

APPROVED

**CACHE COUNTY
COUNCIL MINUTES
11 September 2001**

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CACHE COUNTY COUNCIL MEETING
September 11, 2001

The Cache County Council met in a regular session on 11 September 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, Kathy Robison, Cory Yeates, C. Larry Anhder
H. Craig Petersen (**arrived at 5:15 p.m.**)
County Executive: M. Lynn Lemon
County Clerk: Jill N. Zollinger

The following individuals were also in attendance: Dell Allen, Gerald Allen, Rich Allen, Verne Bray, Richard Cahoon, Jerry Dahlberg, Jon Keller, Bill Francis, Mike Glead, Lorene Greenhalgh, Cindy Hall, Kathleen Howell, Karen Jeppesen, Eugene Kartchner, Wendy Kim, Evan Olsen, Bruce Parker, Pat Parker, Kelly Pitcher, Bruce Petersen, Aaron Price, Quinn Price, Sarah Ann Skanchy, Jim Smith, Lavor Smith, Tamra Stones, Laraine Swenson, Mark Teuscher, Paul Allen (Herald Journal) and Jennie Christensen (KVNU)

CALL TO ORDER:

Chairman Gibbons called the meeting to order at 5:04 p.m.

INVOCATION:

The invocation was offered by John Hansen.

REVIEW AND APPROVAL OF AGENDA:

1. Under item 6b, Kelly Pitcher requested that this item be removed from the agenda.
2. Executive Lemon requested adding item 10d to the agenda to discuss purchasing right-of-way for easement on a road east of the Logan-Cache Airport.
3. Lemon also requested adding item 10e to discuss a decision on Forest Service payments.

The agenda was approved as amended.

REVIEW AND APPROVAL OF MINUTES:

The minutes of the regular Council meeting held on August 28, 2001, were discussed, corrected and approved.

REPORT OF COUNTY EXECUTIVE:

County Executive Lemon reported on the following items:

Appointments: There were no appointments.

Warrants: Warrants for the periods of August 17th to August 23rd, August 24th to August 31st and August 31st to September 6th were presented to the County Clerk for filing.

Other Items: Board of Equalization: The final date to file an appeal will be on September 17th. Meetings are scheduled for September 19th and 21st, 2001.

ITEMS OF SPECIAL INTEREST

EMPLOYEE SERVICE AWARD RECOGNITION - Jim Smith

Jon Keller was recognized as employee of the month. Jim Smith presented the following:

Jon began his career with Cache County Corp. on July 1st of 1999. For the past two years, Jon has been a member of our Cache County First Department where he has been putting out fires in the office, figuratively speaking and outside the office literally speaking. Prior to joining our Cache County team, Jon was affiliated with the North Logan Fire Department where he served as Deputy Chief for over eight years.

As part of his duties Jon has coordinated and instructed training classes for the volunteer fire-fighting operations in the County. Some of the topics he teaches are the Fire Fighting I and Fire Fighting II courses and the Wild-land Red Card certification classes. Jon is currently serving as the Chairman of the local Emergency Planning Committee, which functions under a right-to-know act responsible for hazardous materials within our area. He also performs the duties of Has-mat Team Coordinator for Cache County. Jon has been known to occasionally take another person's life into his own hands as he functions as an EMT Intermediate in the County's First Responder System. Jon conducts building fire inspections throughout the County for schools, businesses, and daycare centers.

His peers have bestowed this recognition on him due, in part to the tremendous effort he put forth on battling the local wild-land fires during last Summer's fire season.

Council member Petersen arrives.

The County Executive and Kelly Pitcher, presented a certificate and gift card and thanked him for his service with their appreciation.

UTAH FAMILY VALUES/COMMUNITY VALUES - EVAN OLSEN:

Evan Olsen came before the Council to explain his involvement with Utah Family Values and their mission statement. As recognized by national and international law, the family is the fundamental unit of society. The importance of a father, mother and children molded into a strong family is recognized by nearly every culture and religion. There is a growing evidence that the modern family is disintegrating at a rapid pace. Therefore, "Utah Family Values" mission statement is to: (1) Organize and bring together groups and organizations committed to strengthening the family unit. (2) Remind people that commitments and obligations to others, especially in families, are essential to rights and freedoms. (3) Monitor the effect of local, state and national legislation on families. (4) Promote strong and stable families by working with media, educators and organizations. (5) Involve the citizens of Utah in ways they can strengthen families.

The group was organized in February and met once a week during a legislative session and during the Summertime once a month. The organization brought together works of 15 different organizations: PTA, Sons of Utah Pioneers, Women for Decency, Utah Coalition of Families, etc. to join together people who are doing good things

Dell Allen presented some Utah Family values to the Council. Each family must teach its children desirable basic human values (principles and ideals) of life to begin their education. It is these basic values that guide each of us through every day, every task, every encounter with another human

being, yet we are often unaware of what they are. It is the intent of this assessment to help Utah families clarify and focus on basic family values.

Mr. Olsen encouraged the County to join with Logan City in some kind of organization that would honor Families and celebrate during the week of Thanksgiving

BUDGETARY MATTERS

TRANSFERS - INTER-DEPARTMENTAL

County-wide Planning and Development Office (CPDO) requested \$1300 for funding to help them go to the APA Conference. The money will be reimbursed by APA.

(See Attachment No. 1)

Council member Anhder moved to approve the transfer. Council member Yeates seconded the motion. Vote was unanimous all members voting in favor.

COUNCIL MEMBER ASSIGNMENTS FOR BOARD OF EQUALIZATION HEARING DATES WERE SET:

September 19, Wednesday Council member Yeates - a.m.
Council member Hansen - p.m.

September 21, Friday Council member Robison - a.m.

UPDATE: CACHE COUNTY ADMINISTRATION BUILDING - LYNN LEMON

Lynn Lemon: The committee will be meeting again on Friday 14th 2001. On Friday we'll be approving a schedule.

Two Items to be aware of:

Wilkinson Building: In addition to those numbers that were presented to you, we do need to purchase the Wilkinson building, which will be around \$350,000.

Outstanding Bond: There is an outstanding Bond on the Executive/Courts building combined with the jail. In 2003 when the Executive/Courts building comes down, there will be about \$480,000.00 that will still be due on this building with the jail.

Lemon: We obtained two bonds, a bond for this building in 1986, and we obtained a bond for the Jail in 1991 and another bond 1992 or 93. If you remember in 1995, we refunded the 1991 and the 1986 bond because we had a better rate; and it's that bond that will still be due until 2006. We'll either need to pay that off or we'll need to shift. I'm sure the Bonding Company is going to want some collateral as far as that bond is concerned. I don't know whether they will allow us to assign all of that to the jail at that point in time or whether we'll need to pay a portion of that off. That will need to be paid, the \$480,000.00. As we have been going at all the numbers, we're trying to make sure that we are exposing all of the information to you. A total schedule for approval will be given on the September 25th 2001.

JENSEN ROAD REQUEST - DISCUSSION:

Chairman Gibbons explained that Mr. Jensen had his lawyers draw up easements for the affected property owners that would guarantee them access through his property; however, those documents have not been reviewed by County Attorney and until we have the Attorney review those and give us an opinion, it would be premature to discuss and make a decision with regard to that request.

Executive Lemon raised a question with Karl Jensen. The easement states that the road may not be used to access lodges, homes, or improvements which do not currently exist. It was acknowledged that there had never been any county money that had gone to improve that road; it had never been on the Class-D road system; and had not been a county road as far as the County was concerned; but we wanted to make sure the property owners had the right to access their property. He asked Carl: "What if property owners wanted to build a cabin on their home. Would you have a problem with that?" He said: "I don't have a problem if they are using it for what they are currently using it for, to drive cattle or to access their property." "I just don't want to have a major road to go through there to access some type of major development." Lemon would like to reach a compromise.

(See Attachment No. 2)

Discussion:

Council member Petersen: Lynn, the fact that they have the easement, would that allow them to improve the road in any way? They can use it but can't change it.

Executive Lemon: The way that it is now is that they'll have the right to use it and they'll have the right to use it in perpetuity and they can use it for livestock; but it does say: "No improvements, repairs or upgrades may be made to the existing roadway easement without the consent of the Grantor, its successor and assigns. Right now, I don't think they can even get to their property.

Chairman Gibbons: I don't think they can either.

Lemon: We went as far as we could but the bridge was out.

Council member Anhder: One of the problems with this easement is that it is a unilateral action based on an easement that is given to the surrounding landowners and the surrounding landowners have it whether they want it or not. I'm not sure that it is the answer that the surrounding landowners want. Just the fact that these folks sign an easement I'm not sure satisfies me. This is the normal format to grant them an easement. But there ought to be some sort of letter of consent from the property owners, the Browns, the Petersens, and the others that says: "Yes, we agree to this set up as a fair minimum. The way the easement is there is no grounds that the Petersens and others have any say about it. I know they are receiving this easement and thank you very much; but that may or may not satisfy them.

Petersen: Larry, in our deliberations as to whether or not to close the road, we can get their response of easement; at least we'll know how they finally feel about it before we make our decision. That's not to say it's a legal document but at least we will be able to see what they think about it.

Anhder: The County ought to have something solid -

Beck: We ought to have something in writing from them saying that they agree to this.

Anhder: I would personally be a lot more comfortable with that. I am not inclined right now to vote in favor of the road closure and abandoning their right-of-way.

Gibbons: If you go back and read the attorney's memorandum, he says: "Should the County chose to vacate the public highway, the impact would be to vacate the public's right to travel on the road. It would not vacate any private easements across the land." As I read that, one of the questions I want to raise is do we even want to be in the business of approving or disapproving of conditions of easement?

Anhder: That's fine; then I would just vote not to vacate the road. As I understood it, the idea of the easement was a compromise position that would protect the surrounding landowners; and if so inclined as a Council, maybe we could vote for that.

Gibbons: As I read the opinion, whether we vacate the road or not their easement exists and is protected. I am not sure that we ought to be in the business of negotiating easements; but I would vote just the opposite of you, Larry, I would vote to vacate the road.

Anhder: State that again. If we vote to vacate the road, they'd have no easement.

Gibbons: No, if we vote according to the memorandum of opinion and if we vote to vacate the road, we don't do anything with the existing easements; they still exist.

Anhder: I am sorry, but the only existing easement they have is the public right-of-way; and if we vote to abandon that, then they have nothing.

Gibbons: They have the easement that has always existed that has granted them access to their property.

Anhder: And that easement is a Court declaration of a public right-of-way; and if we abandon that, then they have nothing.

Lemon: I would think that the property owners would rather have an easement that they have signed that gives them some right to improve their property.

Anhder: I think they ought to agree to this because the way this is now, Jensen signs this and says: "Here you got it whether you want it or not."

Lemon: I told Karl that the statement in here of the easement may not be used to access lodges, homes, or improvements that do not currently exist I don't think that, that will fly.

Petersen: Larry, do I understand correctly? Your argument is that because this is a public road, the concept of an easement doesn't apply because they have access because it is a public road; and then you are saying that if we vacate the public road, then there is no easement in place?

Beck: There is no easement in place.

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Lemon: It's a public road, but it has never been it has never been a public road. I think one of the struggles that we've even had is that it has never been a public road. The public has never had access to it. The public cannot go up there today and use it. It was locked before the law suit and it has been locked since that time.

Anhder: But the public could have the right, all they would need to do presumably is call the County and say there's a public road up there that has a gate across it. We respectfully request that you take the gate down on a public road. We would have little choice the way I see it, except to take the gate down because it's a public road. What's the difference between putting a gate across that and putting a gate across any other County road?

Lemon: Yes, I think that is true, but the fact of the matter is that it has never been used is true; and there has been no public funds that have been used to improve it.

Anhder: I don't know that I have any heartburn whatsoever about it being a public road, but where I do and am extremely concerned about is that the adjacent landowners feel –These folks went to Court and spent good money to protect their right-of-way. The Judge upheld that; and now the most cynical view of that could be that the Jensen's said: "We lost in Court, we'll go to the County Council and maybe get them to abandon it."

Petersen: Maybe we have covered this question before, but what are the County's obligations if it is a public road—in terms of maintenance and improvement?

Lemon: If it has a gate on it, there is no Class-D road money that is issued; there is no obligation.

Petersen: Come back to Larry's idea. How could it have a gate on it if it is a public road?

Lemon: That's the dilemma we're in. The Court has declared it a public road, but it has never been used as a public road.

Anhder: But it may be.

Petersen: I guess in some point in time and we enforce the gate taken down; then it could be a public road.

Anhder: Once again, I don't have any big deal about it being a public road, but what I do have a real deal about is that the surrounding landowners are protected. They've gone to Court over this issue once where they prevailed. I think it would really be sad that the County Council overturned that without their complete consent to this. They fought it in Court and they won. We should not just blow that aside when we know it.

Petersen: Let's suppose that the it stays as a public road and somebody says we want the gate down; it seems to me like we would have to comply with that. What then is our obligation for maintenance improvements to that road?

Lemon: Then I think that does become a problem.

Petersen: So, we do have an obligation?

Lemon: We could have an obligation. There are Class-D roads that we don't provide any maintenance on, but I think that could become a liability. If it was a public road and somebody was on that road and was injured because they couldn't traverse it; it could become a problem.

Anhder: It would not be unique. It would not be unique; it would join hundred of feet of Class-D county roads

Lemon: Do we have other Class-D roads that would be as bad as this one? Yes. There are Class-D roads that are mountainous roads or whatever and they could be in worse shape

Beck: One difference about those RS-2477 roads is that most of them access public lands. Let's say that the surrounding landowners did decide that they wanted to develop it with some cabins or whatever. Would our ordinance require them on this already existing public road to bring it up to county standards?

Lemon: No, because right now it is in our FR-40 Zone. The FR-40 does not require that we meet a certain road standard. They could build a seasonal cabin; they could not build a year-round facility.

Beck: Our ordinance wouldn't require them to bring the road up to County standards which is a 50 ft. right-of-way and all those things?

Lemon: It would not. When we adopted that ordinance, we said we did not want to require in Forest areas to keep the roads to 20 ft roads and 50 ft. right-of-way. We wanted to try to keep it looking like a Forest. Now, if they wanted to put a sub-division up there even if they are 40-acre lots, it still would require it as long as these are seasonal cabins.

Lorene Greenhalgh: We require the right-of-way to build roads up there, but we don't service the road; we don't build it; we don't keep it open; we don't bring them out if they are stuck up there.

Beck: Even if it is a Class-D public road already?

Greenhalgh: We don't do anything.

Beck: So the County would be under no obligation then to upgrade that road if the existing landowners did decide they wanted to develop cabins on 40-acre lots or whatever.

Greenhalgh: They have to go through the system and get the approval to do that but it would include that they find their own why up and their own way out.

Beck: They could go ahead and do that regardless of the impact on the landowner?

Greenhalgh: They would have to own the piece of land they wanted developed.

Gibbons: I'm talking about the access road. If they developed on their property and had an easement or we said that it was on a Class-D road system, then they could go and improve that road regardless of the impact of the landowner.

Anhder: Who's the landowner

Gibbons: Jensen.

Anhder: I'd say it's Cache County.

Gibbons: I don't.

Anhder: That's what the Court said.

Gibbons: Well, I think the Court, if you'd hear the history of the thing, they did nothing but take private property.

Anhder: But through due process.

Gibbons: I suspect there was a process, but I'm not sure it was due process after I heard the argument.

Anhder: Who's argument did you hear?

Gibbons: I heard Jensen's argument. Did you hear the argument? Did you go out and ride the road?

Yeates: No, but I have heard it (the argument) in here. I also know the process of going through Court and how carefully the Judge listens to those things.

Lemon: The fact of the matter is that it is not a public road. It's been declared a public road, but is never been used as a public road.

Beck: It was declared a public road by the judiciary.

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Lemon: But if it's never been used, the public does not have the right to use it right now.

Beck: Unless someone wants to force the issue. Our ordinance wouldn't then require a 50 Ft. right-of-way and all that?

Yeates: I was going to say that perhaps the reason it hasn't been used is because there has been a gate on it. If it were open, I would bet there would be people traversing between the two main roads there.

Lemon: Part of the reason that it is not is because it doesn't access any public land.

Beck: It's all private.

Lemon: If this accessed the National Forest or a wildlife-research area or something like that, there probably would have been a demand to do that; but it accesses only private land.

Yeates: The problem we've got in this County is that we have too many landowners who feel that it is their right to gate anything that accesses on to their property without respect to where the road winds up. We've got several roads in the County that access Forest service ground that have been gated by landowners illegally and improperly. Hopefully this Council is going to have the guts to do something about that here in the future. We've got a committee that is working on that right now.

Gibbons: I don't have a problem with that, Cory as long as there is access to public lands.

Beck: That is the major difference. Those roads access public land; this road only accesses private property.

Anhder: The road down in front of my house only accesses private land. What's the difference?

Lemon: The public can travel that road.

Anhder: The public can travel this road.

Beck: It's not gated.

Anhder: You can't call the gate anything but illegal travesty. Good Heavens! Following that very same logic, I can go out on the County road in front of my land and I can put a gate up there; and then you will say: "Oh that's gated; nobody else can go on it."

Lemon: No. As soon as you put a gate on there if the public have traveled that at any point in time, we can go and remove that gate immediately because there is an easement.

Beck: Or require you to move it and fine you for putting the gate up to begin with.

Lemon: On this property (Jensen's) the public has never ever gone across the land. They have never been allowed to do it.

Petersen: But if it were not gated, would they go across the land. I think Larry has a very strong point on this. I don't know how you can gate a public road.

Lemon: It was gated before it was a public road.

Petersen: I know. The minute it was declared a public road; it seems to me like the gating seems to be illegal. I think you are absolutely right on that part, Larry.

Anhder: You can't fall back on the gate issue; it's an illegal gate and how can people ride upon it if it is closed to them.

Lemon: You know what I think you should do, Mr. Chairman? Take your County Council up on that road.

Gibbons: I think that would be a good idea too.

Lemon: And not just met with the Jensens bring the Petersens, bring the Sneider's, bring the Browns; bring the whole group and let them all travel that road.

Anhder: I've heard personally from Petersens; I've heard personally from Browns. I know exactly, how at least the last as of the last communications to me, how they feel about that.

Lemon: Darrel and I accepted the invitation to go ride the road and we did; and our understanding is that Petersens would not want the road closed; and the Browns didn't care as long as they have the right to access their property. When I got this (declaration of easement) back, my inclination was that there would not be a willingness on the part of the other landowners to accept this if they could not make any improvements on their property. I don't think that was the intent.

Gibbons: I don't think we can make restrictions to their property.

Lemon: When Darrel and I left Mr. Jensen, we basically said that we would like you to grant them an easement so that they have the right to access their property.

Gibbons: That's what we agreed to.

Anhder: All I said is that the easement is probably not bad if the Petersens, the Browns, and the Schneiders agreed to it; the way this is written is unilateral.

Gibbons: The other thing that we did say was that we did not feel that the easement they granted that the other parties could force the improvement of that road without consent of the Jensens.

Petersen: Darrel, what happens on this easement?

Gibbons: Nothing until the County attorney reviews the documents. If there is something in this easement that he's uncomfortable with or that we're uncomfortable with, I think we can request that, that change be made.

Beck: Even though this easement is given between two private parties and has nothing to do with the County?

Anhder: I don't think that's our roll. I don't think our County Attorney should review it. That's not our role. What I think our role is that all parties agree to it.

Beck: Then we go ahead and abandon it.

Lemon: What if they don't agree?

Yeates: Well, we need to know how they feel then we can make our decision.

Beck: I would feel better about abandoning the road if I knew that the Petersens and the Browns and the Schneiders were comfortable with the easement that is being handed to us.

Lemon: I'm not sure. Maybe I could be wrong about this, but think if you asked the other parties, I'm not sure they want the gate off the road either.

Beck: They probably don't.

Anhder: Just have whoever is initiating this (Mr. Jensen) make up a little form and have Jack sign it and have somebody else sign it; and we will know exactly how they feel about it.

Lemon: Let's assume that they say no because they have already been to Court on this. So, what do we do? We say we are not going to abandon the public road and there is a gate on the road; so do we just leave it as status-quo?

Petersen: No. I think Larry has a good approach. If they were to agree to this easement, Larry, in that particular case would you have any problem to abandoning this public road, if the people are satisfied?

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Anhder: I think I have said that two or three times.

Petersen: Okay, that's where we start. If this easement satisfies all parties,,if they don't we simply have a tougher decision that we have to make. We have to decide whether or not we are willing to go ahead and do it in spite of the fact that we know not everybody is happy about it.

Beck: Or if the effected parties are willing to modify the easement.

Anhder: Put the burden on them to negotiate it. It's not our problem.

Bruce Petersen asked to make a point and he was given opportunity to speak to the Council. He identified himself as being one of the ones who brought up the lawsuit to prove that it was a public road. He said they didn't want the road closed and wanted the gates to be unlocked.

Gibbons: Can you cross the river as it is now from Jensen's property to yours?

Bruce: No, because it is washed out. We always did before, but right now it is washed out.

Anhder: It's sounds fixable.

Bruce: Oh sure, absolutely. Jerry Dahlberg got a truck up there. He has done some road work up there.

Jerry Dahlberg: We did about 3 miles. I had a Cat up in there and we put in culverts. Weather run us off before we got across the land to our property.

Petersen: Mr. Petersen, have you seen the document for a limited-use agreement that the Mr. Jensen's proposing?

Bruce: No I haven't known about it.

Petersen: So you want the locks off so anybody can have access.

Bruce: Yes.

Beck: But is that what you really want? I mean; would you (Mr. Petersen) prefer to have a private right-of-way as opposed to a public right-of-way?

Bruce: No. We don't have a public right-of-way. The only reason we went along with him (Mr. Jensen) was because we wanted to be good neighbors and tried to get along with him.

Anhder: Would you settle for an easement? If he proposed an easement to you with terms that were acceptable to you, would that be acceptable in place of the public right-of-way?

Bruce: Well, if it was an unrestricted right-of-way, yes.

Anhders: I think the way it is written is that it is restricted to property owners and/or their guests. I don't know if that is broad enough for you.

Bruce: No, I don't think that is. We feel like we've got a public road there now and (for) anything else we'd want an absolutely an unrestricted right-of-way.

Anhder: Well, that certainly can't be negotiated with the Jensens!

Bruce: No.They won't do that. They think it is alright for an individual to cross and maybe take some sheep to cross, but that is why we fought them before. The first case went to the Supreme Court. (*In the second case Judge Christofferson reversed it.?*)

Lemon: In the first case that went to the Supreme Court the road was on the other side of the boundary; it was not on this property.

Bruce: Right, but it was part of the same road.

Lemon: It was a road from your property out to the East...

Bruce: That's true, but the Judge said it went from Mantua to Monti Cristo

Petersen: What does it mean when you say unrestricted access, anybody?

Yeates: Not just for property owners.

Kathy Robison: So if he is not willing to accept this limited easement, why are we even bother talking to the other people about it.

Anhder: That's a good point. I don't know.

Lemon: Bruce, let me ask you a question. By saying you want to maintain this as a public road and you want the gate unlocked, are you asking Cache County to do anything on that road. Are you asking us to make any commitment as far as any improvements to the road.

Bruce: Not in the least.

Lemon: And you don't have any intent in the future to ask us to make any commitment on the road.

Bruce: We don't; and we would put that in writing too. We won't ask for anything. Like when Jerry said, he got the bulldozer up there and fix a culvert just to make one road up there.

Dahlberg: We paid for it all.

Lemon: There's no intent on your part by keeping this a public road to have the County put County funds into it?

Bruce: Absolutely not.

Lemon: I just want to make certain of that because that was one of the things that I hadn't understand.

Bruce: We just went to all the trouble and expense to keep that public road up there and I just don't feel like it should be taken away from us.

Gibbons: Well, I still have to ask a question. If you take the gate down, does that give them unrestricted right to go in and do what they want to the road?

Lemon: Who.

Gibbons: This party.

Lemon: I'd have to go back and look at the lawsuit. I am kind of at a loss now. I thought that they could resolve it with the easement. But you are saying you don't want an easement.

Bruce: No, we don't.

Yeates: But, if it's a public road, certainly a private party has no right to make changes, do they?

Lemon: What do you mean, a private party?

Beck: The Court declared this to be a public road; does that give this individual who is a private landowner along that road the right to improve that road without the consent of the County?

Petersen: The County is the only one that can change the status of that road.

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Anhder: He probably would come and we could give him permission to do that.

Petersen: Right, but it would be our choice to do that.

Lemon: After they get our permission, they could do it, but they couldn't just do it at their own whim.

Bruce: Then, could we just improve it enough to get through?

Lemon: Let me just ask a question. Does the law designate a width of the road?

Bruce: Oh yes, a 100 ft. right-of-way.

Beck: In my way of thinking, it would be better thing for you to have an easement because then you could chose to keep the public out of there if you chose to. That way your land would be more protected and it would only be accessible by you.

Bruce: But then we would want to be able to have as many people come in as we wanted.

Anhder: You're saying that all the way from Mantua to the Ant Flat road is a public road now. That means we can put a road through your property too.

Bruce: Absolutely; we have never had a gate on our property.

Petersen: If it is a public road, it really is not your property; the County owns it.

Gibbons: How do you access your property from the other side.

Bruce: Through Swans.

Gibbons: Does he have a gate on that?

Bruce: Yes. He has one.

Gibbons: Is that a public road?

Bruce: Yes. (Mr. Bruce Petersen presented some papers to the Council Chairman in which Judge Swans acknowledges it as a public road) It seems to me that when the Judge warranted it with his own gate up there (in that document) that he acknowledges it is a public road and he gave me an unrestricted absolute right-of-way through his property.

Petersen: Does it say "He acknowledges"?

Bruce: Yes. He acknowledges it; and so he gave us an absolutely unrestricted right-of-way through his property.

Lemon: Is that in perpetuity?

Bruce: In perpetuity.

Lemon: So, there is no expiration.

Bruce: In fact I want to leave it with you. Then we made an agreement and this is part of it (referring to the documents).

Anhder: The clause says right here that he admits that it is a public road. He has done the same thing on that end that Jensen has done on the other the other end; they both gated public roads.

Robison: Well then, we ought to tell him to take his gate down too.

Bruce: They both ought to be open.

It was the decision of Chairman Gibbons to review the documents presented to the Council by Bruce Petersen and put the matter on the next agenda for further discussion.

PUBLIC HEARING: CHAPTERS 1, 2, 3, 4, AND 9 OF THE REVISED LAND USE ORDINANCE - MARK TEUSCHER

Chairman Gibbons stated that this public hearing was for the purpose of hearing public comment and not for the purpose of the Council taking any action at this time.

CHAPTERS 1, 2, 3, 4 - BRUCE PARKER:

Bruce Parker addressed the Council and state that he was the Planning and Zoning Consultant over the rewriting of the zoning provisions of the County. He passed out copies of the County Zoning Ordinance revisions.

He indicated that this document was an update and a revision to the County's existing Land-use Code of the County.

(See Attachment No. 3)

CHAPTER 9: Airport Limitation Overlay Zones - Mark Teuscher

Chapter 9 is to be a replacement of the existing Chapter 9 in the current Land-use Code. The Airport Hazard Zone will be replaced with an Airport Limitation Overlay Zones, which are a series of zones that will overlay on top of the existing zones.

The airport needs to be protected. Mr. Teucher's office worked with Bruce Parker and Sarah Ann Skanchy and a consultant from Armstrong Consultants to develop this ordinance under the direction of the FAA.

(See Attachment No. 4)

Overlay Zones are very complex because they deal with zoning on the ground and zoning in the case of vertically and horizontally. The horizontal zone is 200 ft. above the airport influence area. Overlay Zones deal with not only looking at the height limitations but also at the ability to have conflicts between airplanes and people on the ground. Basically, there are about six overlay zones. One of the reasons to come before the Council is that if the airport develops, this area will become the primary landing and the primary instrument entrance area into the airport surrounding area of the land.

The basic premise of the airport overlay zones is that it does have some limitation factors in terms of land use and the "Table of Uses" talks about what uses are allowed in what zones. Some uses don't allow residential types within the inner air-approach zone in the 65 Ldn Noise Contour which is under strict regulations: Intrusions into that area under strict regulations literally prevent the building of anything there. Exemptions are allowed for some building in those areas of residential development up to 35 ft., which is a standard residential height. So, if there were to be a house or a subdivision development in that area, a disclosure would be put on the plat indicating it was within the airport influence zone noting the close proximity to the airport. That would be the conditional use of the subdivision.

These requirements are what the FAA is asking of the Airport Authority Board to implement for the protection of the Airport. Questions?

Discussion:

Chairman Gibbons: Where is the highway on that (referring to the overlay mapping), Mark.

Mark Teucher: It goes all the way up into the National Forest boundaries; it is past 2400 W. It actually goes out into Benson

Executive Lemon: So, that means any subdivision --

Teucher: Anyone building a house would have to do it as a conditional use and the condition we would indicate on that would be that you are in close proximity to an airport. That would be the condition of the sub-division.

Council member Petersen: What would that mean in terms of a person who intended on building a house.

Teucher: They would have to apply to the County Planning Commission for a conditional-use permit.

Council member Yeates: Not the Municipality? Not the City?

Teucher: We will only administer the unincorporated areas.

Petersen: Somebody who is in North Logan is not affected by this, are they?

Teucher: They are affected. We will go to North Logan and ask them to adopt a similar ordinance, but they would have to go to North Logan City, or North Logan or Smithfield or whatever.

Petersen: If you are in North Logan you would go to North Logan City's Planning Commission.

Teucher: Right, you would not come out to the County.

Council member Anhder: It's only in the last two zones that building is prohibited.

Teucher: But we don't prohibit commercial or we don't prohibit industrial development in any of those (referring to all but the two zones where building is prohibited). We don't prohibit most agricultural uses. We do prohibit some recreational uses.

Gibbons: This will put us in full compliance with the State?

Teucher: This will bring us in full compliance with the FAA requirements of an airport. Basically we will meet the conditions that the FAA is setting on the grant for the runway from our perspective; now we need to get other Municipalities to go with the same ordinance.

Gibbons: Any comments from the public?

Petersen: This is a public hearing; how would a member of the public have gained access to this information?

Teuscher: It was advertised and available through my office and through Lynn's office and through Lorene's office. We advertised the public hearing. Public hearings were held at all three Planning Commissions also and they all made recommendations. College-Young deferred because none of this affects their zoning .

It was brought out that it is a State law requirement to have an Airport Zoning Board and an Airport Board of Adjustments and one other improvement change in this chapter was that the County-wide Planning Commission and the Board of Adjustments were assigned to function in that stead. That is a dramatic change.

THE HEARING WAS OPENED FOR PUBLIC COMMENT

PUBLIC COMMENTS:

Rich Allen: I am with S&S. Excuse my ignorance here for a minute; but in trying to determine in your traffic patterns on your approach zones, I would assume your height restrictions are dependant on how far the structure is away from the runway itself. Would that be correct?

Teuscher: Yes, because as you go away from the runways they basically begin at a slope of 7 to 1 from the airport going out.

Allen: The problem we are having is that the higher buildings that we have are really quite close to it. I was just curious and I was trying to determine the height because our building that is very close to the approach zone; that building exceeds 35 ft already.

Teuscher: I was only referring to the areas that are intruding into the vertical zones up on the upper benches. This follows strict FAA regulations so that we know that two-thirds of the consensus will not be developed over the approach. Of course we have exclusions and exempts for height and there are some specific areas between Logan and Hyde Park that won't.

Anhder: Mark, for their specific area which is just East of the railroad tracks, it appears that commercial and industrial is permitted for conditional use.

Teuscher: It's conditional. Basically if they have height issues, they need to file with the FAA. The ordinance talks about what they need to file as a form. People that want approval of those zones must contract with the FAA. The implication is that whether they know or not, the surface zones were filed just so the FAA could work it out. Whether they will or not would be up to the FAA.

Council member Beck left the meeting.

Council member Yeates moved to close the public hearing. Council member Robison seconded the motion. The vote was unanimous all members voting in favor. (Beck absent)

THE COUNCIL MOVED INTO THE BOARD OF EQUALIZATION

BOARD OF EQUALIZATION MATTERS: KATHLEEN HOWELL

Before going into each the appeals at hand, Kathleen Howell wanted to make certain that all of the Council members understood what it means to have land in green belt.

Point One: To have your land in Green Belt is a Tax deduction program to help preserve farmland. There are some requirements that have to be met to have their land in green-belt.

1. You have to have at least 5 acres in one piece to qualify.
2. It has to be actively devoted to farming for two successive years prior to putting it in green belt.
3. It has to continue to be farmed.
4. You have to take 50 percent of your expected gross products off of it each year.
5. At any point in time it doesn't meet the qualifications, the property then has to come out of green belt and pay what is called a rollback tax which is the difference of what the tax would

have been in green belt versus out of green belt.. This difference is mandatory under the law and there is no way around it. (Council member Petersen added the rollback is for 5 years and there is no interest accumulation; it would be actual amounts from those years.)

Point Two: What happens is at any time, land is put in green belt and if for any reason the use changes or for any other reason, it is withdrawn. Those reasons might include: 1) A legal description change, 2) a name change - A child could be added; Last name could be changed; 3) the land could be put into a trust. Anything that requires a deed transaction in the Recorders office is constituted in the code as being a change in use. "Use" also includes other withdrawals to that property.

Council member Beck returned to the meeting.

APPEAL TAX ABATEMENT - QUINN PRICE:

BACKGROUND:

Mr. Price owned piece of property that was 8.16 acres. They met the 5 acre requirement and he was actively farming it. That was put into green belt some years ago. On September 15 of 2000 Mr. Price went to a title company and asked for the property to be divided. (Ms. Howell did believe that he meant for it to be divided; however, whatever he intended, the property was divided into two separate pieces. One piece was 3.97 or 07 acres. That property went into the name of Quinn Price. The other piece of property forming 4.19 acres was kept in Aaron Prices' name. So, in the scenario we had an 8 acre piece and now we have two pieces neither of them 5 acres. They are under separate ownership; the ownership is not identical. They may still farm it and they may farm it all together, but it doesn't meet the other the test; so, under the code, then we have to take them out of green belt.

On October 12, 2000 Aaron Price came into our office and talked to Dixie Bradley in my office. On that date he signed 4.19 acres back into green belt. Now you may ask: "How did he do that if he didn't meet the 5-acre test?" We had not yet received from the Recorder's Office, because there was a time lag. Once the deed is recorded, the Recorder has to process the deed; the separation has to take place; and the plats have to be drawn. Then we're informed of that change in my office and then we act on this in some point in time. On October 12, Aaron Price came into our office and informed Dixie Bradley that he had another qualifying piece. Without anything we signed the 4.19 acres back in.

After doing some further investigation that day, Dixie realized that wasn't the case. A rollback then was sent to Quinn Price on the 3.97 acres informing him that he needed to pay the rollback tax. At that point in time Quinn Price contacted Dixie in our office and said: "No, no, no, that is not what we intended." We of course aren't allowed to give legal help nor are we experts in it; but we do tell people if in fact that's the case and you didn't want to separate; you had better get it recombined before the end of the year because we have to tax property they way the deeds read on January 1st. That is the lien date for all taxes. Nothing was done until April of this year. So, for this year, Tax year of 2001, on January 1, the property as was recorded in the Recorder's Office was in two separate pieces leaving us no legal room in the law to tax them as one piece. I can't overlook what they intended to do unfortunately; I have to follow the law and so that is what has happened. A rollback has been charged on the whole 8.16 acres because neither piece can qualify.

Cache Title was contacted by Ms. Howell and visited with them about it asking them some questions concerning some of the verbiage on the deed. On the deed itself there was some wording that was confusing and which even came out in the hearing. On the quick-claim deed, there is a line at the bottom that says: "Reserving a life to state to grantor." Mr. Price said that he was under the impression that it would stay in his father's name until at the point in time that his father died. That is not what that means. The title company has no way to divide property like that in a deed transaction; it is done strictly through the lawyer or through a trust. All this wording means is according to Cache Title is that as long as Mr. Price is alive, Quinn has allowed him to use the property. It still has reverted; the name was changed. Under the law we had nothing else we could do.

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Cache Title explained also to Ms. Howell that it (referring to the quick claim deed) was done as a miscellaneous transaction; Prices' did not want to do it as a regular deed transaction, which that meant no title insurance was issued on the transfer which is one of the reasons why the green-belt issue didn't come to light. The title company was not told it was in green belt. Any time there is property in green belt, the title insurance should be issued because the rollback taxes will lien upon the land.

Discussion:

Chairman Gibbons: So the issue is the green-belt and the rollback not the fact that they haven't met dates properly as far as their appeal is concerned?

Kathleen Howell: They have certainly came into appeal.

Gibbons: They have requested only an appeal before the whole Council, but the issue is the fact that the deeds were not changed prior to January 1.

Howell: Right. For this year I can not tax them in green belt; they don't meet the qualifications; and the rollback tax has been charged, which is 5-yrs. back on the whole 8.16 acres. Just so you know, in April they did combine it back into one piece under Mr. Aaron Prices' name. We have reassigned the whole 8.16 acres back into green belt for the year 2002. What takes this year on the deed affects next year. Now their question to you is being as that wasn't what we meant to do even though that's what happened, would you would allow them of the rollback tax so it would be the same as if they had their land in green belt.

Council member Petersen: And the dollar amount involved is?

Executive Lemon: \$657.00.

Howell: The total attached to the property was \$1,252; that's the 5-yr rollback tax. Then in addition to that they are being taxed out of green belt this year. For the year 2001 their tax is based on market. ...One of the challenges that comes to us, is that anytime properties come in and out of green belt, the rollback tax is a lien on the land. If in fact the Council were to abate that tax and put it back in green belt, no records show that. It is only done as an abatement. So, if in two years the property is subdivided, it becomes very difficult for us to track back that rollback wasn't picked up. Abatements don't fall under deed transactions under a recorded status that, that has happened.

Beck: What are you saying? If we do grant the abatement and next year Prices' come in and take their property out of green belt—

Howell: It would need institutional knowledge to remember that happened. There is no deeded work because under the deeds it doesn't qualify.

Lemon: Kathleen, let me ask you a question. If this body abates the tax--You have charged a rollback; they abate the tax--If they came and took their land out of green belt next year, wouldn't the tax have already been abated? You wouldn't have to go back and charge a rollback, would you?

Howell: We would have to if we remembered. That's the problem. The paperwork isn't going to show that (the rollback).

Lemon: They are abating the rollback.

Howell: Essentially what you are doing by abating it by abating it and by giving them the green-belt status is saying to them: "We're going to ignore the deeds were changes." "We just going to let green belt continue as though nothing happened. If in next year that use changed, under the law we have to pick up that lien of taxes. The lien is due. If you abate it and it appears based on all of the records that the lean was taken care of, can see the challenge that comes forward now because the deed record does not match what they have done on the land.

Lemon: What they are not doing is paying for abating the rollback tax and then assuming that it has already been met. That is what I was concerned about because if you abate the rollback and it has been charged; and so they come in and take it out. Then you say they've already paid the rollback for 5 years, we'll just charge them for 1 year.

Howell: That's exactly how it is because abatements don't show up in our office; so, it is institutional knowledge. You need to understand; we deal with thousands—we have over eight-thousand parcels almost one-third of our County in green belt right now. This is a full-time job for one person; that's how big green belt is. Under the State law, the law requires the property owner is to notify us immediately. (Ms Howell showed the Council a draft of proposed legislation for this next session tightening up what is already in code.) Right now we allow someone to come in and re-sign their land in green belt and meet those qualifications and I give them clear until the time I close the role. As the Assessor I am responsible for the role and I can make those changes as part of my charge. If someone can get it into me and get it signed by in except for deed re-creation but merely the signing of the application, we give them the time until the tax role closes if it is just a matter of continuation or name change or something like that. Under the new proposed legislature they have 120 days if they don't meet it they are flat out and it is their responsibility to come to me; so they are really tightening it up.

Petersen: On the question of institutional memory, is there any way on your computer system that you could put kind of a "Tickler" notice on that particular file?

Howell: There isn't a way to recall it, but we can certainly and do currently put notes in our system telling us that; but you would have to fumble across it. Certainly if it came up again and we saw it, we could go in and pull it up and hopefully we'd see it. It is extremely difficult to find. (Ms. Howell gave further information that as long as that property is continuing to be farmed even though it has gone into an exempt status, the rollback tax is not charged, but she would have to keep track of it

and watch that property for 5 years as long as that lien goes to make sure the exempt organization farms it for 5 years. If they then I have to go in. If they are 3 years into it then I have to pick up 2 years rollback. It is extremely difficulty to do.

Petersen: But it is something that you already do.

Howell: It is something that we already do; we only have a couple of those.

Council member Anhder: But you all are expected the difficult things as well as the easy things!

Lemon: The really difficult part about this is that if you deal with this, we get many, many requests on green belt. If you remember, in Board of Equalization we probably have more green-belt issues that come before the Board than almost anything else.

Howell: We have many, many, many who come to us as hard as we try to get deadlines met and so on and so forth, there are always some that don't. We have to show them the law and tell them: "Unfortunately this is how it is." It becomes a very difficult situation. There are always extenuating circumstances; that's why I say: As long as we get it in by the 10th, because that is the time the tax roles close on some of these things, we can even look at it." In this situation of Price's, it is a recording of a deed; then we have to go by the January 1st lien date. That become a little more difficult.

Lemon: One of their concerns as they come to the Board of Equalization was that their intent was this not transfer until the death of Mr. Price, is that correct?

Howell: That's correct.

Lemon: Do you know why it transferred?

Howell: In talking to Cache Title's staff who worked on it ..., they asked this to be in miscellaneous; they asked for a division to be done and it was very clear to Cache Title what they were asking for. They did put reserving the right to the life of state for garniture. What that meant Aaron Price could continue farming it or using it until at what point in time he died. However, what they asked to do was to divide it... That was Cache Title's understanding. Now there might have been a mis-understanding between what Price's wanted and what Cache Title could do, but I have to go. Plus they said: "We would never have done it that way had we know the property was in green belt, but we were not informed of that because we don't do miscellaneous title work if the property is in green belt. We always have to do title insurance because of the 5-year lean." So, they would not have done it that way had it been disclosed to them the property was in green belt.

Chairman Gibbons asked for comment from Mr. Price.

Comments:

Quinn Price: I guess on this part I must have gotten a little confused. All I wanted to do was keep this land in our family by dividing our property. I didn't know anything about the green belt stuff. I didn't know it had transferred. I had gotten it back into all of this before the end of the year, but the confusion kept going; I thought it was some mistake that this land shouldn't have transferred. I just want to put it back in his name until his death. It wasn't until after the deadline, I guess the end of the year, that we realized that it wasn't so that it had to be transferred and the only way to undo it was to put just put it back into his name, which is exactly what we did. Nothing has changed to the land; it still being farmed. He still farms it. It is all there together. The piece that broke out is next to the house and so our idea was to extend it; so, nothing has really been changed on it. I guess we missed the deadline, so I guess it obviously was changed.

Vice Chairman Beck: I was in the hearing that Prices attended and it was my opinion and my recommendation to them that they appear before this board and ask for an abatement because I felt like their intent was not to roll it out of green belt and develop it. I believe that the intent was to have the land transferred when his father died and not until that time.

Price: I had no intent to develop the land.

Beck: Yes, the law says that on the 1st day of January current is how it is taxed and is how it is divided. I guess I was looking at it in the Spirit of the law as opposed to the letter of the law.

Council member Petersen moved to abate the taxes. Council member Yeates seconded the motion.

Further Discussion:

Beck: What they are requesting is that they have the rollback tax abated and that the current taxes be as if it would have stayed in green belt all along..

Petersen: My motion is for both.

Vote was unanimous all members voting in favor.

APPEAL TAX ABATEMENT - YUN KIM

History: This abatement is for a piece of property that is 27 acres and has continually been farmed. This property had been in green belt for a number of years. On September 9, 1999, the deed was changed moving the property into a trust. Certainly still the same people, but it is a different legal

ownership when you put it into a trust. Because of that the law requires the person to resign the property into green belt; remember this was in 1999 that this was done.

These individuals did not contact our office. In March of 2000 my staff sent a letter to them saying: "You certainly have enough acreage; do you want to keep it in green belt?" "If you continue to farm, you need to sign this application." It was never returned to us. On April 26th of 2000, we then sent another letter. I might add that any time we can find these people in the phone book and make phone calls, we do that. Again, it is not our responsibility, but we do it because we are trying to keep this property (in green belt).

On April 26th 2000 we sent another letter saying: "It's urgent! If you don't get this back in to us, we have no choice but to take it out and we did. When it came time for us to close the role, which is by law to be done the 22nd of May, we then had to remove the property from green belt and charged the rollback tax.

On the 15th of June we received a phone call from Wendy Kim to our office telling us that she did have an application in her hand;. (We were passed the deadline and the role was closed.) and she was coming back. They were out of the country and they wanted to come in July and sign it. This point in time is long passed; the role is closed; the dates have passed. The property had not been signed back into green belt; so, we had taken it out and attached the rollback tax to the real property.

She and her husband came in July and signed the property into green belt at that point in time. In doing it in that time frame, all we do now is sign it back in for the next year, 2001. Truth in taxation notices were mailed out. No appeals were made. Tax notices then went out. At that point in time, they contacted the Treasurer's office and several offices saying: "Wait! We intended for this to stay back in green belt." Now we are in tax-payment time and that rollback tax had already been attached. Included in the letter that I had Dixie type up, we talked about in there the change of ownership because that becomes very confusing to people.

A trust is a different legal ownership. Anything that changes the deed of registration means that you have to start over. The reason why this matters is because when we do taxes, we define the legal tax. We are now in 2001; the property is back in the green belt; but because it was interrupted in the year 2000, it came out of green belt and they were charged taxes at market value and also rollback taxes were attached.

Council member Petersen verified that Mr. And Mrs. Kim were out of the country because they were on assignment from the University not just for vacation. Mrs Kim was at the meeting and plead her case to the Council explaining that her husband was on assignment in Bancock, Thailand for a Utah State University project for 5 year.

Mrs. Kim stated that they had been residing in Thailand and their neighbors were forwarding all the important mail express mail; but mail situation is really bad in Thailand and they did not receive this mail. When they came back to the United States the end of June, Mrs Kim called the Assessor's office and they told her to sign the form with your husband and bring it back to their office, but my husband was not here yet; so after he arrived we both signed and notarized and sent it back.

They bought the land for retirement and never intended to sell it. The rollback taxes are for \$6.500. Nothing has been changed. Still farming.. As for ownership, still we are trustee. We were not aware of all of those kinds of deadlines or what has to be done or anything like that.

Discussion:

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Chairman Gibbons: How long were you here last Summer?

Wendy Kim: We usually are here about 10 days to 2 weeks; so, we sent our application in and they sent it back for us.

Gibbons: Did they talk to you at all at that time about the need to appeal?

Kim: Nobody told us. If I had really known these things, we obviously could do it.

Gibbons: What's your offices policy on that Kathleen?

Kathleen Howell: Right on the application it says that it is in for 2001, and there is a comment at the bottom that says: "This did not get back in time to put it in for the year 2000." We don't instruct anyone of their appeal rights at that time.

Gibbons: No, but that comes when the tax notice is sent.

Lemon: You're saying you didn't get to truth of taxation notice?

Kim: No. We didn't get anything. On November this notice came and then obviously because we were stationed over seas we asked our daughter, Gloria, who was stationed and worked in New York, to pay our tax. So that's why our neighbors forward it to her. I had told her that tax office believed that taxes on this land would be less than \$1,000. When she was told it was for \$4,300, she called the County office and that was late last November.

Petersen: It seems to me on the last one if there was really no intent to change things, the intent is even less with the Kims. It is the same property. All they did was do some retirement planning. For them to be hit wit a \$4,300 bill seems unfair to me.

Council member Petersen moved the abatement of the tax. Council member Yeates seconded the motion.

Further Discussion:

Vice Chairman Beck: The only difference in the two cases that I see is that the Prices did make the appeal in the time frame dates. Again that is a technical issue.

Petersen: It is, but it is a very tough situation being in Thailand and not receiving the mail. If I were making this change, I understand that ignorance of the law is no excuse, but I certainly wouldn't have known that in making a name change that I would have to go through a process on this. It probably would have never occurred to me.

Council member Anhder: But they had used an attorney or somebody to do that, they would have told them.

Petersen: Yes., the attorney should have told them that, but--

Council member Hansen: You know. I had the same experience years ago; and my attorney said to me three times before I walked out the door: "You know; you've got about a month to do this." I had some really good instructions and that's why I did it.

Howell: I think; one thing you have to remember is that this is a privilege. Not all tax payers have this. When taxpayers sign up for it., they take some responsibility in making certain they still meet the qualifications. This is a huge reduction in taxes. I don't think this is something that should be taken lightly. I agree with what's been said, but I clearly think we have got to look at the impact that this decision has on all other cases. If we are not going to uphold lien dates, deed recardations, then we might as well put the whole code book in the trash can and go home!. If we are doing it by the spirit of the law; let me operate by the spirit of the law and I'll abate everything and I'll abate everything. There are lot of people that I would like to help. I think we have to be very, very careful in our decisions. I am going to be sending all of the people who come crying to my desk when I have to show them the law. This is not something that you take lightly. On the application they sign initially, it is very clear to them what is required to them. It is to be signed and notarized. This is a legal document. The Kims have owned property in several other counties. All of this knowledge applies on your property when you receive notice. I think; as a property owner, you have the responsibility to make sure that you are receiving that mail. We are doing things beyond was we are supposed to do to get the taxpayers to get the taxpayers notices. We do that because like Mr. Petersen said they don't understand it. We try to get that to them, but it can't be our responsibility to make certain that everybody does receive their mail, that they have arranged when they leave the country that they are getting their mail. Lots of us know that. As far as me personally, I don't care if you abate all of the taxes; but this has a far-reaching affect on decisions we are making here when we start not following what the code says.

Petersen: I disagree totally. I think this is an easy case. Abatement really goes beyond the law issues of fairness. There is no question but what this land is used by agricultural purposes. There is a legal technicality on name change. The question is you have a responsible to get your mail. Okay, what do you do in Thailand. They had their mail sent to them by express mail. Wendy is saying they had occasions where the mail didn't get to them. It is not as though they didn't make the attempt to get the mail. It is not a certainty they wouldn't have been responsive on this. I believe they literally they did not get the notice on this. I just can't see giving them a \$4,000 hit.

Lemon: I agree with what you are saying, but I believe the problem that we are faced with is that we have hundreds of people if not thousands that say they didn't get their notices. We have people coming to us and saying: "I wanted to appeal but I didn't get a notice." After the deadline, we say: "We're sorry but the law provides for a deadline." The Council sees very few cases, but we deal with them all the time where people are saying we didn't get a notice.

Howell: She did get a notice. The notice she signed was dated March 3. She brought it; If she would have mailed it the date would have been March 3.

Gibbons: If we deny the request and you appeal it to the State Tax Commission. You have that right. What do you think the State Tax Commission will do?

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Tamra Stones: That have missed that window.

Howell: Let me explain. This is a 2000 appeal.

Kim: This is such a simple procedure; we are responsible people. Why would we not comply? Would you reconsider our case? This is something different from other people. Other people stay here; they don't comply. We didn't know these things. If we new, we certainly would comply. Our circumstance had prevented us from knowing.

Petersen: I know Dr. Kim. He is a very sophisticated and informed person I cannot believe that he would simply space this out, if he had known.

Beck: The attorneys that drafted your trust documents wouldn't have advised him about this?

Kim: That was quite some time ago and if they had said something of course we would comply. Simply we didn't know because nothing has been changed. That is an awful lot of money from \$100 to \$4,500.

Council member Yeates: I was going to say. I budget will be unbalanced.

Chairman Gibbons called for a question on the motion to abate:

The vote was 3 "yes" 4 "no".

KIMS	ANHDER	BECK	GIBBONS	HANSEN	PETERSEN	ROBISON	YEATES	VOTES CAST
AYE				X	X	X		3
NAY	X	X	X				X	4
ABSTAINED								
ABSENT								

Gibbons: I can even see this circumstance happening to me; and yet I would be afraid that even if I didn't comply with the law, I would be subject to the law. I think I will vote no.

Petersen: That's absurd! It really is! To dock these people \$4,000 from a mistake that they didn't have control over. The purpose of this group is to provide fairness into this proceedings. That is simply not fair. If they had no way of knowing about this, how could you expect them to do it. There ought to be some degree of mercy here. How can you vote for the last one and not for this one?

Gibbons: Craig, let me ask you a question. If you were to receive an assignment by the University in France, would you make arrangements so that you received your mail and documents?

Petersen: As did the Kims. I think Wendy explained that they had them sent by expressed mail. She has also explained that sometimes the mail doesn't get there. I have no trouble believing that. I know enough about Thailand to know that is easily possible to occur.

Gibbons: But did you make arrangements for that to come regularly or did it come in packages say every two months?

Kim: Mail comes whenever there is important mail sort out and then sent to us. Two express mails a bunch of them everything that created together was lost. In the mail situation communication is way behind what it should be.

Gibbons: I suspect that's true.

Howell: Let me state again. If you are going to base your decision on when she had received the mail, on June 15th when she came to our office, she had the mail in her hand. She had received it. This was the notice she signed that was printed March 3rd. I did not put that date in; the computer does it.

Kim: This mail was not important. That's why when I came back in June, that was left in my pile of the mail.

Gibbons: That's the question I ask. How do you make the determination of what mail is important and what isn't. Somebody has to make that decision. Who made that decision?

Kim: My neighbor.

Gibbons: You mean to tell me that he receives his tax notices; but when yours came, he didn't think it was important enough to send?

Kim: No. What I am saying is that he sort the mail and then give to my sister; and then my sister sort out --so both screen and then important mail to us.

Howell: But the cover letter goes with this telling you that has to be done. This one was not lost.

Kim: This one was not lost.

Gibbons: It was never sent.

Chairman Gibbons moved to reconsider the motion. Council member Yeates seconded the motion. The motion carried all members voting in favor. (Anhder absent)

Further discussion:

Council Meeting
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Beck: The only real difference that I see and it is a technicality and that is filling the appeal with the Board of Equalization at a proper date. The think that costs the county in this deal is that we have already paid out taxes to the school district and to all of these other entities on the Kims case. We have not done that on the Price case because of the timing issue. So, if this Board abates these taxes, the County is the one that has already paid these out to the Cities. I guess that we could make an attempt to collect it back from them but the likelihood of getting it would be next to nothing.

Petersen: I still think this issue is one of fairness to the Kims. You know with the other one there was all kinds of shuffling of deeds, etc. This is 27 acres of ground that has been in green belt since 1986. Absolutely no question is being formed about size. The single issue is that they decided to do some retirement planning and they changed the name. They are out of the country and they missed the legal deadline. Is it fair to hit them with \$4,000 of taxes for that.

Yeates: This is something that you need to address with the legislature and change this part of it. This situation is ridiculous.

Howell: I agree, but that is why those provisions are there.

Gibbons: As far as I can see the problem is that they still own it only they own it under a different name.

Beck: The challenge with this case is simply tat the county has already paid this money out to the cities, the schools, and it is a timing issue. With the previous case, they met filing deadlines for the Board of Equalization hearings and we have not paid that money out to the cities and to the counties. I agree that this is a similar case in the sense of the spirit of the law but –

Petersen: But in terms of timing, also remember that the Prices were here in Cache Valley the whole time and the Kims have been in Thailand for 4 years.

Yeates: If Prices were notified prior and never responded. With the Kim's situation over there, I can understand why they didn't respond.

Council member Petersen motioned to abate the taxes. Council member Robison seconded the motion. Vote was 5 -1. (Anhder absent)

KIMS	ANHDER	BECK	GIBBONS	HANSEN	PETERSEN	ROBISON	YEATBS	VOTES CAST
AYE			X	X	X	X	X	5
NAY		X						1
ABSTAINED								
ABSENT	X							1

THE COUNCIL ADJOURNED FROM BOARD OF EQUALIZATION.

CACHE COMMUNITY FOUNDATION-PURCHASE OF DEVELOPMENT RIGHTS: CINDY HALL

Ms. Hall realizes that the Council is aware that the Cache County Agriculture Heritage Initiative is an effort to establish a purchase of development rights program for Cache County and that they are also aware of the challenges of financing such a program.

Hall told the Council that they are pursuing a sales-tax option which was suggested in the last Council meeting. Representative Buttars and Senator Hillyard have been are working on the details of how to get that to the legislature. We will also be working with the League of Cities and Towns and the Associations of Counties. Tomorrow I am meeting with the Quality of Growth Commission on an application that I submitted to them to help set up the program to do the necessary education and to do the poll that we talked about to establish what the local opinion is toward property tax.

Another method of financing that program is through chargeable donations. The County has a 501.C-3 Foundation that has already been set up for a special projects. I am requesting that we add this Agricultural Heritage Initiative as a project within that 501.C-3 Foundation so that people can make charitable donations for us through that program.

Chairman Gibbons asked if the Foundation would own the contribution. Ms. Hall responded that it could either be the Foundation or it could be the County. The 501-C-3 allows people to make the charitable donation. Also the conservation of easements can be a charitable donation.

The decision was made to put this item on the next agenda and to receive a legal opinion before that time.

CDBG REQUEST FOR SPONSORSHIP - DISCUSSION:

Executive Lemon explained that the Neighborhood Non-Property Housing Organization was the only entity that came to the Council for CDBG sponsorship. They may raise their request from \$140,000.00 to \$180,000.00 because they think the property is going to cost more money. Lemon asked for the opinion of the Council in regards to their desire to sponsor this group for the next year.

The Council approved the sponsorship.

AIRPORT EASEMENT : LYNN LEMON

Executive Lemon stated that he has been working with Hyde Park City for sometime to come to an agreement as it relates to the Airport. Several years ago the County Council voted to close 3700 North. As part of that Lemon had recommended on the part of the County, that we would build a road on the East side of the runway from 3700 North to 4200 North if Hyde Park acquired the right-of-way. They have had a difficult time acquiring that right-of-way. He did approach the Council earlier this year and asked of the County to consider funding to buy that right-of-way and you had indicated that you were not interested. They have ask to bring this question before the Council again. A couple of the property owners want to be paid for it rather than to donate it. They would like us to buy that right-of-way, and then when it develops, they would charge an impact fee and give it back to us at that time.

Council member Yeates moved to deny their request. If they get the right-of-way, we will build the road and that we are not going to assume further financial responsibility in this matter. Council member Petersen seconded the motion. Vote was unanimous all members voting in favor. (Anhder absent)

FORREST SERVICE PAYMENTS TO COUNTIES AND SCHOOLS: LYNN LEMON

The proposal made earlier this year was to stay with the old plan where we would receive 25 percent or we could go with this new guaranteed plan for a 6-year period. It was felt that the County ought to stay with the old plan because of the option every two years to change if they desired into this new change program. If the County were to go with the new program, they would be obligated for a 6-year period.

Vice Chairman Beck moved to stay with the old plan for the next two years. Council member Yeates seconded the motion. Vote was unanimous all members voting in favor. (Anhder absent)

UTAH STATE UNIVERSITY HOMECOMING PARADE:

The homecoming parade will be on the 20th of October at 10:00 a.m.

**CONSOLIDATION OF ELECTED OFFICES/CREATION OF PUBLIC WORKS DEPARTMENT
COMMITTEE REPORT: GENE KARTCHNER**

Mr. Kartchner told the Council that it was felt now at this point in time we have a window of opportunity to change and to make some significant improvements to our governmental structure. This can be correlated with and greatly enhanced by the construction of the new (Administration) building that is coming on board for the County. The committee was unanimous in it's approval with it's recommendations as they were set forth in this report. The name of those who were on the committee were listed on the cover letter of the report.

(Report is on file in the Clerk's Office)

As far as the benefits and the recommendations are concerned, it was felt that the cost on the basis of the long-run financial gains may offset any short-run cost effects. Consolidation of departments and putting those departments physically together would be beneficial to promote cross training between various functions. It was also felt that the budgeting process can be simplified or improved by using the representatives to deal with all the areas within the new divisions. Design and allocation in space of the new building could be one of the first activities that the "Coordinating Council" could do by getting together and working on the design and layout for the new building.

Chairman Gibbons thanked the committee for all the effort they had put into this. He asked if the Council was comfortable with holding public hearing prior to having and discussion on the committee's recommendations. Council member Robison responded that it should be done. In order to hear what the public had to say.

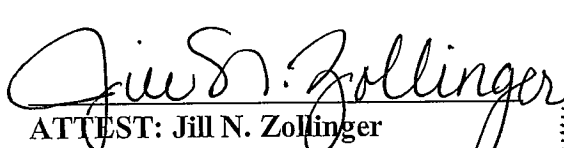
Chairman Gibbons scheduled a workshop with the Elected Officials and the County Council for next Tuesday, September 18th at 5:00 p.m. in the Sheriff's training room. Also one or two representatives of the Committee were invited.

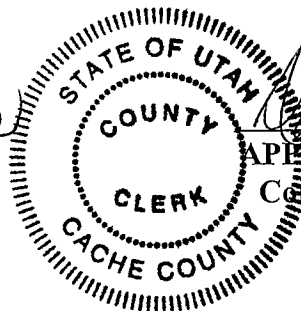
COUNCIL MEMBER REPORTS:

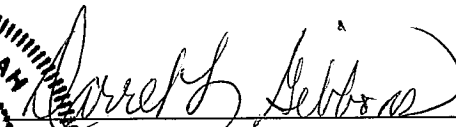
Chairman Gibbons: In regards to the Armory question, Chairman Gibbons made known to the Council that Russ Akina had gotten back in touch with the Logan City Council. Alan Allred called Chairman Gibbons and they would like to have a join meeting with our Council and schedule Col. Frandsen to come in and meet with both bodies. The meeting date and time to pursue was decided to be 4:00 p.m. prior to the next Council meeting, September 25, 2001.

ADJOURNMENT:

Chairman Gibbons adjourned the Council meeting at 8:30 p.m.


ATTEST: Jill N. Zollinger
Cache County Clerk




APPROVAL: Darrel L. Gibbons
Council Chairman

REQUEST FOR INTER-DEPARTMENTAL BUDGET TRANSFER

DEPARTMENT: CPDO
 DATE: 30-Aug-01

Amount to be transferred -- (rounded to the nearest dollar) \$1,300.00

Transfer From ---
 Line Item No. : 27-4181-290
 Fund Designation: Rent

Original Budget:	<u>\$2,400.00</u>
Current Budget:	<u>\$2,400.00</u>
Expenditures to date:	<u>\$0.00</u>
Balance before transfer:	<u>\$2,400.00</u>
Balance after Transfer:	<u>\$1,100.00</u>

Transfer To ---
 Line Item No. : 27-4181-620
 Fund Designation: Misc Services

Original Budget:	<u>\$500.00</u>
Current Budget:	<u>\$500.00</u>
Expenditures to date:	<u>\$300.00</u>
Balance before transfer:	<u>\$200.00</u>
Balance after Transfer:	<u>\$1,500.00</u>

Description of needs and purpose of transfer ---
to pay for costs of APA conference to be held in Logan. Expenses to be reimbursed by APA.

[Signature]
 Department Head

Recommendation: [] Approval [] Disapproval
 Comments:

Date: 08/30/2001

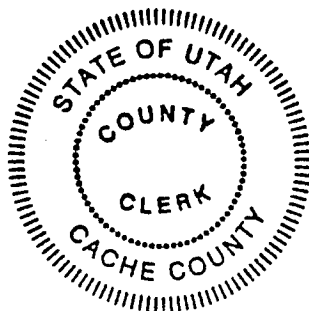
Jamra Stone
 Cache County Auditor

Recommendation: [] Approval [] Disapproval
 Comments:

Date: 9/10/2001

M. [Signature]
 Cache County Executive

Consented by the Cache County Council meeting in regular session on the 11th day of September, 2001.



[Signature]
 Cache County Clerk

LIMITED USE EASEMENT

KNOW ALL MEN by these presents: that **REED C. JENSEN and KARL A. JENSEN LAND HOLDING CO.**, a Partnership, (hereinafter called "Grantor") in consideration of One Dollar and other good and valuable consideration paid by **BRUCE PETERSEN, LYLE D. SCHNEIDER, ROY BROWN and JACK BROWN**, (hereinafter called the "Grantees") the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, transfer and convey to said Grantees, their successors and assigns, a right-of-way easement along an existing roadway 30 feet in width for a right of ingress and egress over Grantor's land the location of which is described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter "easement").

This easement is for the benefit of and appurtenant to adjacent lands owned by the Grantees and Grantor and shall constitute a covenant running with the land for the benefit of the Grantees, their successors and assigns.

This easement shall have the following limitations and restrictions:

1. The easement may be used for the passage of the Grantees' livestock when being driven to and from the lands of the Grantees. There shall be no overnight camping on the easement and no grazing of livestock beyond the bounds of the easement while trailing livestock to and from the lands of the Grantees.
2. Only the Grantees, their employees and invitees may use the easement for the purposes described herein.
3. The easement may be used to access the land of the Grantees for agricultural and ranching purposes only and not for private residential or general recreational purposes except that the Grantees may use the easement to access their lands for hunting and fishing by guests or invitees of the Grantees. The easement may not be used to access lodges, homes or improvements which do not currently exist.
4. No improvements repairs or upgrades may be made to the existing roadway easement without the consent of the Grantor, its successor and assigns.
5. Should the Grantees subdivide their property for the purpose of development, whether for recreational, camping or residential purposes, the easement may not be used to access such development or improvements.

6. The Grantor reserves the right to place gates, cattle guards or other improvements as they deem necessary in order to maintain and safeguard their livestock and ranching operations and such gates may be locked with a key or combination being provided to the Grantees.

Should the Grantor waive any of the above restrictions for a specific purpose, such waiver shall not be considered a license or right to continue to violate such restriction.

DATED this ___ day of September, 2001.

**REED C. JENSEN and KARL A. JENSEN
LAND HOLDING CO., PARTNERSHIP**

By: _____
REED C. JENSEN
Partner

By: _____
KARL A. JENSEN
Partner

STATE OF _____)
County of _____)

On this _____ day of September, 2001, before me, a Notary Public in and for said State, personally appeared REED C. JENSEN and KARL A. JENSEN, known or identified to me to be the general partners of the REED C. JENSEN and KARL A. JENSEN LAND HOLDING CO., a Partnership, that executed the instrument or the person who executed the instrument on behalf of said Company and acknowledged to me that such Company executed the same.

NOTARY PUBLIC FOR THE STATE OF
Residing at:
Comm. Exp:

EXHIBIT "A"

Those portions of Sections 10, 13, 14, 15, 23 and 24 of Township 8 North, Range 1 East, Salt Lake Base and Meridian, through which the below-described easement runs:

A 30 foot wide right-of-way for a road being 15 feet on each side of the following described centerline: Beginning at a point 1050.0 feet South 1°45'43" West along an existing quarter section line fence from an existing fence corner assumed to be the North quarter corner of said Section 18; and running thence South 87°05' West 250.0 feet; thence South 38°17' West 265.0 feet; thence South 85°58'05" West 363.3 feet; thence North 77°19'38" West 313.3 feet; thence North 87°08'41" West 203.1 feet; thence North 65°22'40" West 395.4 feet; thence North 89°05'22" West 225.9 feet; thence South 73°27'58" West 169.4 feet; thence South 34°31'59" West 351.3 feet; thence South 42°16'54" West 304.0 feet; thence South 32°08'27" West 212.0 feet; thence South 65°27'04" West 46.6 feet; thence South 61°09'59" West 31.4 feet; thence South 25°59'20" West 390.9 feet; thence South 38°47'39" West 133.8 feet; thence South 69°03'20" West 290.0 feet; thence North 89°54'33" West 208.0 feet; thence South 47°52'10" West 213.7 feet; thence South 40°35'31" West 362.7 feet; thence South 26°43'58" West 349.3 feet; thence South 26°31'36" West 284.1 feet; thence South 40°40'30" West 292.2 feet; thence South 38°53'08" West 415.4 feet; thence South 62°06'18" West 157.2 feet; thence South 29°55'35" West 251.5 feet; thence South 53°50'31" West 301.5 feet; thence South 31°49'54" West 285.5 feet; thence South 18°25'41" West 187.5 feet; thence South 62°02'50" West 582.8 feet; thence South 53°46'53" West 184.1 feet; thence South 36°42'32" West 241.3 feet; thence South 49°24'23" West 247.3 feet; thence South 69°59'10" West 235.0 feet; thence South 58°03'55" West 374.0 feet; thence South 69°10'51" West 156.3 feet; thence North 77°53'30" West 54.4 feet; thence South 77°55'23" West 360.8 feet; thence North 76°38'37" West 373.1 feet; thence North 45°47'38" West 303.9 feet; thence North 31°46'58" West 591.6 feet; thence North 68°34'42" West 422.8 feet; thence North 60°06'12" West 479.0 feet; thence North 89°20'23" West 485.0 feet; thence North 47°05'54" West 622.9 feet; thence North 89°09'17" West 408.7 feet; thence North 61°13'03" West 586.1 feet; thence North 43°08'10" West 901.5 feet; thence North 47°26'47" West 280.0 feet; thence North 86°59'13" West 191.1 feet; thence South 72°20'21" West 209.2 feet; thence North 78°36'05" West 261.6 feet; thence North 68°10'26" West 239.6 feet; thence North 53°33'50" West 190.3 feet; thence North 21°10'50" West 202.4 feet; thence North 68°01'26" West 85.5 feet; thence North 22°42'40" West 195.4 feet; thence North 48°25'31" West 243.9 feet; thence North 35°43'18" West 202.2 feet; thence North 3°26'56" West 249.1 feet; thence North 36°31'37" West 663.8 feet; thence North 22°58'21" West 139.4 feet; thence North 38°58'13" West 379.6 feet; thence North 63°42'37" West 243.0 feet; thence North

(continued)

Exhibit "A" Continued

79°09'02" West 191.3 feet; thence South 83°21'52" West 199.0 feet; thence North 73°54'04" West 1206.3 feet; thence South 89°25'28" West 316.2 feet; thence North 72°45'03" West 1052.2 feet; thence North 36°56'19" West 395.6 feet; thence North 54°29'19" West 442.9 feet; thence North 23°07'53" West 272.8 feet; thence North 57°40'17" West 43.2 feet; thence North 72°03'07" West 49.8 feet; thence North 10°08'15" West 113.6 feet; thence North 0°32'05" East 108.6 feet; thence North 23°28'33" West 318.6 feet; and North 65°25'03" West 309.6 feet to the center of the Liberty-Avon Road being 1377.6 feet North 23°11'50" East from an existing brass cap monumenting the Southeast corner of said Section 10.

CACHE COUNTY, UTAH
ZONING ORDINANCE
CHAPTER 1

TITLE, PURPOSE, DECLARATION OF INTENT AND EFFECTIVE DATE

Section 101. Short Title.

This Ordinance shall be known as the Cache County land Use Ordinance. The Cache County Land Use Ordinance may, in subsequent sections, be referred to as "Ordinance," "the Ordinance," or "this Ordinance."

Section 102. Authority.

The Cache County Council adopts this Ordinance pursuant to The County Land Use Development and Management Act, Title 17, Chapter 27, of the Utah Code and all other authorities and provisions of Utah statutory and common law as applicable.

Section 103. Purpose.

The purpose of this Ordinance is to implement the goals and policies of the Cache County Countywide Comprehensive Plan, as amended. This Ordinance contains standards, provisions and requirements intended to protect the health, safety and welfare of the citizens of Cache County by ensuring that County residents are protected from potential negative impacts in the development and use of land and other resources. It is the intent of this Ordinance to provide a means of ensuring predictability and consistency in the use of land and individual properties, and to guide and direct the development of land.

These purposes are met by:

- (1) Providing a means of implementing the various policies of the Cache County Countywide Comprehensive Plan;
- (2) Guiding the growth and development of the County in an orderly manner;
- (3) Guiding the more intense development to areas of the County having the necessary services and facilities sufficient to meet the demands of the proposed development;
- (4) Promoting the public health, safety and general welfare by regulating the location and use of buildings, structures and land;
- (5) Protecting landowners from potential adverse impacts from adjoining uses; and

Draft Only
As recommended to the County Council

building permit. The permittee shall proceed only in accordance with the approved Zoning Clearance and any required and approved valid building permit.

For any construction exempt from the requirement for a building permit, as allowed by State law, the Zoning Administrator shall require a Zoning Clearance and the submission of information necessary to ensure compliance with the provisions of State law and this Ordinance.

Section 107. Building Codes and Permits.

The adoption and enforcement of building codes serves the public interest by providing for the inspection of structures for structural stability, fire resistance, adequate ventilation and other safety and sanitary features.

- (1) **Building Permit Required.** Construction of any building or structure or any part thereof, including all structures or uses of which plans have been approved as part of a development approval shall not be commenced or proceeded with until a building permit is obtained from the County's Building Official, unless exempt by the provisions of the County's Building Codes or State law, including agricultural buildings to the extent exempted by the provisions of §58-56-4 (U.C.A.).
- (2) **Code Compliance.** All structures requiring a building permit shall comply with the requirements of the County's Building Codes, as adopted.
- (3) Prior to issuance of a building permit, the applicant may be required to post a bond or provide other financial security, in such form and sum as required by the Zoning Administrator or County Building Official, and approved by the County Attorney, with sufficient surety running to the County to offset any costs or expenses associated with the abatement of debris and material associated with construction activities on and off the site.
- (4) Any person aggrieved by a decision of the County Building Official in the administration of the County's adopted Building Codes may appeal such decision as provided by the provisions of the County's Building Codes.

Section 108. Conflicts.

This Ordinance shall not nullify any law, ordinance, agreements or covenants which are more restrictive, but shall prevail notwithstanding such provisions which are less restrictive.

Section 109. Exemptions.

To the extent provided by law, the following properties shall be exempt from the provisions of

Draft Only

As recommended to the County Council

this Ordinance;

Properties owned and operated by the State of Utah or the Federal Government. Where law requires that the agency of Federal or State Government take steps to comply with all applicable local regulations, this exemption shall not be construed to abrogate this requirement.

Section 110. Repeal of Existing Ordinances and Effective Date.

The Land Use Ordinance of Cache County dated 18th December 1990 (Ordinance Number 90-15), and any and all other Ordinances of Cache County in conflict with the provisions and requirements of this Ordinance, with all subsequent amendments as codified, together with any maps which are part of such Ordinances are hereby superseded, repealed and amended to read as set forth in this Ordinance, and adopted by the Cache County Council through Ordinance No. ____

Section 111. Effect (Severability).

The provisions of this Ordinance shall be construed to carry out the purposes of this Ordinance and the Cache County Countywide Comprehensive Plan and to avoid conflict with the laws of the United States of America, the State of Utah or any other limitation imposed by law. If any section, provision, sentence, or clause of this Ordinance is declared unconstitutional by a court of competent jurisdiction, such determination shall not impair the validity of the remainder of this Ordinance which shall remain in full force and effect.

CACHE COUNTY, UTAH
ZONING ORDINANCE
CHAPTER 2
INTERPRETATION OF REQUIREMENTS AND PROVISIONS

Section 201. Interpretation.

In the interpretation of this Ordinance, all provisions shall be:

- (1) Liberally construed in favor of the Cache County Council; and
- (2) Deemed neither to limit nor repeal any other powers granted under State statutes.

The following rules shall be observed in the application and interpretation of this Ordinance, except where the context clearly requires otherwise:

- (1) The words “shall” or “must” are mandatory. The words “should” and “may” are permissive.
- (2) Words used or defined in one tense or form shall include the other tenses or derivative forms.
- (3) Words used in the singular shall include the plural; words used in the plural shall include the singular.
- (4) Words referencing gender shall be considered to be gender neutral.
- (5) In the event of a conflict between the text of this Ordinance and any maps, illustrations, captions, figures or other material, the text of this Ordinance shall control.
- (6) The word “includes” shall not limit a term to the specified examples, but is intended to provide guidance.

Section 202. Rules for Interpretation of Zoning District and Overlay Map Boundaries.

In the event of the need to resolve a dispute pertaining to the boundary or location of a zoning district, or overlay map boundary, the Board of Adjustment (BOA) shall have the authority and jurisdiction to render a written determination of the applicable boundary. The BOA shall take into consideration the following criteria in rendering such determination:

- (1) The policies and development standards pertaining to such zoning district or overlay.

- (2) Where a zoning district or overlay map boundary is shown following a road, right-of-way line, interstate highway, public utility right-of-way, railroad line, a stream or watercourse or a line located midway between the main track of a railroad, the zoning district or overlay map boundary shall be deemed to be changed automatically whenever such center line is changed by natural or artificial means.

Section 203. Interpretation of Authorized Permitted or Conditional Uses.

The Zoning Administrator shall have authority to interpret and render a written determination as to whether a proposed use is similar to and consistent with the permitted or conditional uses of the applicable zoning district as contained in the Table of Uses. The Zoning Administrator shall consider the following in rendering such interpretation:

- (1) Consistency with the purpose and intent of the policies and development standards pertaining to such district as described in this Ordinance.
- (2) Whether the proposed use is substantially similar to other uses allowed in the Zoning District.

Decisions of the Zoning Administrator determining whether a proposed use is similar to the permitted or conditional uses of the applicable zoning district shall be appealed to the Board of Adjustment (BOA).

Section 204. Amendments to Table of Uses.

If the Zoning Administrator determines that the proposed use is not consistent with the purpose and intent of the policies and development standards pertaining to such zoning district described in this Ordinance, or is not similar to another use allowed within the zoning district, the applicant may apply for an amendment to this Ordinance by following the procedures as identified in Section ____ of this Ordinance.

**CACHE COUNTY, UTAH
ZONING ORDINANCE
CHAPTER 3
ADMINISTRATION**

Section 301 Decision Making and Administrative Bodies:

The decision making bodies and officials identified in this Ordinance have responsibilities for implementing and administering this Ordinance.

Section 302 Cache County Council:

The Cache County Council ("County Council") shall have the following powers and duties:

1. To adopt the Cache County Countywide Comprehensive Plan, and any amendments thereto.
2. To adopt the Cache County Zoning Ordinance and any amendments thereto, including text and zoning map amendments.
3. To adopt the Cache County Subdivision Ordinance and any amendments thereto.
4. To approve, approve with conditions, or deny applications for rezones as provided herein.
5. To appoint a hearing officer to render a determination pursuant to Chapter ____ of this Ordinance.
6. To designate the Zoning Administrator to decide routine and uncontested matters which otherwise would be heard by the BOA, pursuant to Chapter ____ of this Ordinance.
7. To establish a fee schedule by resolution for all approvals, permits, and licenses required by this Ordinance and the Cache County Subdivision Ordinance.
8. To take such other action not expressly delegated to the Zoning Administrator, Planning Commission, or the BOA necessary to implement the provisions of the Cache County Countywide Comprehensive Plan, this Ordinance, and the Cache County Subdivision Ordinance.

Section 303 Planning Commission:

(A) Creation.

There is hereby created and established the Cache County Planning Commission, the Benson Planning District Commission and the College-Young Township Planning Commission ("Planning Commission").

(B) Powers and Duties.

The Planning Commission shall be an advisory body to the County Council for the Cache County Countywide Comprehensive Plan, this Ordinance, and the Cache County Subdivision Ordinance. The Planning Commission shall have the following powers and duties:

1. To prepare, or cause to be prepared, the Cache County Countywide Comprehensive Plan and all amendments thereto, and to submit such to the County Council.
2. To prepare or cause to be prepared, this Ordinance and the Cache County Subdivision Ordinance and all amendments thereto, and to submit such to the County Council.
3. To recommend approval, denial, or recommend approval with conditions of applications for rezones, as provided by Chapter ____ herein.
4. To approve or deny applications for development approval as authorized by this Ordinance and the Cache County Subdivision Ordinance.
5. To adopt bylaws, policies, and procedures for the conduct of duties and meetings, for the consideration of all applications, and for any other purposes deemed necessary for the functioning of the Planning Commission provided that such bylaws, policies, and procedures are approved by the County Council before taking effect.

(C) Planning Commission Appointment, Membership, Removal, Terms, and Vacancies.

1. Members of the Planning Commission shall be appointed by the County Council upon a recommendation of the Cache County Executive.
2. The Planning Commission shall be composed of seven (7) members.
3. The County Council, upon a recommendation of the Cache County Executive, and after finding cause, may remove a member of the Planning Commission for a violation of the Ordinances of the County, Federal or State law, or any bylaws, policies or procedures adopted by the Planning Commission, following receipt of a written complaint. The

County Council shall provide the member with a hearing if requested.

4. Members of the Planning Commission may be compensated on a per diem basis, based upon meetings actually attended and reasonable and necessary expenses incurred, as determined by the County Council.
5. All members shall serve a term of three (3) years. Terms of membership shall be such that the term of two (2) members shall expire each year except the term of three (3) members shall expire every third year.
6. At an annual meeting, the members of the Planning Commission shall elect one (1) of their members as chair and one (1) of their members as vice-chair. The chair shall serve a term of one (1) year. No member shall serve as chair for more than two (2) consecutive terms.
7. The chair, or in the chair's absence the vice-chair, shall be in charge of all proceedings before the Planning Commission and shall take such action as necessary to preserve order of all proceedings before the Planning Commission.
8. In the absence of the chair and the vice chair, the members of the Planning Commission, provided a quorum of the total membership of the Planning Commission is present, shall elect one (1) of their members to serve as Chair Pro-Tem. The Chair Pro-Tem, for that meeting only, shall have the authority of the chair.

(D) Quorum and Necessary Vote.

No meeting of the Planning Commission may be called to order, nor may any business be transacted, without a quorum consisting of at least four (4) members of the Planning Commission being present. The chair shall be included for purposes of establishing a quorum and shall act as a voting member of the Planning Commission. All actions shall require the vote of a majority of the total members of the Planning Commission.

(E) Meetings.

1. The Commission shall establish a regular meeting schedule.
2. Special meetings may be requested by a majority of the County Council, the chair of the Planning Commission, or a majority of the members of the Planning Commission.
3. If a matter is postponed due to lack of a quorum, the chair shall reschedule the matter to

the next available Planning Commission meeting. The Recording Secretary shall notify interested parties and all members of the Planning Commission of the date of the meeting.

(F) Recording Secretary.

The Zoning Administrator shall appoint a Recording Secretary to serve the Planning Commission. The Recording Secretary shall keep the minutes of all proceedings of the Planning Commission, such minutes, upon approval of a majority of the Planning Commission, shall be the official record of all proceedings before the Planning Commission. The Planning Office shall maintain all records of Planning Commission meetings, hearings and proceedings.

Section 304 Board of Adjustment:

(A) Creation.

There is hereby created and established a Cache County Board of Adjustment ("BOA").

(B) Powers and Duties.

The Board of Adjustment shall have the following powers and duties.

1. The BOA shall hear and decide:
 - (a) Appeals from final administrative decisions of the Zoning Administrator applying the provisions of this Ordinance.
 - (b) Appeals from decisions of the Zoning Administrator interpreting the Zoning Ordinance as to whether a proposed use is similar to and consistent with the permitted or conditional uses of the applicable zoning district as contained in the Table of Uses.
 - (c) Appeals of decisions of the Zoning Administrator in determinations of nonconforming uses.
 - (d) Appeals of decisions of the Zoning Administrator in determinations of nonconforming lots.
 - (e) Appeals from final decisions of the Planning Commission concerning Conditional Use permits.

2. The BOA shall determine:
 - (a) Variances from the terms of this Ordinance with a finding of unreasonable hardship as required by Chapter _____ herein.
 - (b) Those matters it considers as Routine and Uncontested to be heard and decided by the Zoning Administrator as authorized by _____.
 3. The BOA may:
 - (a) Recommend to the County Council and Planning Commission revisions to the Cache County Comprehensive Countywide Plan, this Ordinance and the Cache County Subdivision Ordinance.
 - (b) Adopt bylaws, policies, and procedures for the conduct of duties and meetings, for the consideration of all applications, and for any other purposes deemed necessary for the functioning of the BOA provided, that such bylaws, policies, and procedures are approved by the County Council before taking effect.
- (C) No Authority.

The Board of Adjustment shall have not have power, jurisdiction, or authority to consider any of the following:

1. Variances to any of the standards governing approval of any development permit.
 2. Amendments to the Cache County Comprehensive Countywide Plan, this Ordinance, or the Cache County Subdivision Ordinance.
 3. To render any decision that may be identified as a use variance as defined herein.
- (D) Board of Adjustment Appointment, Membership, Removal, Terms, and Vacancies.
1. Members of the Board of Adjustment shall be appointed by the County Council upon a recommendation of the Cache County Executive.
 2. The Board of Adjustment shall be composed of five (5) members and may have two (2) alternate members. Alternate members, if appointed, have the same powers and duty of a member and shall act in the capacity of a member if a member is not present at a meeting

of the Board of Adjustment.

3. The County Council, upon a recommendation of the Cache County Executive and after finding cause, may remove any member of the Board of Adjustment for a violation of the Ordinances of the County, Federal or State law, or any bylaws, policies, or procedures adopted by the Board of Adjustment following receipt of a written complaint. The County Council shall provide the member with a hearing, if requested.
4. Members of the Board of Adjustment may be compensated on a per diem basis, based upon meetings actually attended and reasonable and necessary expenses incurred, as determined by the County Council.
5. All members shall serve a term of five (5) years. Terms of membership shall be such that the term of two (2) members shall expire each year except the term of one (1) member shall expire every third year.
6. At an annual meeting, the members of the Board of Adjustment shall elect one (1) of their members as chair and one (1) of their members as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. The chair shall serve a term of one (1) year. No member shall serve as chair for more than two (2) consecutive terms.
7. The chair, or in the chair's absence the vice-chair, shall be in charge of all proceedings before the Board of Adjustment and shall take such action as shall be necessary to preserve the order of all proceedings before the Board of Adjustment.
8. In the absence of the chair and the vice chair, the members of the Board of Adjustment, provided a quorum of the total membership of the Board of Adjustment is present, shall elect one (1) of their members to serve as Chair Pro-Tem. The Chair Pro-Tem, for that meeting only, shall have the authority of the chair.

(E) Quorum and Necessary Vote.

No meeting of the Board of Adjustment may be called to order, nor may any business be transacted, without a quorum consisting of at least three (3) members of the Board of Adjustment being present. The chair shall be included for purposes of establishing a quorum and shall act as a voting member of the Board of Adjustment. All actions shall require the vote of a majority of the total members of the Board of Adjustment.

(F) Meetings.

1. The Board of Adjustment shall establish a regular meeting schedule.
2. Special meetings may be requested by a majority of the County Council, the chair of the Board of Adjustment, or a majority of the members of the Board of Adjustment.
3. If a matter is postponed due to lack of a quorum, the chair shall reschedule the matter to the next available Board of Adjustment meeting. The Recording Secretary shall notify interested parties and all members of the Board of Adjustment of the date of the continued meeting.

G. Recording Secretary.

The Zoning Administrator shall appoint a Recording Secretary to serve the Board of Adjustment. The Recording Secretary shall keep the minutes of all proceedings of the Board of Adjustment, such minutes, upon approval of a majority of the Board of Adjustment, shall be the official record of all proceedings before the Board of Adjustment. The Planning Office shall maintain all records of Board of Adjustment meetings, hearings and proceedings.

Section 305 Zoning Administrator:

The Cache County Executive shall appoint a staff person to carry out the responsibilities of the Zoning Administrator. The staff person designated is referred to in this Ordinance as the "Zoning Administrator." It is the responsibility of the Zoning Administrator to ensure all processes, procedures and other provisions of this Ordinance are consistently and equitably applied and to effect the general administration and enforcement of this Ordinance and the Cache County Subdivision Ordinance.

(A) Duties.

The Zoning Administrator shall have the following powers and duties:

1. Make administrative decisions applying the provisions of this Ordinance as provided herein
2. Issue zoning clearances for all approvals, permits, and licenses as required herein.
3. Issue all permits not otherwise requiring approval from the Planning Commission or Board of Adjustment.
4. Provide written determinations as to whether a proposed use is similar to and consistent

with the permitted or conditional uses of the applicable zoning district as contained in the Table of Uses.

5. Render decisions on the validity of nonconforming lots.
6. Decide Routine and Uncontested matters as authorized by _____.
7. Recommend to the County Council and/or Planning Commission revisions to the Cache County Comprehensive Countywide Plan, this Ordinance and Cache County Subdivision Ordinance.

Section 306 Building Official:

The Cache County Executive shall designate a staff person to carry out the responsibilities of the Building Official. The staff person designated is referred to in this Ordinance as the "Building Official." It is the responsibility of the Building Official to ensure all processes, procedures, and other provisions of the County's Building Codes, as adopted, are consistently and equitably applied and to effect the general administration and enforcement of the County's Building Codes and this Ordinance.

(A) Duties

The Building Official shall have the following powers and duties:

1. Administer the County's Building Codes, as adopted.
2. Issue all building permits required by this Ordinance or the County Building Codes, as adopted.
3. Inspect, or cause to be inspected, all construction, modification, or repair authorized by a building permit.
4. Take all actions, as allowed by law, to enforce the requirements of this Ordinance and the County's Building Code for all construction, modification, or repair occurring without the necessary approvals and permits as required by this Ordinance and the County's Building Codes.

(B) Building Permits.

No building permit, required by this Ordinance or the County's Building Codes, as adopted, shall

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be issued by the Building Official until the receipt of a Zoning Clearance has been issued by the Zoning Administrator.

(C) Certificate of Occupancy.

No building or structure requiring a building permit shall be occupied or used until a Certificate of Occupancy has been issued by the Building Official.

CACHE COUNTY, UTAH
ZONING ORDINANCE
CHAPTER 4
MEETINGS AND NOTICE

Section 401 Public Meetings:

All meetings of the County Council, Planning Commission, and Board of Adjustment required by this Ordinance shall comply with the requirements of the Open and Public Meetings provisions of §52-4 et. seq. Utah Code Annotated, 1953, as amended.

Section 402 Public Hearings Required:

(A) County Council. The County Council shall schedule and conduct a public hearing on the following matters prior to making a final decision:

1. Adoption of the Cache County Countywide Comprehensive Plan and any amendments thereto.
2. Adoption of the Cache County Zoning Ordinance and any amendments thereto, including text and zoning map amendments.
3. Adoption of the Cache County Subdivision Ordinance and any amendments thereto.
4. Applications for rezones, as provided herein.

(B) Planning Commission. The Planning Commission shall schedule and conduct a public hearing on the following matters prior to transmitting a recommendation to the County Council, as required herein:

1. The Cache County Countywide Comprehensive Plan and any amendments thereto.
2. The Cache County Zoning Ordinance and any amendments thereto, including text and zoning map amendments.
3. The Cache County Subdivision Ordinance and any amendments thereto.
4. Applications for rezones, as provided herein.

Section 403 Public Hearing Notice:

(A). Minimum Notice Requirements. The County Council and Planning Commission shall provide notice of Public Hearings required by this Ordinance, or the laws of the State of Utah, by:

1. At least fourteen (14) days prior to the Public Hearing, posting notice of such Public Hearing in three (3) public places, located in Cache County.
2. At least fourteen (14) days prior to the Public Hearing, providing notice of such Public Hearing in a newspaper of general circulation within the County.
3. At least fourteen (14) days prior to the Public Hearing, providing notice to the legislative body of each incorporated municipality within Cache County.

(B) Additional Notice Requirements for Rezone Applications. In all matters requiring a Public Hearing and involving a subject property, the County Council and Planning Commission shall provide additional notice by;

1. At least fourteen (14) days prior to the Public Hearing, providing notice to the owners of the subject property.
2. At least fourteen (14) days prior to the Public Hearing, providing notice to the owners of all property within 300 feet of the subject property.
3. At least fourteen (14) days prior to the Public Hearing, providing notice to the legislative body of each county that is within one (1) mile of the subject property.

Section 404 Contents of Public Hearing Notice:

All Public Hearing notice required by this Chapter shall, as a minimum, contain the following:

1. Identify the Date, Location, and Time of the Public Hearing.
2. The Purpose of the Public Hearing.
3. The name(s) of all owners of the subject property, as applicable, as identified by the records of the Office of the Cache County Recorder.

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4. The address if available, or general location of the subject property as applicable.

Section 405 Time Computation:

For the purposes of calculating the time periods required by this Chapter, days shall be identified as calendar days.

Section 406 Noticing Costs:

All applications, permits, and licenses requiring a Public Hearing, as provided by this Chapter, shall be required to pay the costs for the County to provide the Public Hearing notice, as required.

**CACHE COUNTY, UTAH
ZONING ORDINANCE
CHAPTER 9
AIRPORT LIMITATION OVERLAY ZONES**

Section 901 Purpose

The Airport Limitation Overlay Zones are intended to establish standards assuring the long-range, safe, and beneficial use of the Logan-Cache County Airport.

Section 902. General Provisions

- A) These regulations reinforce specific provisions in the Logan-Cache Airport Master Plan (August 11, 1992) and Cache Countywide Comprehensive Plan (January 27, 1998), as amended.
- B) The boundary of any officially recognized "Airport Limitation Overlay Zones" shall be as it appears on a map and/or other documents approved by the Cache County Council.

Section 903. Definitions

As used in this Ordinance, unless the context otherwise requires:

- 1) Airport: The Logan-Cache Airport or any area of land designated and used for the landing and taking off of aircraft.
- 2) Airport Elevation: The highest point of an airport's usable landing area measured in feet from mean sea level. This elevation is 4,457 feet MSL as of the date of this ordinance.
- 3) Airport Hazard: Any structure or use of land which actually or potentially obstructs the airspace required for the safe flight of air craft in landing or taking off at an airport.
- 4) Approach Surface: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 909 of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
- 5) Approach, Transitional, Horizontal, and Conical Zones: These zones are set forth in Section 908 of this Ordinance.

- 6) Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- 7) F.A.R. Part 77: Federal Aviation Administration regulations pertaining to height and obstruction criteria within prescribed distances from an airport as these regulations currently exist and as may be amended from time to time. Part 77 Regulations may also affect lands located outside the boundaries of the defined Airport Influence Area.
- 8) Hazard to Air Navigation: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- 9) Height: For the purpose of determining the height limits in all zones set forth in Section 909(D) and shown on the zoning map, the datum shall be the mean sea level (MSL) elevation unless otherwise specified.
- 10) Heliport Primary Surface: The primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.
- 11) Horizontal Surface: A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
- 12) Larger than Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.
- 13) Ldn: Yearly day-night average sound level.
- 14) MSL: Mean Sea Level.
- 15) Nonconforming Use: Any pre-existing structure, object of natural growth, or use which is inconsistent with the provisions of this Ordinance or an amendment thereto.
- 16) Non-precision Instrument Runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned. It also means a runway for which a non-precision approach system is planned and is so indicated on an approved Airport Layout Plan or any other planning document.
- 17) Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 909(D) of this Ordinance.
- 18) Person: An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
- 19) Precision Instrument Runway: A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Precision Approach Radar (PAR), a Global Positioning

System (GPS), a Transponder Landing System (TLS), or other systems providing both horizontal and vertical guidance. It also means a runway for which a precision approach system is planned and is so indicated on an approved Airport Layout Plan or any other planning document.

- 20) Primary Surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 908(E) of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
- 21) Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- 22) Structure: An object, including a mobile object, constructed or installed by man, including but not limited to, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
- 23) Transitional Surfaces: These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
- 24) Tree: Any object of natural growth.
- 25) Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
- 26) Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

Section 904 Airport Zoning Commission

A. Commission established

1. The Cache Countywide Planning Commission is designated as the "Airport Zoning Commission" as prescribed in Utah Code §72-10-405
2. In this Title and State law, any references to the "Airport Zoning Commission" shall mean the Cache Countywide Planning Commission.
3. If the Planning Commission is empowered in this Title to take actions that are duties of the Airport Zoning Commission as prescribed in Utah law, the Planning Commission shall be presumed to be functioning as the Airport Zoning Commission.

B. Duties

The Airport Zoning Commission shall recommend boundaries of the various zones to be established and the regulations to be adopted pertaining to any airport hazard area and to perform such other duties as may be assigned to it by the Cache County Council or Utah law.

Section 905. Airport Board of Adjustment

A. Board established

1. The Cache County Board of Adjustment is designated as the "Airport Board of Adjustment" as prescribed in Utah Code §72-10-408.
2. In this Title and State law, any references to the "Airport Board of Adjustment" shall mean the Cache County Board of Adjustment.
3. If the Board of Adjustment is empowered in this Title to take actions that are duties of the Airport Board of Adjustment as prescribed in Utah law, the Board of Adjustment shall be presumed to be functioning as the Airport Board of Adjustment.

B. Duties

The Airport Board of Adjustment shall hear issues pertaining to any airport hazard area and to perform such other duties as may be assigned to it by the Cache County Council or Utah law.

Section 906. Uses

The following table indicates the uses and conditions required of those uses within the 5 designated zones for the airport.

Table of Uses

	AIRPORT INFLUENCE AREA (AIA)	TRAFFIC PATTERN ZONE (TPZ)	APPROACH ZONE (AZ)	INNER APPROACH ZONE (IAZ)	65 Ldn NOISE AREA (NA)
RESIDENTIAL Single-family, Accessory Apartments, Residential Facilities for Elderly/Handicapped	C ⁽⁶⁾	C ⁽⁴⁾	C ^(3,4)	X	X
PUBLIC Schools, Libraries, Churches Parking, Cemeteries	C ⁽⁶⁾ P	C ⁽⁴⁾ P	C ^(3,4) P	X C ⁽⁶⁾	X C ^(2,5)
COMMERCIAL & INDUSTRIAL Offices, Retail Trade, Service Commercial, Wholesale Trade, Warehousing, Light Industrial, General Manufacturing, Utilities, Extractive industry	P	C ⁽⁶⁾	C ⁽⁴⁾	C ⁽¹⁾	C ⁽¹⁾
AGRICULTURAL & RECREATIONAL Cropland Livestock Breeding, Parks, Playgrounds, Zoos, Golf Courses, Riding Stables, Water Recreation Outdoor Spectator Sports Amphitheaters Open Space	P P P C P	P P C ⁽³⁾ C ⁽³⁾ P	P P C ^(3,4) X P	P P X X P	P C ⁽²⁾ X X P

(1) If allowed, avigation easements and disclosure must be required as a condition of development.

(2) Any structures associated with uses allowed in the 65 Ldn Noise Contour must be located outside the 65 Ldn Noise Contour.

(3) If no reasonable alternative exists, use should be located as far from extended centerline as possible.

(4) If allowed, disclosure of airport proximity must be required as a condition of development. An avigation easement should be considered based on proximity to runway centerline.

(5) Transportation facilities in the 65 Ldn Noise Contour (i.e. roads, railroads, waterways) must be configured to comply with part 77 requirements.

(6) Disclosure of airport proximity should be required as a condition of development.

Section 907. Airport Master Plan

All uses and regulations pertaining to the Airport Limitation Overlay Zone shall be in compliance with and subject to the provisions of the Airport Master Plan, Airport Layout Plan, and Noise Contour Map as adopted by the Logan-Cache Airport Authority Board or as amended and is incorporated into this chapter by reference as it pertains to airport land uses.

Section 908. Airport Zones

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the Approach Surfaces, Transitional Surfaces, Horizontal Surfaces, and Conical Surfaces as they apply to the Logan-Cache Airport. Such zones are shown on the Logan-Cache Airport "Part 77" Airspace Drawing consisting of 2 sheets, prepared by Armstrong Consultants, and dated March, 1997, which are attached to this Ordinance and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- A. Airport Influence Area (AIA): An area within the unincorporated portions of Cache County, proximate to an airport, which is recognized by the Cache County Council as containing lands which might be affected by noise and/or safety hazards associated with aircraft operations associated with Logan-Cache Airport. The AIA extends from the airport to the outer edge of the conical surface.
- B. Traffic Pattern Zone (TPZ): This zone extends from the airport to the outer edge of the horizontal surface.
- C. 65Ldn Noise Area (NA): The area within the 65 decibal yearly day-night average sound level.
- D. Inner Approach Zone (IAZ): The inner edge of this zone coincides with the width of the primary surface of Runway 17/35 and is 1,000 feet wide. It extends at a uniform width of 1,000 feet to a horizontal distance of 5,000 feet from the primary surface. The centerline of the Inner Approach Zone is a continuation of the centerline of Runway 17/35.
- E. Approach Zone (AZ): The area within the FAR "Part 77" Approach Surface for each Runway.
 1. Runway Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach surface expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. The centerline of the approach zone is the continuation of the centerline of the runway. This is the planned condition at the approach end to Runway 17.
 2. Runway Non-precision Instrument Approach Zone (Larger than Utility Aircraft) - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal

distance 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. This is the condition at the approach end to Runway 35.

3. Visual Runway Approach Zone (Larger than Utility Aircraft) - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach surface expands uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. The centerline of the approach zone is a continuation of the centerline of the runway. This is the condition at the approach end to Runway 10 and 28.
- F. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.
- G. Horizontal Zones - The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of Runway 17/35 and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- H. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

Section 909. Regulations

- A. Conforming uses only.

All uses in the Airport Limitation Overlay zones shall be subject to the regulations of this Chapter and prescribed development standards within the Airport Master Plan as amended.

- B. Creation of airport hazards prohibited.

No variance, permit, or use shall be allowed in the airport hazard area that would create or enhance an airport hazard.

- C. Use and operational limitations within the Airport Limitation Overlay zones.

No use shall be permitted which:

1. Creates or tends to create electrical interference to navigational devices and communication between aircraft and airports.
2. Creates or tends to create gas, smoke, dust, glare, or other visual hazards in the atmosphere around airports or in the airport hazard area.
3. Creates or tends to create structures that interfere with aircraft safety.
4. Creates or tends to create any type of hazard for the airport that would inhibit or constrain safe and acceptable airport operations .

D. Height limitation

Except as *exempted in Paragraph E of this Section* otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Runway Precision Instrument Approach Zone - Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet and continues on for a distance of 40,000 feet at a slope of forty (40) feet outward for each foot upward along the extended runway centerline. (Approach to Runway 17.)
2. Runway Non-precision Instrument Approach Zone (Larger than Utility Aircraft) - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline. (Approach to Runway 35.)
3. Visual Runway Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. (Approach to Runway 10 and 28.)
4. Transitional Zones - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
5. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 4,607 feet above mean sea level (MSL).
6. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation (4,607 ft. MSL) and extending to a height of 350 (4,807 ft. MSL) feet above the airport elevation.

E. *Exemptions to height limitation:*

1. *Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or*

greater height, and would be located in the congested area of a city, town, or settlement where it is beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

- 2. Structures up to and including 35 feet in height above the ground level at its site where the ground elevation at its site is less than or equal to 35 feet below the height limitations defined in Section D of this Ordinance, and is beyond all reasonable doubt that the structure will not adversely affect safety in air navigation. If in doubt, submission of FAA Form 7460-1, Notice of Proposed Construction (as described in Section 910 of this Ordinance) shall be used to determine its effect on safety in air navigation.*

Section 910. Notification

A. Except as provided in Paragraph B, and in addition to all other local notification and permitting requirements, each person who proposes any of the following construction or alteration shall complete and submit an FAA Form 7460-1, Notice of Proposed Construction, to the local jurisdiction and to the Federal Aviation Administration in accordance Federal Aviation Regulation Part 77, Object Affecting Navigable Airspace

- 1. Any construction or alteration of more than 200 feet in height above the ground level at its site.*
- 2. Any construction or alteration of greater height than an imaginary surface extending outward and upward at a slope of 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway at the Logan-Cache Airport.*

B. Exemptions from notification

- 1. Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.*
- 2. Any antenna structure of 20 feet or less in height except one that would increase the height of any antenna structure.*

C. Time of notice

The notice required under Paragraph A must be submitted at least 30 days before the earlier of the following dates:

- 1. The date the proposed construction or alteration is to begin.*
- 2. The date an application for a construction permit is to be filed.*

Section 911. Airport development standards

The Cache County Council may adopt by resolution or enact by ordinance uniform development standards and procedures for facilities within the airport property.

Consolidation of Elected Officials/Creation of Public Works Department Committee

To: Cache County Council
From: The Committee – Eugene C. Kartchner - Chairman
Date: September 11, 2001
RE: County Reorganization Recommendations

This committee was formed in May, 2001 and in the following months we have met almost bi-weekly as we researched and discussed ways in which we felt our county government could be improved to meet the challenges of the future.

We respectfully submit this report of our activities and the recommendations we make for you to consider at this time. We feel right now we have a “window of opportunity” where some significant improvements can be made in our governmental structure that can be correlated with, and be greatly enhanced by the construction of a new building to house our various offices and services.

The committee is unanimous in its approval of the recommendations as they are set forth in the report.

The active members of the committee have given of their time and efforts because they felt the importance of this analysis process and hope that these recommendations will be of benefit to you in your efforts to make our county government here in Cache county the very best it can be.

The active members of the committee are:

Gerald Allen
Mike Arnold
Verne Bray
George Daines
Leona Hawkes
Dee Isrealson
Eugene Kartchner
La Vor Smith
Lorraine Swenson
Randy Weston

A special thanks to Pat Parker who served as our in-house staff.

Consolidation of Elected Officials/Creation of Public Works Department Committee

**Committee Report
September 6, 2001**

Charge

The charge from Cache County was to explore consolidation of elected offices and the creation of a Public Works Department.

Goals

Our goals in this process were to enhance the effectiveness, efficiency and responsiveness of Cache county government by making recommendations for long-range organizational operation.

Resources and Research

Research on this question has led us to interview several county government elected officials, representatives of both the Republican and Democratic Parties, a former independent auditor, and several elected officials from other counties - (See Appendix D). We also studied the Utah code in relation to specific tasks mandated to elected offices and reviewed job descriptions provided by many of the elected and appointed officers currently serving in Cache County. We reviewed the report of a similar committee that looked at this same issue in 1993 and took note of their observations and conclusions - (See Appendix E).

We were also advised about the plans and current intentions of the county to build a new county government building. This provides a one time, unique opportunity, to consider and incorporate the physical, along with the functional aspects of the operations of county government with the goal of continually working to improve our services to the citizens of the county.

Process

We considered several alternatives and evaluated them in terms of our charge and our goals. The primary alternatives that we considered were:

1. Leave things just as they are currently structured.
2. Consider the changes that were studied and recommended by the previous committee.
3. Recommend (1) consolidation of some elected offices and (2) form a Public Works department to improve the manageability of many services functions currently reporting directly to the Executive.
4. To go "outside of the box" and design and propose a different organizational structure that would optimize the workings of the system by incorporating complimentary functions into organizational units. These units could be physically assigned space in the new building with locations designed to promote teamwork and enhance their service to the public.

We elected to develop and concentrate on a combination of Alternatives 3 and 4 because there appears to be a general feeling at this time that possible restructuring of the county organization would improve the ability of the county to provide needed current and future services for its citizens. As we move into the future it is inevitable that we will be faced with new and different challenges and presented with new and different opportunities.

We are also keenly aware of the unique "window of opportunity" that will be provided by the construction of the new building and the ability to combine these complimentary functions in physical proximity to each other and be more convenient to the public.

We did not consider or try to evaluate the politics, personalities, or the details of the jobs currently being performed by the elected officials or appointed officers. Instead we looked at the functions that need to be performed and the organizational structure that we felt would provide Cache County with effective and efficient management as it moves into a fast paced future.

Findings

The elected officers in any county, as mandated by the laws of the State of Utah, are: a sheriff, a treasurer, a clerk, an auditor, a recorder, an attorney, a surveyor and an assessor. The rule that one person can hold more than one office is codified in Utah Code Annotated 17-16-3. See also *State v Woolfenden* 72 P. 690 (UT. 1903).

There are some statutory restrictions on consolidating these offices as follows: Auditor with a county commissioner, county council member, county executive, or treasurer. Treasurer with a county commissioner, county council member, county executive, or auditor

"Apart from these restrictions, any other consolidation is permissible – subject to the provisions of the cited statutes. Each office must be filled and there are certain offices that must be filled by individuals with specific qualifications." (Don Linton – Memo 8/1/01)

In the current operational county government there are 10 appointed functions and 8 elected offices that provide services to the people of the county on a day-to-day basis. In our report and recommendations we are going to deal only with these eighteen functions.

The county is involved on multiple boards, commissions, authorities, etc. that provide services in conjunction with many other governmental agencies but they will not be a concern of this committee report except to recognize that they are a significant part of the Executives and the County Council's duties and responsibilities.

There is a general climate for, and an expectation among county officials and county employees that some changes can take place at this time that will improve the effectiveness and efficiency of the current and future operations. Changes should be made that will provided a vehicle for adopting new technologies and operating procedures that are now available and will be continually upgraded in the future.

The move to a new building provides a unique opportunity to compliment and support the consideration of the recommended changes in the organizational structure.

Conclusions

1. Implementing a consolidation of some of the current elected offices and combining some of the appointed offices under a Public Works Director would improve the current conditions in the short run. But in order to address long range issues a more radical structural reorganization would appear warranted. In making such a recommendation we would expect to see improvements in:

- (1) Planning,
- (2) Communication,
- (3) Coordination,
- (4) Cooperation and
- (5) Simplification of the budgeting process

2. Statutory constraints preclude the use of a general hiring process for those offices designated as being the elected offices of the county.

3. We considered the possibility of hiring a Director for the Division units and although there appear to be no statutory constraints on hiring an administrator for the various divisional groupings the county attorney points out there would be no way to vest the power in such an administrator to oversee and manage the affairs of any elected officials within those groups as they pursue their statutory responsibilities. (See Appendix B)

Recommendations

- 1. Implement a new management structure using Divisions. – A Division would be a grouping of the functional departments and/or offices presently providing various services to the citizens of the county.**

The number of individuals interfacing directly with the County Executive is excessive and burdensome and is contrary to general management principles and practices that recognize the benefits of having a limited number of individuals reporting to a supervisor. Currently there are 10 operating departments that report to the Executive directly.

In addition, there are eight separate elected officials who have an indirect relationship with the Executive and/or the County Council. It would appear that some overall structure is necessary to facilitate and enhance communication, cooperation and planning among these officials and departments in order to define and carry out the mission of county government working together as a team.

The committee's recommendations in addressing this situation and seeking to resolve some of the current operational problems in the system is to create Divisions with the following characteristics:

Grouped according to complimentary functions

- Made up of both elected individuals and/or non-elected individuals placed in divisions together according to their functional relationships.
- Result in 5 Divisions

See Figure 1 for the organizational chart of the current county government structure.

See Figure 2 for the conceptual design of the recommended Divisional structure.

See Figure 3A for the Functional Grouping and Coordinating Structure

- 2. Designate and appoint a Division Representative. This individual would serve on a Division Coordinating Committee representing the Division providing for system-wide planning, coordination, communication and interdivisional cooperation.**

An individual from each division would be appointed to serve as a Division Representative. This person would act as a liaison between their division and the County Executive for purposes of reporting and/or interfacing. They would serve as a member of a Division Coordinating Committee that would be made up of the other Division Representatives and the County Executive. Some suggestions for selecting the Division Representatives are included in Appendix A.

- 3. Within the Divisions it is recommended that consolidations take place with respect to the elected offices.**

Within the Finance division the Assessor and the Treasurer be consolidated and the Auditor and the Clerk be consolidated. This would result in two elected officials in the Finance Division (an Assessor/Treasurer and an Auditor/Clerk). The Recorder and the Surveyor be consolidated resulting in a Recorder/Surveyor position. It is further recommended that the Land Division also contain a Public Works Department with an appointed Director.

See Figure 3 B for the recommended Divisional structure indicating the current functional offices and operations to be assigned to the Divisions.

4. Cost considerations of the above recommendations.

The committee is not in a position to assess with any degree of accuracy the financial impact of the above recommendations for two reasons. Frequently the cost implications are looked at in the short run and obvious impacts resulting from the expansion or reduction in the payroll. On the other hand cost savings that occur in the long run as a result of better system wide planning, coordination, and management of resources are hard to measure and are not as obvious but may far outweigh the short run payroll impacts.

In the above recommendations there may, or may not, be any change in payroll resulting from consolidations. There would be an increase in payroll if a Public Works director is hired. However, it is felt by the committee, that the long run cost benefits could be very substantial.

Benefits of the Recommendation

- 1. Application of the "Span of Management" concepts to the Cache County government situation would suggest that reducing the span of management and restructuring the organization into Divisions would result in:**

**Improved planning
Improved coordination
Improved communication
Improved cooperation**

Reducing the number of individuals interfacing directly with the county Executive will promote a more efficient use of his/her time in addressing the many concerns of county government. The system of Divisions with their representatives will form a type of "middle management" group limiting the number of direct interface relationships with the Executive.

- 2. Promote cross-training of those employees within the Finance Division involved in sporadically heavier/lighter work cycles among the various functions.**

Officials in each of the five counties contacted by the Committee felt that the cross-training of employees is both successful and effective in keeping staff motivated and employed efficiently. It is particularly useful at times when the workload of a department peaks, such as during elections, audit functions or property tax collection. All officials agreed that in a well-run operation, it is efficient to cross-train employees and assign them wherever the workload is greatest. The Divisional structure would simplify and facilitate the cross-training process.

3. Make the Budgeting process simpler and more efficient.

The budgeting process may be improved because instead of dealing with eight elected offices and the Executive representing the 10 appointed functions the Council would be dealing with 5 budgetary units. The five representatives serving on the Division Coordinating Committee would be more familiar with the planning and functioning of the county government as a whole and could assist in making budget proposals that would reflect the requirements of the entire system rather than considering the system as a group of 9 independent unrelated units.

4. Provide a basis for the design and allocation of space in the new building.

With the new building currently in the planning stages it will be necessary to design the layout of the building in the very near future. Decisions made now about the organizational structure will have a direct impact on the placement of the governmental activities within the building. This placement needs to consider and allocate space in locations that will serve the public and the system in the most effective way possible.

It would seem appropriate to recommend that the first activity to be addressed by the Representatives on the Coordination Committee could be the design, allocation and location of the functional Divisions in the new building. This could be done as soon as the Division structure is adopted.

Method and Possible Sequence of Events for Analysis and Adoption of the Recommendations

Workshops - Discuss the Division concept - its design and objectives.

Discuss the Political, Financial, and Personnel ramifications of the recommendation. (Sept. 5, 2001 and Sept. 10, 2001)

Presentation of the Committee findings to the County Council. (Sept. 11, 2001)

Hold at least two public hearings on the proposal. (Probably in Sept. or early Oct., 2001)

Consideration and modifications of the proposal by the Council and its adoption or rejection.
If adopted, determine the timing of the necessary steps to implement the proposal.

(Adoption decision should probably be made by Nov., 2001 in order to meet the building design considerations and prepare for developing any necessary ordinances)
(An ordinance must be passed for any proposed consolidations by Feb. 1, 2002)
(Building design is influenced by the projected "bid date" of January 2002)

CACHE COUNTY ORGANIZATIONAL CHART
 CURRENT YEAR 2001

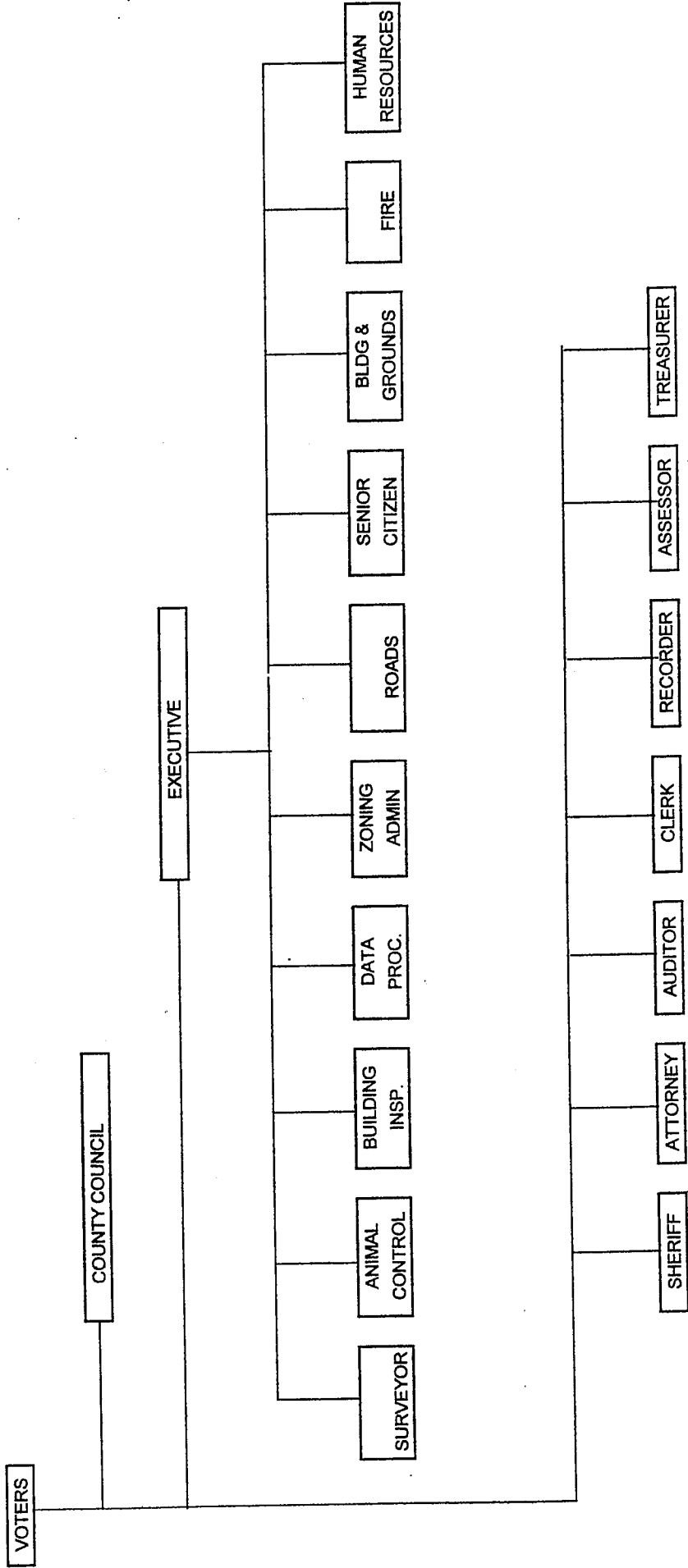
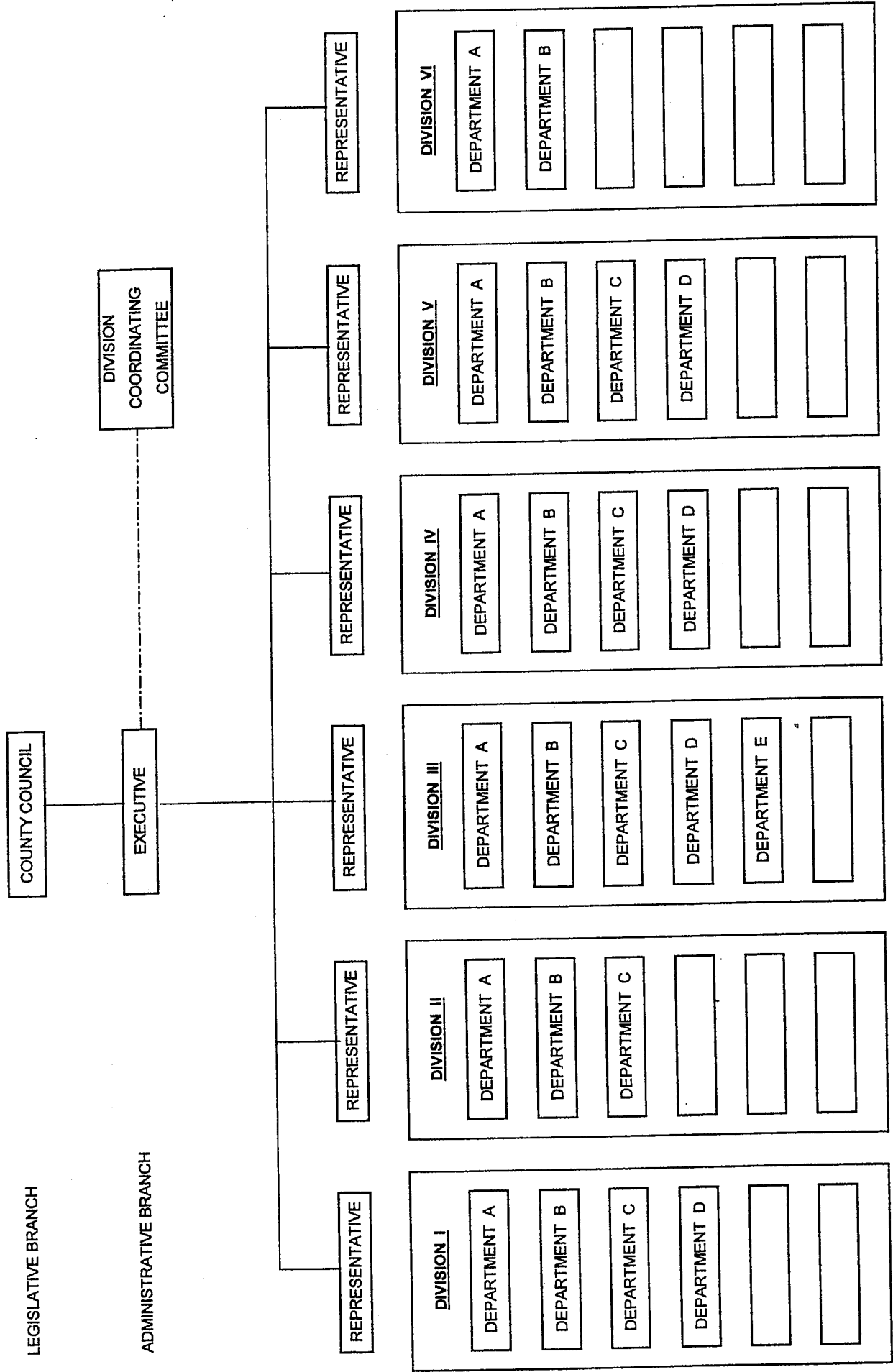


FIGURE 1

CONCEPT OF DIVISIONAL GROUPING



LEGISLATIVE BRANCH

ADMINISTRATIVE BRANCH

DIVISIONS FUNCTIONAL GROUPING AND COORDINATING STRUCTURE

BASIC CHART FOR CACHE COUNTY PLUS:

1. DIVISION STRUCTURE
2. DIVISION COORDINATING COMMITTEE
3. REPRESENTATIVES FOR EACH DIVISION
4. GROUPING BY FUNCTION IN THE DIVISIONS

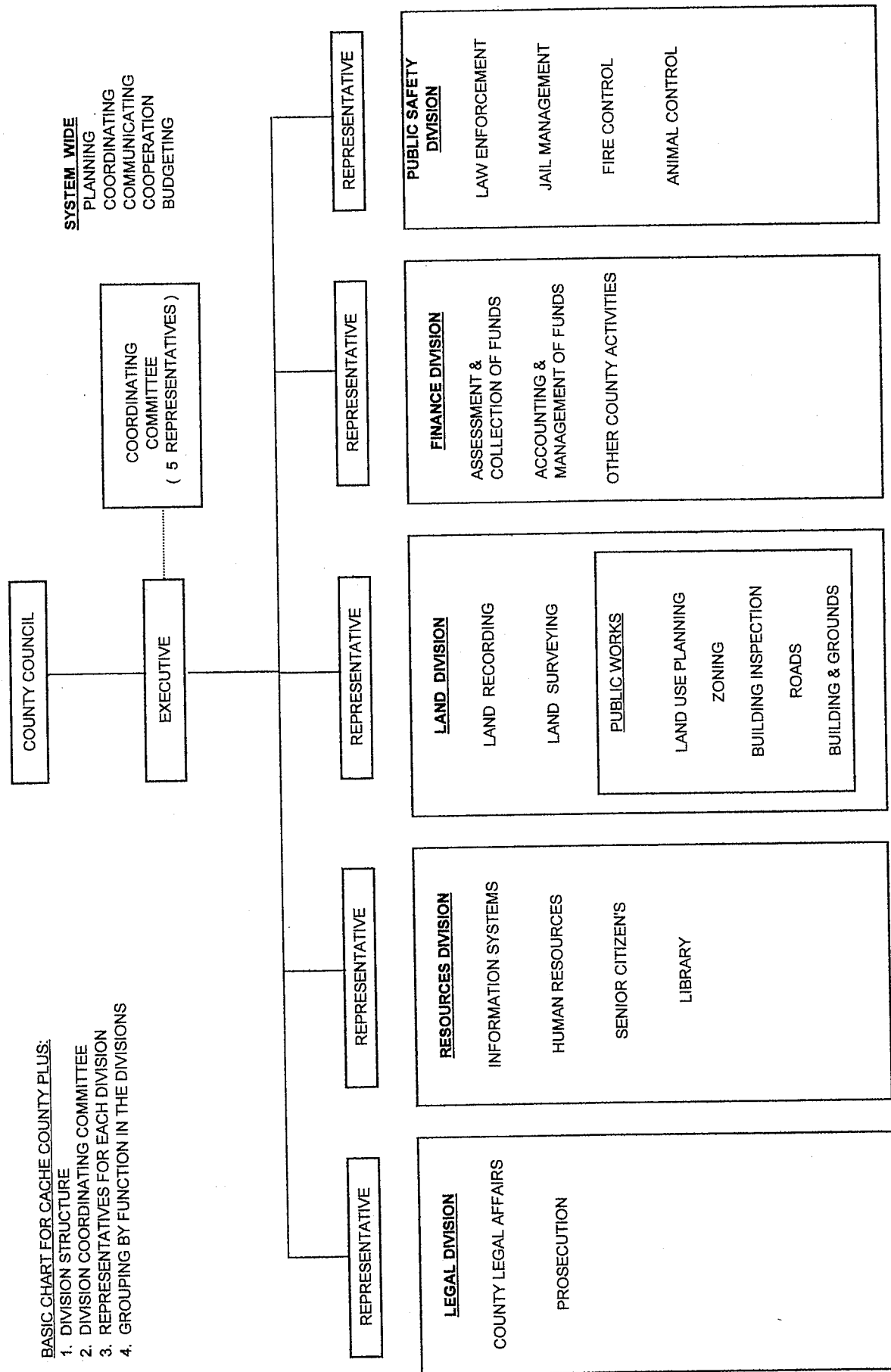


FIGURE 3 A

DIVERS REPORTING AND COORDINATING STRUCTURE

BASIC CHART FOR EACH COUNTY PLUS:

1. DIVISION STRUCTURE
2. DIVISION COORDINATING COMMITTEE
3. REPRESENTATIVES FOR EACH DIVISION
4. RECOMMENDED POSITIONAL ASSIGNMENTS

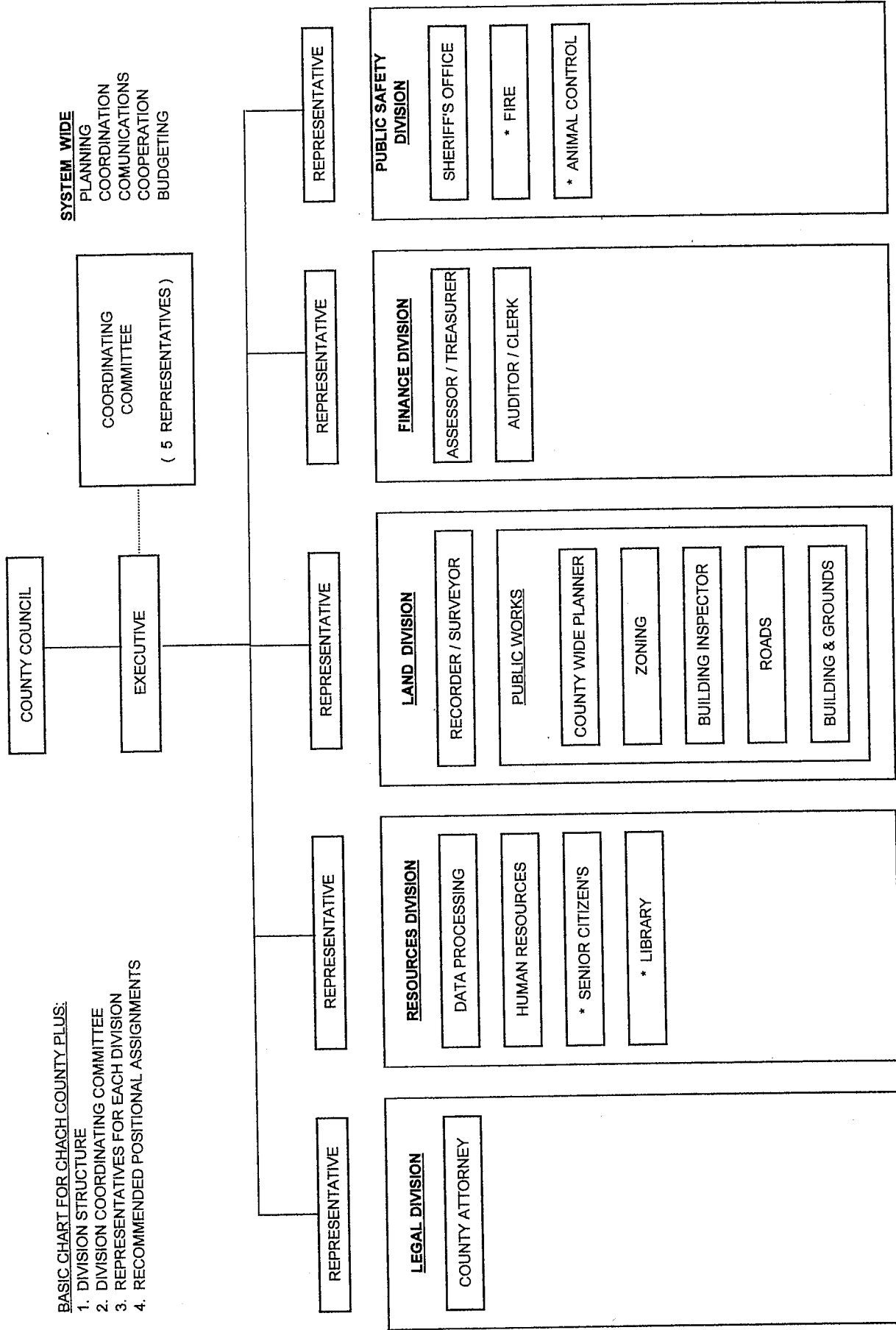


FIGURE 3 B

APPENDIX A

Suggestions for the selection of division representatives and nature of relationship of the staff employees within the divisions.

Representatives could be appointed by the Executive and would serve with the approval of the County Council for the term of office of the Executive. Appointments may be withdrawn and reassigned at the discretion of the Executive at any time during the term of the Executive with the approval of the County Council. Division Representatives could be determined by administrative decision, using one of the following methods of selection:

- Executive makes a selection from the division with consent of the County Council
- Those in the division choose one from among themselves with the approval of the Executive and the County Council

Those who are presently serving as staff in one of the various sub-entities or departments would:

- Be Cross-trained in order to fill the varying needs of the Division
- Work in a common area of the building to facilitate multi-tasking
- Be assigned according to need by cooperation of the various officers within the Division.

Group Divisions of related services in the new County building in a user-friendly manner according to their frequency of interfacing with the public

- Efficient Location of Divisions in County Building (To Be Designed)

(Presentation of floor plan for new building and how Division approach will enhance service and efficiency)

CACHE COUNTY ATTORNEY



SCOTT L WYATT
County Attorney

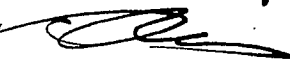
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OPINION RE: OFFICE CONSOLIDATION

To: Pat Parker

From: Don Linton, Deputy Cache County Attorney 

Date: August 7, 2001

RE: Office Consolidation

Pat, you requested that I respond to three legal questions from you on behalf of the County Office Consolidation Committee. First, the three questions are as follows:

1. Do you feel it is legal to hire a Division of Finance Director to be over the Finance Division which includes Auditor, Assessor, Treasure and Clerk.
2. If No. 1 is legal, can all the staff from those elected offices report to the Director of Finance rather than to each elected official over the individual offices.
3. What is the legal requirements as to reporting of each elected official to the Executive. Is there a requirement? Same question as to the County Council.

This memorandum opinion is my response to your request that I address the above stated three questions. I will address each question in the order presented.

1. The simple answer to question no. 1 is very straight forward—the County can create a Finance Division and can place the offices of Auditor, Assessor, Treasure and Clerk in that division. The County can also hire a division director.

2. Your second question is really—assume we create a division and hire a division director—what power would the director have with respect to the staff of the Auditor, Assessor, Treasure and Clerk's offices. First of all with respect to the elected officials: The division director could have no supervisory power over the elected Auditor, Assessor, Treasurer and Clerk. As you know these positions are established by legislative enactments and the officials elected to the

positions answer only to the public. They could not by any act, short of a new state legislative enactment, be made to answer to any one other than the electorate.

However, your question is not about the elected officials but directly asks what power the director might have with respect to the staff of these separate offices. The answer is that the staff of these various elected offices could not be made to report to any person other than the respective elected official. Title 17 of the Utah Code sets forth a series of duties each elected official is required to perform. Without legislative authority the statutory duties could not be transferred to another office or division within another office.¹ If the duties cannot be transferred—neither can the staff that perform the duties.² For good or for evil, the legislature has created enormous autonomy for elected officials in Utah that cannot be undone by county ordinance.

3. The third question asks to what extent, if any, can the county elected officials be required to report to the executive or county council. This office has already issued an opinion with respect to the officers answering to the council. A copy of that opinion is attached hereto. Although the council has some legislative authority over the elected officials there is no real teeth in their power except through their budgeting authority.

With respect to answering to the executive: I can find no authority for the idea that any elected county official has any duty to answer to or report to the executive. The clerk, for example, has no more obligation to report to the executive than the executive has to report to the clerk. The only way to give the executive direct supervisory authority over any other elected official would be to eliminate the other elected official by consolidating the position with the executive. As you know there are limitations: The executive cannot be consolidated with the treasurer and the auditor can only be consolidated with the executive if approved by the public in a referendum election.³ All other offices could be consolidated in with the executive.⁴

¹ I suspect that there would be no issue in removing all unofficial duties, those duties not mandated in statute, from the elected officials responsibilities, and reassigning them to a separate division. Most officials perform certain tasks out of convenience rather than from state requirement.

² Utah Code section 17-16-10.5 sets forth the only legislative authority to reassign duties. Section 10.5 provides that a county council shall place an elected official on paid administrative leave and can temporarily reassign duties to another office if the officer is charged with a crime arising from conduct related to the officer's official duties. It does not allow the same if the elected official is charged with malfeasance in office, which is when the officer fails to "substantially perform" the officer's "official duties." In other words, if an officer totally fails to perform his or her duties, we can seek to have him or her removed by judicial proceeding, but until removed, no one else can perform the official duties without the elected official's consent.

³ Utah Code provides the County Council with the power to consolidate county elected offices with the following restrictions: (1) the office of auditor cannot be consolidated together with the treasurer or a council member; (2) the office of treasurer cannot be consolidated together with the county executive, auditor or council member; (3) the office of auditor and executive can only be consolidated together with the approval of the public through a referendum. The referendum can be presented by the county. See Utah Code section 17-16-3(2).

⁴ Actually the executive would be consolidated under the attorney because the attorney is a constitutional office and needs to be a licensed member of the bar. The only candidates who could run for the position of attorney-executive would be lawyers. I'm sure you don't want that.

CACHE COUNTY ATTORNEY



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Victim Advocates

MEMORANDUM OPINION

TO: Darrel L. Gibbons, Chairman, County Council

FROM: Scott Wyatt

DATE: February 27, 2001

REGARDING: County Council Authority to Supervise Elected County Officers.

This office has been asked to address the question of whether the Cache County Council can exercise supervisory authority over elected county administrative officers. The short answer to the question is: the Council can.

U.C.A. section 17-5-213 provides, "[the county legislative body] may supervise the official conduct of all county officers and officers of all precincts, districts, and other subdivisions of the county (except municipal corporations); see that they faithfully perform their duties, direct prosecutions for delinquencies, and when necessary require them to renew their official bonds, make reports, and present their books and accounts for inspection."

Our Organic Act provides in section 3.13(c) that "members of the County Council shall not interfere in the administration of County affairs by the County Executive or other executive personnel."

The Utah Code empowers councils and commissions to supervise elected officials; our organic act prohibits individual council members from interfering with the officials' administration of County affairs. Appropriate supervision and control of salaries by the Council should not be considered "interference." It is this office's opinion that the Council has broad latitude in supervising elected county officials.

**Consolidation of Elected Offices
Findings from Conversations with Officials from Other Counties**

Weber County

Population: 200,000

Principal Positions: All elected

Linda Luntsford Clerk/Auditor (801) 399-8480

Background

Linda was recruited by the former clerk/auditor from a private CPA firm (she is not a CPA) to be his chief deputy. He did not seek reelection, and she ran for office 3 years later. She was elected (1995) and has served as clerk/auditor since that time. She is presently 1st Vice President of Elected Officials for the Utah Association of Counties.

Merit/At will

Weber County employs the merit system for some employees. Linda's recollection was that when a country reaches a certain population the merit system is mandated by law. They also have many at will employees. Each elected officer has a chief deputy and an administrative assistant who are exempt employees. County Policies and Procedures determine which employees are exempt or at will.

Audit Functions

Linda explained that her office does perform audit functions. While an outside auditor performs an annual audit, her office prepares the consolidated financial report. They do a monthly reconciliation between the auditors and treasurers offices and all other offices. Records are reconciled to payables, receivables and data entry. Her office also helps develop internal controls and cash functions. This is an ongoing process. They put together financial systems for other departments. They prepare a line item budget for every department along with their monthly reconciliation with the monthly financial statement. Audit functions take place from Jan.-June and after that they move directly to the budget process.

Clerk Functions

They handle 60 customers per day with marriage licenses/passports. There is a constant cycle of election activity, especially with the motor voter registrations.

Evaluation of Combination Clerk/Auditor Functions

Linda felt that this combination works well for Weber County. She mentioned specifically that cross training is successful and effective in keeping employees motivated. Cross training is particularly helpful when elections come up. During an election year it is difficult to keep up on the election cycle. (She noted that Utah and Davis Counties are looking at separating these offices which are presently combined.)

When asked if she would like to see the functions separated, and why, she answered no. She felt that these responsibilities could be combined under her direction because of the quality of her staff and the use of current information technology.

•Linda has a staff of 16 employees with one CPA – her comptroller. His skills are essential for the county to have. In addition to his services, he lends credibility to the consolidated financial report that the county prepares (the CAFER) and to having a good bond rating.

•Also having a current Information Technology dept. and a current GIS (geographic information system – computer system that turns database into maps in order to identify eligible voters) help to reduce employee time and workload. A process that once took days can be done instantly with current technology.

Clerk/Auditor's comments on Treasurer and Assessor responsibilities:

Treasurer is simply a depository. Treasurer functions vary widely from county to county. In some counties, the treasurer will handle some responsibilities that in another county are handled by the auditor.

Assessor

The property assessment function is fairly steady.

The motor vehicle tax collection function is large or small depending on whether or not that duty has been delegated to the state. Some counties collect this themselves and some have it collected by the state.

Concerns with state collection: loss of power, loss of interest accrued while monies are in state custody, and concern over whether or not an accurate sum is returned to the county. (Note: Earlier, the state was unable to document the fair disbursement of funds, but now has a monthly statement that is sent by the state and reconciled by the county assessor.)

Benefits of state collection: it is very costly for a county to collect it's own motor vehicle tax.

Weber now uses the state for collection. Having the state collect motor vehicle tax significantly reduces the workload of the assessor.

Final comments

In 1995 a citizen's group recommended some sweeping changes (i.e. commissioner to council form of government). Several other recommendations in regards to elected offices were made. The entire proposal was defeated. Linda will try to locate those recommendations and send them if they are found.

Linda said that it is the attitude of the elected officials that sets the parameters for communication, morality, tone, etc. within the county government. If the commission makes decisions exclusively, the level of efficiency can't be maintained. For a period in the past, this was a problem for Weber County, but for some time there has been a good give-and-take with everyone working together cooperatively and taking accountability. Her impression seems to be that her office is well run and efficient. She has a very positive attitude toward her job and what is accomplished.

Weber County
Linda Luntsford
First Vice-President of Elected Officials
Utah Association of Counties

Assessor/Treasurer Consolidation

The state does not prohibit this combination, because with adequate internal controls in place there is no conflict whatsoever in consolidating these two offices. While the assessor determines the assessed value of property, appeals are made through the auditor, who also sends out the notices. Appeals can be made to the board of equalization. The auditor is the clerk of this board and in smaller counties, members of the County Commission (County Council in our case?) also sit on that board. In larger counties the auditor's office hires independent hearing officers (usually individuals involved in real estate) to resolve those disputes.

When I asked why only one other county has this particular combination of offices, I was told that counties aren't generally in the habit of looking for ways to combine or streamline offices unless there are extenuating circumstances. Linda thinks this is an excellent combination.

This combination was looked at in Weber County within the last few months and was rejected because there was no emergency requiring it and because inside politics made it a less feasible option. She suggested that it would be an easier thing to accomplish being done through a citizen initiative rather than internally.

Regarding collecting all receipts through one cashier, Linda suggested that the decision of whether or not to have the treasurer collect any given office's receipts should be dictated by the risk involved (i.e. receipts over 1,000,000 in the justice court were deemed a risk.) At Linda's recommendation as auditor, those receipts are now collected through the treasurer's office. Linda emphasized that the key to avoiding problems in all offices is to implement proper internal controls and to have a good system of reconciliation and oversight control.

Box Elder County**Population: 43,000****Principal Positions: All elected****Monte Munns Assessor/Treasurer (435-734-3333)****Background**

Box Elder County is the only county with a Recorder/Clerk and an Assessor/Treasurer. They had consolidated Treasurer and Auditor until it was prohibited by law (about 94-96). Monte has worked for county for 20 years. He worked in the assessor's office for 7 years before running for the Assessor office. When Assessor was consolidated with Treasurer, he took over both operations. Monte graduated from USU with a degree in finance. He is a Certified general appraiser.

Evaluation of Assessor/Treasurer

Reasons not to consolidate: Not the ideal situation because the same person who assesses the property collects the taxes. To mitigate this difficulty, a separate deputy is employed in each department

Monte's thoughts on reasons for consolidating were to save money or remove someone you're not happy with. Consolidating may not create a savings. Job responsibility of the assessor is great and if sufficient staff is hired there may be no cost savings and financial benefit.

Reasons to consolidate:

When asked if employees worked in either department when the need arose, Monte said that they did. During the busy season for assessments, all employees assisted with such things as with opening envelopes, batching responses and balancing ledgers.

The reason the assessor is combined with the treasurer in Box Elder County is because county government didn't want the treasurer's office to stand alone.

Box Elder County**Lou Ann Adams Recorder/Clerk (435) 734-3347****Background**

Lou Ann says her strength is taking minutes. She has a chief deputy to handle recorder and a chief deputy to handle the clerk duties.

Evaluation of Recorder/Clerk

She wouldn't recommend this particular situation because she says it isn't a compatible combination. She is the only recorder clerk and when she goes to state meetings where all of the training is given, she has to divide her time and run between meetings that are scheduled at the same time. She suggested that the clerk auditor combination would be much better for this reason. She would like to be a more "hands on" official and she feels divided in her attention to these two responsibilities.

Utah County**Population: 340,000****Principal Positions: All elected****Arlin Kuhni Clerk/Auditor (801) 370-8108**

Arlin has been the clerk/recorder for the past 6 six years and was employed by the offices 2 years previous to the election.

Staff

The Utah County Clerk/Auditor's office has 14 employees with temporaries hired during elections.

Clerk/Audit Functions

Arlin was unable to determine which, if either of the jobs requires more time. They employ a financial officer who helps with budgeting matters and an internal auditor (she is a CPA) who audits many other departments including the health and justice department.

Their office issues 5,000 marriage licenses per year and many passports. The motor voter issue was also mentioned. Apparently, with voter registration taking place at the motor vehicle department, huge numbers of voters are being registered and must be tracked and accounted for. This is placing huge time demands on the clerk's office.

Evaluation of Clerk/Auditor Functions

Arlin, I was told, would give me a negative view of consolidation. Initially, the response was that this was too much for one person to do and that the offices should be separated. Their budget is "bare bones" and everyone is very overworked. When asked if it was efficient to cross train employees he said yes. When asked if the problem was that it was difficult to administer the two offices, or that he had inadequate staff to handle the workload, the real issue came to light, which is understaffing.

When the question was posed that if more staff were hired, would the county run more efficiently with separate offices, the response was definitely negative. Because of cross use of employees (putting the majority of the staff in a particular area during a crunch with elections or audit functions) staff is employed much more effectively. With proper staffing, Arlin would recommend consolidation of the offices.

Davis County
Pop: 240,000
Steve Rawling Clerk/Auditor (801) 451-3214

18 F
22 TOTAL

Background

Steve has a CGFM degree (Certified Governmental Financial Manager) which is the equivalent of a CPA with a governmental specialty. He was hired by Davis county as a finance director, which position he held until 2 ½ years ago when he was encouraged by several other county employees to run for the Clerk/Auditor office. Davis County consolidated the two offices (Clerk and Auditor) in 1991.

Merit System

Davis County employs the merit system with some also designated as at will and exempt. Steve thought merit employees were mandated when an entity reached a certain number of employees. This is dictated by statutorial provisions relating to counties of the 1st, 2nd and the 3rd class.

Audit Functions

The auditor is the budget officer. He audits all departments and county officials. All checks, contracts, etc. go through the auditor. The auditor is responsible for setting up adequate internal controls and publishing monthly revenue and expense reports. Working with the auditor is a department head over the information systems department.

Clerk Functions

The clerk administers all elections, sells marriage licensees, performs marriages, sells animal licenses and handles passports.

Evaluation of combination Clerk/Auditor Functions

This system works well in Davis County with adequate staffing in place. They also use cross training with their employees. The person who issues marriage licenses is also working in accounts payable/receivable and microfilming in the election area. During elections, the budget employees are working on the election. They employ 22 people which is the equivalent of 18 full-time employees. In addition to the savings because of cross training, they also save the salary and benefits of another elected official. Steve said they have a very positive situation and a good team.

Clerk/Auditors comments on Assessor/Treasurer combination

Of all of the positions, the treasurer has the greatest ability to take on additional responsibility. The motor vehicle registrations were moved from the assessor's jurisdiction to the treasurer in order to better balance responsibilities. They still handle vehicle tax collections because of a large emission and inspection station located in the county.

Clerk/Auditors comments on Assessor/Auditor combination

Auditor's office handles tax abatements and redevelopment and sends out valuation notices. The assessor determines valuation on property. When there is a question or conflict on valuation, the auditor is a second opinion on whether or not the proper valuation was assessed. Combining the offices would not be in the interest of the public.

Uintah County

Population: 25,000

Pat McNeil Clerk/Auditor (435) 781-5360

Pat was hired by her predecessor and has been the clerk/auditor for 12 years. Those positions were combined the first year she ran for election. She is planning to retire at the next election and an accountant presently working under her will run for this office.

Pat wouldn't recommend combining the offices. She is too busy to handle the workload she has with her staff of 5 people. This is partly due to federal investigations of the county that have required a great deal of her time in gathering information. The county is presently placing the 'commission to council' issue on the ballot in spite of great opposition by the commission. Big problems here – no further questions!

P.S. Pat's opinion was that the treasurer was the least busy of all elected officials.

Conclusions:

There is a huge variation in qualifications and sophistication of operations between some of the contacted counties and others.

Those who were recruited specifically for the job because of their qualifications (education and people skills) seemed to run the most efficient offices and be most satisfied with their work.

A sufficient staff of qualified employees is essential, as well as an up-to-date information technology department.

Responsibilities of the treasurer's office vary widely. It appears to have the least steady responsibility.

Collection of motor vehicle tax and motor voter registration are two factors that have greatly affected the assessors and clerks offices. Motor Vehicle tax can now be collected by the state, creating a huge time savings for participating counties. Motor Voter registration has added huge numbers of registered voters to the roles, greatly increasing the time commitment in tracking those voters.

Much of the work done by elected officials has a seasonal peak load (i.e. assessing, property tax collection, elections, annual audit, and voter registration). Cross training of employees to cover these "busy seasons" will help to eliminate the problems of idle/overworked departments.

In a well-run operation, it is efficient to combine elected offices where employees can cross-train and work wherever the workload is greatest. All officials I spoke with either suggested or agreed with this idea.

APPENDIX E

The following inclusion is a copy of the report of the committee that studied the consolidation issue eight years ago in 1993. Although the conclusions and recommendations of the current committee arrived at its conclusions and recommendations independently of those found in the earlier report it is very interesting to look back and note some of the earlier findings and recommendations that still seem relevant eight years later.

They identified four "PURPOSES" or objectives:

1. Economy (personnel and facilities)
2. Convenience to public (single location for most services)
3. Select individuals to high-tech positions
4. Reduce organizational complexity (fewer people needing to communicate and agree/a single source of final responsibility)

Some of their Findings and Observations (excerpts and quotes)

1. They acknowledged the difficulties of evaluation of costs was very difficult and rejected the notion of potential "cost savings" as a "practical argument" for their recommendations.
2. They recognized that consolidation was probably impossible at the time because "we see no combinations wherein we can bring all together at a single location". "With our growth this is going to be a problem in the near future and it is something that we need to begin to consider and plan for in the near future"
3. "To have all continue to be elected (as at present) is more democratic inasmuch as it gives the public the say. On the other hand it says nothing about the high-tech qualifications which are becoming more and more of a necessity in this era"
4. "An **alternative**, obviously is the **status quo**. Our discussions have not left us comfortable with that alternative".

Some of their Recommendations (excerpts and quotes)

1. Create a Department of Finance
2. Establish a Public Works Department
3. Recommended the establishment of an Executive Council .
"The Executive Council may meet as a body regularly to coordinate, report and make recommendations to the County Council. This interaction could provide better planning and give information and direction for both the legislative and executive arms of county government".

APPENDIX E

COMMITTEE REPORT October 12, 1993

PURPOSES

We see four possibilities which will be addressed herein:

1. Economy (personnel and facilities)
2. Convenience to public (single location for most services).
3. Select individuals to head hi-tech positions
4. Reduced organizational complexity (fewer people needing to communicate and agree/a single source of final responsibility)

BACKGROUND

As a committee we have met with each of the elected official individually, with the exception of the attorney and sheriff. We have also met with them as a group to which department heads were also invited. Finally, we have met several times as a committee only to discuss the Utah Code, the aforementioned meetings, materials supplied by the attorney, material gathered otherwise, and what our recommendations might be. We have attempted to become acquainted with the nature of each office. the actual work performed by those officers, i.e. scope, type, seasonal aspects, and special qualifications.

It should be noted that there has been a concerted attempt to put political pressure on the committee, which may be appropriate. But the observation has been made that this exertion is contradictory to the direction from that which was campaigned on by some members of this council three years ago.

ARGUMENTS

1. While it would be desirable to suggest that we could consolidate some positions and save money the reality is that while on paper it may seem that way, in effect it does not happen. Therefore, we have dismissed that as a practical argument.

2. Under the present circumstances we see no combinations wherein we can bring all together at a

single location as a convenience to the public. Also, meet the needs of the physically handicapped. With our growth this is going to be a problem in the near future and it is something that we need to begin to consider and plan for in the near future.

3. To have all continue to be elected (as at present) is more democratic inasmuch as it gives the public the say. On the other hand political campaigning says nothing about high-tech qualifications which are becoming more and more of a necessity in this era. Therefore, the most qualified person can be hired for a particular position. (All but two of the current elected officials were appointed [hired] to their first term or portion thereof.)

4. There are various combinations for your consideration:

Clerk/Auditor
Clerk/Auditor/Recorder/Treasurer
Clerk/Recorder
Clerk/Auditor/Treasurer
Recorder/Treasurer

We must be careful in any combination that we do not remove the necessary checks and balances which are now present.

An **alternative**, obviously, is the **status quo**.

Our discussions have not left us comfortable with that alternative.

RECOMMENDATIONS

1. We suggest the consideration of the creation of a **Department of Finance**. This department would include the auditor, purchasing, and budgeting. This office would work directly under and be responsible to the Executive. We believe it could promote a more efficient and healthy financial situation. It should here be noted that the office of the Treasurer would be kept separate and distinct. This will do away with the ambiguities as to who is our budget officer which presently exist between the Organic Act and state law.

2. Another area of great concern is that of the office of surveyor. That work is far out of date and continuing to get further out. That in turn affects the recorders work which affects that of the assessor and

treasurer which is affecting our budget. This is caused in part, by the large influx of people into the county. However, the major portion of the problem goes back to one particular decade when an elected surveyor did nothing to keep, what till then were excellent records, up to date. The problem is not seen to be diminishing in the foreseeable future. Additionally, the surveyor must also work with other areas such as the roads department. Immediate consideration needs to be given to correcting this situation. We suggest establishing a Public Works department. This would encompass Surveying, Engineering, Building Inspection, Roads, and Planning and Zoning.

3. We recommend that the following elected department officers be appointed and be directly responsible to the executive: Surveyor (Public Works), Auditor (Finance), and Clerk. Each replacement would go through a specific hiring process, yet to be determined, filling a regularly updated job description for that particular office. The appointment or dismissal of any individual would have to be ratified by a majority of the County Council.

4. These individuals together with the attorney, assessor, sheriff and other department heads could make up an Executive Council. The Executive Council may meet as a body regularly to coordinate, report, and make recommendations to the County Council. This interaction would provide better planning and give information and direction for both the legislative and executive arms of county government.

Because each would still be in the position as head of their respective sections they would retain their relationships with their counterparts in other counties.

We are in the infancy of this form of government and believe that to "fine tune" it is right and proper. It would appear that (§ 17-16-3) of the State Code not only gives permission to make such changes, but to reverse any of these recommendations if it were later deemed desirable.