdivision was approved if they didn't follow the requirements. Greenhalgh stated that they did follow the requirements but there were a few things that were missed and needed to be on the plat. Teuscher stated that the ordinance tries to cover all circumstances, but the Zoning Administrator has been designated to handle the unique circumstances not covered in the ordinance. If the Zoning Administrator is unreasonable the County Executive or the County Council will make the decisions. *Kenneth Cardon changed his previous motion to delete "as required by the Zoning Administrator" in the sentence in Section 300-6 (2) (v) and have it read "Other applicable notes, as required by the County Council". The motion died for lack of a second.* Teuscher stated the County Council gave the Zoning Administrator the power to deal with lot split subdivisions and if the Zoning Administrator is taken out of the process, it would take more time to go back to the County Council. The intent of the County Council is to simplify lot split subdivisions. Cardon stated that was okay if everything goes smooth with the lot split but if the applicant is not satisfied with the decisions he should be able to go back to a Board instead of dealing with one individual. Teuscher asked the Board if adding a section entitled "Appeals of Zoning Administrator's Determinations" that states an applicant has the option to take the request to the County Council if they do not agree with the requirements of the Zoning Administrator.

Those present at the regular Board of Adjustment meeting were: Grant Nelson, Gay Gunnell, David Erickson, Mervin Weeks, Lorene Greenhalgh, and Peggy Johnson.

July 19, 2001

The meeting was called to order at 4:05 p.m. with Erickson conducting; he welcomed all present. Nelson offered an invocation. The current agenda and minutes of the 21 June 2001 meeting were discussed and approved unanimously as written.

Jeffery Black, agent for himself and D. Scott & Jerilee A. Hutchins (01-39LSS), requested a special exception to allow two existing single family dwellings of a lot split subdivision located on 10 acres of property in the Agricultural Zone with no frontage on a public road and located at 1524 East and 1480 East 8800 South, east of Paradise. This property was divided into two parcels (7.51 acres and 2.01 acres) with no approvals. Mr. Black has potential buyers for the 2-acre parcel who need verification that it has been approved as a legal lot in order to obtain a loan to purchase the property. Both lots share a single well, but the current owners of the 7.5-acre lot have not had their water right updated to their names. This will need to be done to protect those owners prior to the approval of a lot split subdivision. A feasibility report from the Bear River Health Department dated 5 July 2001 states that both septic tank systems are functioning properly for the purpose they were intended (which is for a single family dwelling). The soil is Class IV; some is Statewide Significant and some is not Statewide Significant. The surrounding area is in agriculture. The road review states the private road accessing the lots has a 14- to 18-foot wide surface with a 27-foot wide right-of-way between fences. The road surface needs to be upgraded by the owners to the 20-foot width required by State Fire and the County's road policy. The nearest school bus stop is about five blocks away; fire protection is tankers from Paradise, about 2.8 miles away. A lot split subdivision will be requested by the applicants which can be handled in the Zoning Office if the special exception is approved for both lots. The access to these lots is critical to the use and upgrading the road to meet State Fire Code is a must. There is a home business on the 7.5-acre parcel. In order to have the business license renewed at the end of this year, the restricted-lot status of the lot must be removed. When the lot split subdivision is approved, it will eliminate the restricted-lot status for both lots. The two homes were constructed on the same parcel and later the property was divided with no approvals. The Planning Commission denied the request filed by Michael P. Nielsen to divide the property on 12 October 1978; it was appealed to the County Commission who upheld that decision on 31 October 1978. On 9 February 1979, a complaint was filed with the First District Court who upheld the County's decision; it was then filed in State Court 9 February 1981 who also upheld the County and the First District Court's decision.

Brandon Hansen, agent for himself and Dean Ricks (01-38MS), requested a special exception to allow two lots with no frontage on a public road of a 4-lot minor subdivision called Brandon Hansen Minor Subdivision located in the Agricultural Zone at 3872 West and 3878 West 3000 North, Benson. The layout for this subdivision has been changed several times to accommodate the Cache County Land Use Ordinance, the Subdivision Ordinance, and the wishes of Mr. Ricks. One of the most recent changes had shown the lot where the older home is located as a .33-acre lot, smaller than minimum Ordinance requirements, and had to be changed. That change took the road frontage from Lot 2 requiring two lots to be given a special exception for no frontage instead of just the one lot (Lot 1) that Mr. Hansen hopes to build on. These two lots will be accessed by a private road shown on the survey to have a 50-foot wide right-of-way. This right-of-way extends

along the east lot line dividing Lots 1 and 2 to the south boundary of the minor subdivision in order to provide access to the property south of the subdivision. State law does not allow property to be landlocked. If the proposed homes are 150 feet or more from the county road 3000 North, they will be required to have an approved turnaround for emergency vehicles to be constructed near the home site. Construction work on the private road and turnaround must be completed with written approval given to staff from the County Road Superintendent and County Fire Chief's Office prior to the release of a zoning clearance for a building permit on either lot. There is currently a commercial storage business on Lot 2; there may be a home added to this lot sometime in the future. A note has been added to the subdivision plat stating that prior to residential development of Lot 2, culinary water and an approved septic tank permit must be obtained by the owner of the lot. The Benson Planning District Commission reviewed the request for the minor subdivision at their 17 July 2001 meeting. They approved the subdivision requiring Board of Adjustment approval of the special exception for the two lots with no frontage. Don Hansen (Brandon's father) stated the right-of-way and road to Brandon's lot is adequate. The property to the south of this subdivision is farm ground and it is the desire of the family to continue to farm it. That was the primary reason the family agreed to move Brandon's lot to the north as far as possible. The Board reviewed the Findings of Fact (Land Use Ordinance 24-3.F.2.a. through k.). *Based on findings of fact a. through h. and j., Weeks made the motion to approve this request as presented. The motion was seconded by Gunnell and passed unanimously.*

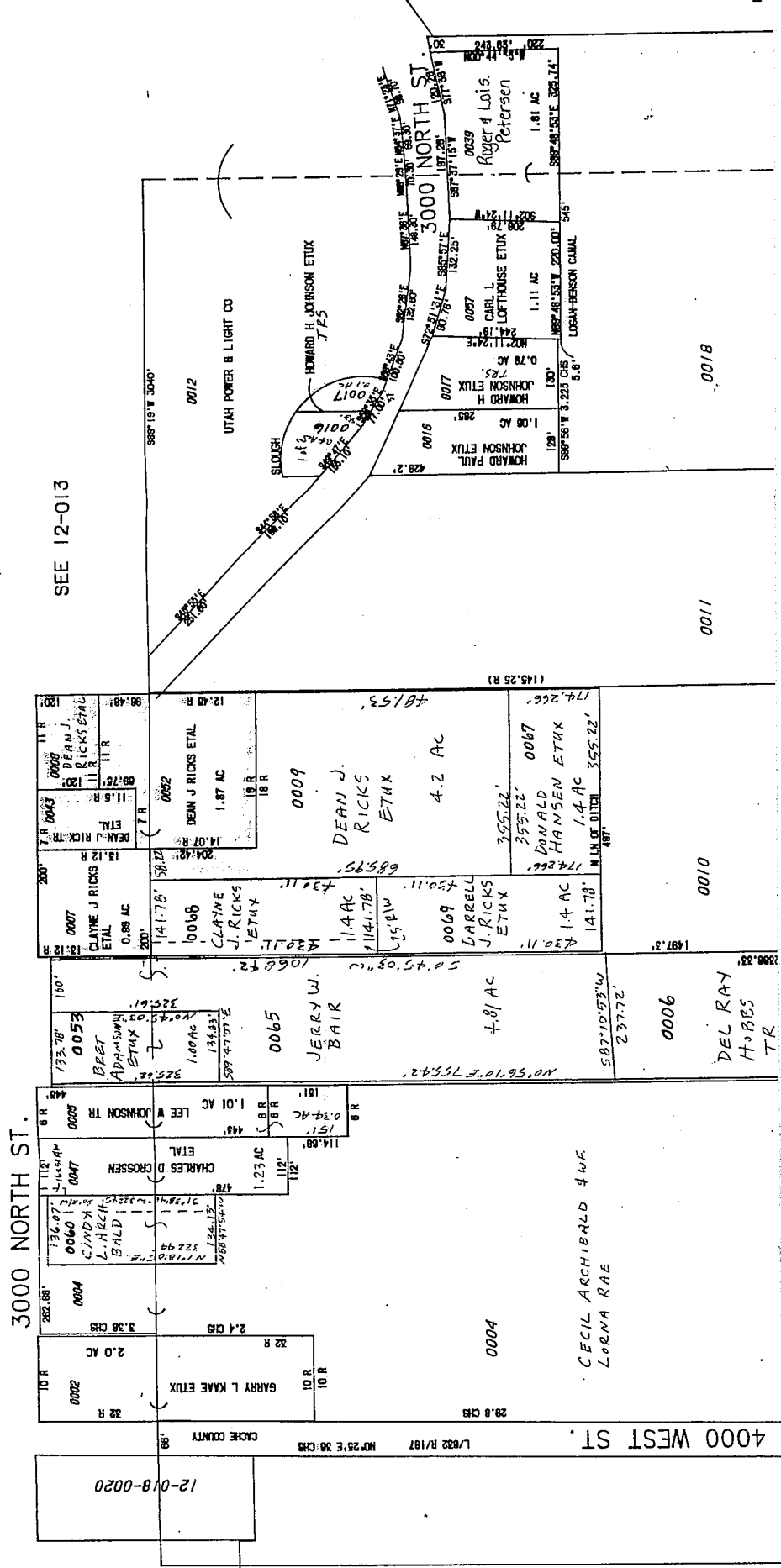
The meeting adjourned 5:20 p.m.

12-017

NW/4 Sec 14 Township 12 North, Range 1 West

Scale 1" = 200 Feet

TAX UNIT 228



CACHE COUNTY
RESOLUTION NO. 2001-30

A RESOLUTION APPROVING A PARTICIPATING AGREEMENT BETWEEN THE UTAH DIVISION OF FORESTRY, FIRE, AND STATE LANDS AND CACHE COUNTY FOR PARTICIPATION IN THE COOPERATIVE WILDLAND FIRE PROTECTION PROGRAM.

The County Council of Cache County, Utah, in regular meeting, lawful notice of which has been given, finds that it is in the best interests of the citizens of Cache County enter into a participating agreement between the Utah Division of Forestry, Fire and State Lands for participation in the Cooperative Wildland Fire Protection Program as provided by UCA, Sec. 65A-8-5 and 65A-8-6.

NOW, THEREFORE BE IT RESOLVED that the Cache County Executive is hereby authorized to execute the agreement between the Utah Division of Forestry, Fire and State Lands and Cache County for participation in the Cooperative Wildland Fire Protection Program.

This Resolution shall take effect immediately upon adoption.

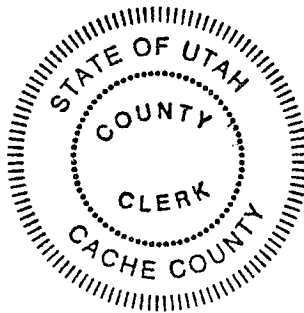
DATED this 14th day of August, 2001.

CACHE COUNTY COUNCIL

By: *Darrel L. Gibbons*
Darrel L. Gibbons, Chairman

ATTEST:

Jill N. Zollinger
By: Jill N. Zollinger
Cache County Clerk



CACHE COUNTY
CORPORATION

M. LYNN LEMON

COUNTY EXECUTIVE/SURVEYOR

120 NORTH 100 WEST
LOGAN, UTAH 84321
Tel 435-716-7171
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COUNTY COUNCIL

DARREL L. GIBBONS

CHAIRMAN

LAYNE M. BECK

V. CHAIRMAN

H. CRAIG PETERSEN

C. LARRY ANHDER

CORY YEATES

JOHN A. HANSEN

KATHY ROBISON

JILL N. ZOLLINGER

CLERK

August 14, 2001

Idaho Department of Lands
U.S. Army Corps of Engineers

Re: Dredging permit request of Utah Power and Light at the Lifton Plant

Gentlemen:


Historically, the farmers and ranchers of Cache County have relied on the water stored in Bear Lake for irrigation. Much of that water was diverted into Bear Lake from the Bear River. The irrigators have owned rights to that water for many generations and UP&L is obligated by contract to deliver it to them.

We understand that a channel needs to be dredged at the Lifton plant in order to assure a continued supply of water flow into the Bear River, especially for the next irrigation season.

The Cache County Council is very supportive of the request by UP&L to perform the dredging operation. Water is critical for the survival of the family farms of Utah and Idaho. There should be no question that every reasonable measure should be taken to continue to provide water for down stream users.

We urge you to grant the permit request.


M. Lynn Lemon, Cache County Executive


Darrel L. Gibbons, Chairman
Cache County Council

Foot Note:

This letter was approved by motion of the Cache County Council, August 14, 2001

MLL/DLG:pwd