

CACHE COUNTY COUNCIL MEETING
May 28, 2002

The Cache County Council convened in a regular session on 28 May 2002 in the Cache County Council Chamber at 120 North 100 West, Logan, Utah.

ATTENDANCE:

Chairman: C. Larry Anhder
Vice Chairman: Layne M. Beck
Council Members: Darrel L. Gibbons, John Hansen, H. Craig Petersen, Kathy Robison, and Cory Yeates.
County Executive: M. Lynn Lemon
County Clerk: Jill N. Zollinger

The following individuals were also in attendance: Richard Anderson, Dale Bankhead, Ray Bankhead, Andy Barnes, Dave Bennett, Vern Bray, Liz Brown, Lamar Clements, Paul Cook, Morley Cox, Jack Draxler, Shawn Earl, Brent Ferrin, Wyatt Goring, Tamara Grange, Lorene Greenhalgh, Dale Hansen, Deputy County Attorney Don Linton, Sherry Lowry, Tom Jensen, Donna Majors, Chris Mortensen, Sheriff Lynn Nelson, David Nielsen, Herm Olsen, Evelyn Palmer, Pat Parker, Sherry Preece, Guy Ray Pulsipher, Jim Smith, Auditor Tamra Stones, Sharell Summers, Zan Summers, Countywide Planner Mark Teuscher, Kandis Wallace, Gordon Zilles, Jennie Christensen (KVNU), Leon D'Souza (Herald Journal) Matt Flinton (Standard Examiner).

CALL TO ORDER:

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

INVOCATION:

The invocation was given by Chairman Larry Anhder.

REVIEW AND APPROVAL OF AGENDA:

Item No. 8-b-3, BCIA Tax Exemption Request was moved up in the order of the agenda and was to be addressed by 5:30.

REVIEW AND APPROVAL OF MINUTES:

Minutes of Cache County council meeting of May 14, 2002, were discussed, corrected and approved.

Council member Yeates moved to approve the minutes. Hansen seconded the motion. The vote was unanimous, 7-0.

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REPORT OF COUNTY EXECUTIVE: County Executive Lemon reported on the following items:

Appointment: Charity Leng - Deputy County Recorder

Appointments: Elections Judges submitted by the County clerk for the upcoming Primary Election.

(Attachment No. 1)

Council member Petersen moved to approve the appointments. Vice Chairman Beck seconded the motion. The vote was unanimous, 7-0

Warrants: The Warrants for the periods of 05-03-2002 to 05-09-2002 and 05-10-2002 to 05-16-2002 and 05-17-2002 to 05-23-2002 were given to the Clerk for filing.

Other Items: Executive Lemon will be giving the Restaurant Tax Allocation Board his recommendations. He hopes that they will have their recommendations ready for the next Council meeting.

WELLSVILLE/MENDON CONSERVATION DISTRICT BOARD OF TRUSTEES CANDIDATES:

Executive Lemon gave a brief history of the law: The Special District law states that if there is a vacancy, the Board itself will appoint the replacement for that vacancy if it is not filed by an election. The next step was to go back to the authority that formed the District. The County formed the district in 1931. It was requested that the County go through a process: 1) The county was to advertise the vacancy on the Board. 2) The Executive was to make a recommendation to the Council. 3) The Council was to extend ratification.

The County had advertised for individuals who were interested in the Wellsville/Mendon Conservation District Board of Trustee position and two responses were received. Those responding were Dale Bankhead and Ray Bankhead. Both were invited to come and speak to the County Council telling why they wanted to be on the Board and what their qualifications were. Each candidate was given five minutes and were allowed to share that time with public comments.

DALE BANKHEAD: The reason I am running as a trustee candidate of the local Wellsville/Mendon Canal Company industry is because I believe that the fundamental principle of constitutionalism is the rule of law and the basic principle of the rule of law is that everybody follow the same rules.

Governance and Management:

1. The Wellsville/Mendon Conservation District should be operated according to the same policies, procedures and practices (sometimes called by-laws), that are documented and made available to all water shareholders and patrons.

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2. Water distribution should be carefully managed to avoid waste and assure that each patron has the opportunity to receive his proportionate paid water share (normally one acre-foot per share per year).
3. Trustees of the Wellsville/Mendon Conservation District should provide for regular public meetings, proper notices, proper elections, regular financial reports, water distribution schedules, maintenance of water-usage vestige records and for any other practices necessary for efficient and effective governance.
4. The trustee should assure that the canals and facilities are properly maintained to avoid deterioration, wasting of water and conditions that could be dangerous and costly to the public, the County, our patrons and shareholders.
5. The Wellsville-Mendon Conservation District officers and directors should also include people who have irrigation and water management experience in order to serve and assist water patrons to properly assess and to utilize the water to which they are entitled.
6. The Wellsville-Mendon Conservation District Trustees should also assure that legitimate patron grievances are given the benefit of due process without fear of threat or retaliation

On water distribution, it should be distributed to patron's on a rotation schedule so they can be selective on crops so they can be intelligently and successfully managed. .Water should be distributed to patrons according to shares not according to other needs and not according to shares that they have paid for.

Canal maintenance should be made to improve and to avoid the backup of water and to deliver water efficiently to the members and the stockholders. We need to keep the canal maintained especially in drought years and other times in order to get the water through properly.

Canal leakage and other dangerous situation should be brought to the attention of the Trustee and the situation should be acted upon immediately so that other dangerous situations could be avoided and preserve our sufficient little canal system. Damage to public property and County property should be eliminated by moving appropriately and effectively our water canal system distribution.

Legitimate patrons should be treated properly without unlawful retaliations and threats. We should have irrigation without irritation, retaliation, and litigation.

Qualifications of Dale J. Bankhead:

1. Experienced Irrigation professional with over 25 years designing, installing and managing irrigation systems.
2. Owner and manager of the Circle B Irrigation. A Cache County business specializing in modern irrigation systems.
3. Familiar with all modern irrigation system types including self-driven pivots, wheel lines, water cannons and hand lines as well as traditional flood irrigation systems.
4. Thorough knowledge of pumping and distribution systems including the ability to calculate and measure capacity, delivery rates and efficiencies.
5. Familiar with successful water rotation and scheduling systems to meet the needs of different patrons and the capacity limits of irrigation company resources.
6. Capable of measuring and calculating gallons per minute, cubic feet per second, acre-feet per water per day, water friction loss, static head, dynamic head, precipitation rates, etc. for all types of irrigation systems.

Dale thanked all those who had served as trustee volunteers for their years of service and noted that it was a commendable volunteer service. Mark Teuscher also noted that to be on the

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Board of Trustees, an individual must own property in the district and have rights to that water system.

PUBLIC COMMENT:

Richard Anderson: I would just like to say that Mr. Bankhead is a very capable man, a very honest man of high caliber. I think he really understands irrigation systems well. As a user, he is a man that I can go to and say: "I have 10-acre feet of water and I am going to water 8-acres." "What size of nozzle should I use?" "What pressure can I run my system?" "How long can I run it without overusing my allotment but yet use my allotment?" That is missing today; I can't find anyone else but him who can give me that same kind of information. So, I heartily support him. Also, that you take care and worry about these safety issues that I hope the slides dramatically illustrated.

RAY BANKHEAD: Ray Bankhead introduced himself to the Council, as a past member of the Wellsville/Mendon Conservation District, a member of the South Cache Water-Users' Association and a member of the Cache County Water Policy Advisory Board. These items Dale brought up should be involved in irrigation. They haven't been and we are working on some of them. The voting that took place was voted (by) the same style since 1942. All at once the State law changed where voting wasn't right. It did show me the standing of most of the people of what they desire and how things should be operated.

As far as the control of Water, we have had many people (who) have figured we have controlled the water very adequately. We have not had the size of canal that can take the water so that everybody can use it exactly as they want; so, we have to alternate use. We have a man that takes care of it (the scheduling of water) it when he (the patron) needs it. This has been a very important situation. Yes, there is a time when we should be able to go out into a man's fields and see what water people are using but we don't have the measuring devices right now. We are contemplating trying to get those involved and solved where everybody would have a measuring devices to know how much water we are using. You can go out and measure the size of a nozzle and a man's (water) pressure; but you go up to a man's field and if you see a sign that says "No Trespassing," there is no way you can go out and measure the risers.

Last year was the only year we ran into severe complications. These pictures shown about the canal's severe leakage was a-year-ago. We have been working on funds to correct that problem since that time. Prior to that, the canal had been leaking; and this is a Bureau of Reclamation problem. We had been working with the Bureau to try to find funds to get this rectified. Years ago we could go in and we could borrow money from them. When we got this one (the severe leakage problem), they said that money had been depleted and there was no funds. So, we had to go to the Water Board to see if we could get funds there. They said we would have to go through a bond issue; so, we have been working on a bond issue on this canal now for a solid year. We are just about now to that point where we can go with it. It is going to take quite a bit of time just to complete that project. I would like to be part of the Board and help see that this bonding is completed.

We have had other problems on the canal. About 10 years ago there was a big leakage and we thought that we had it fixed. Since then there has been some leakages and we fixed those. We lined it but it didn't hold out; so, we had to go a different direction. We are working on this.

As far as by laws, this Canal Co. has not been responsible to gain by laws; and now with the State, we need to comply with due process. We are trying to get on board; we hope to have this right away. No matter what laws you put into effect no matter what system, a canal system or a irrigation system like this were you have 500 ft. irrigaters and you have two towns or cities that irrigate off from this (system), you have got to have meetings. All people have got to agree. The Board of Directors can not just say we are going to go this way or that way, it has got to be through the public input (of) how these lines can be handled. There must be a lot of public meetings to get these laws in effect. We are trying to work on that

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now. We have scheduled a meeting every month were we can start working on these and get it going. Yes, we have been neglectful (in the past) and it is the whole board (who have been neglectful). It is not just one or two. It has been the whole water system that has been effective on this. We are trying and we are proceeding.

The reason I would like to stay in there is I would like to get this bond issue going. It has been a big headache. I have never jumped through so many loopholes in my life to get it going! It is going to take more time. We need to get this canal safe as it has to be.

As far as people being shut off from water, last year was the first year that we really had a problem of anybody not having water when they had to. The reason was because of the leakage in the canal. Water had to be lowered and everybody had to go without water. There wasn't a person on that canal that was not shut off for that period of time. It was quite-a-bit of time. In fact, a canal user was only able to water part of his crops once where he usually was able to water his crops twice because the water didn't get there. We are working (at) this to get it resolved. This is one of the reasons I would like to be put back on the Board where I can help control all this, keep it going the way we are and try to get everything in line the way it should be.

As far as knowing irrigation, I have been on the Board now for 22 years. As far as the distribution system, I have as much experience as anybody of how this irrigation district should work.

County Executive was to make the recommendation for the Wellsville/Mendon Conservation District Board of Trustees Candidate in the next County Council meeting for the Council to vote upon.

BCIA REQUEST FOR TAX EXEMPTION:

Ty Newberry stated that the Olympics was completed with a great amount of success; the first quarter for BCIA was very positive. At this time BCIA was requesting a tax exemption under the education subtitle. Individuals from BCIA felt that over 2/3 of time at the ice arena served educational purposes and 1/3 of the time went for public sessions; yet there was still education and lessons going during those sessions.

Herm Olsen: As you look at the length and breath of Cache County, one of the unique things that we've done is to put up the ice arena. It is sort of hand-in-hand with some of the other really valuable efforts that the County has made over time: The American West Heritage Center, the Jensen Historical Farm and the Utah Opera Company and Ellen Eccles Theater - really quality activities. It helps Cache County be on the map in terms of appropriate things to do involving ourselves and our children. It has to be economic. One of the really crucial elements of that economics analysis is the tax-exempt status. As I understand it, these other groups that are entities that are like the ice arena have qualified for tax exemption status. It is my understanding that there is a pretty broad agreement; that If in fact the ice arena had an operating agreement as opposed to a lease, it too would fit those same qualifications since it is owned by four public entities. I'm not certain that is a difference with much distinction. It seems to me they are essentially the same. If in fact the Council felt that the existence of an operating agreement as opposed to a lease agreement were the crucial criteria which made a differentiation, I suspect the Bridgerland Ice Arena board would explore that. In discussing this with Lynn (Lemon) and others, I think there is a pretty broad consensus that, that's the only differentiation that would be an issue. I do urge the Council to consider the tax-exempt status for the ice arena. Thanks.

Jack Draxler: I appreciate a few minutes of your time today. When we set the North Park Ice Arena,

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one of the big concerns was that the communities and The County would not have to get involved in the operations expenses of an ice arena. We wanted to make sure to the best that we possibly could that the Non-profit organization, namely BCIA could break even so that they could provide the educational and recreational programs without the cities or The County having to get involved.. I think they have demonstrated that they are doing an outstanding job educationally. I don't know how many age groups of Hockey Leagues they have but I do know that they are busy until late in the evening and all day Saturday with those leagues as with a lot of other instruction going on. I believe that their educational commitment is at least as deep as many of the other tax exempt organizations. Admittedly, some of the other tax-exempt organizations that we have granted, offer some charitable care and other kinds of things but that they also find ways to commit to almost multi-million dollar bonuses for executives and some other things. I think there is a strong case for tax exemption here. I know there is a little concern about setting precedence and that other organizations are going to come in. I honestly don't think that would be a problem. I think those who truly qualify for tax exemption are pretty clear cut and I would submit that BCIA definitely does qualify.

Questions:

Craig Petersen: Jack, what is the magnitude of tax dollars that we are talking about here?

Jack Draxler: I know that one of the things that Herm mentioned, was that a key element of this viability is being able to not go below the breakeven point. I don't know the dollar amount of taxes they we would have to pay. Lynn do you have any figures on that?

Lynn Lemon: On \$4,000,000.00 I was think we were talking about \$20,000.00 I know we have looked at numbers somewhere between \$16,000.00 to \$20,000.00 facility; I think that's where we are at.

Draxler: If you are looking at that kind of a range, it could be very well on the border of viability of BCIA and NPIC for that matter. We don't want the cities and the counties to get into a position of seeing a non break-even operation and seeing that we have to get involved in it. We're confident that we can have at least a break-even operation if we are tax exempt so we don't have that kind of a tax burden, a \$16,000.00 to \$20,000.00 burden.

John Hansen: Jack, are the public schools using that facility; and if so, are they being charged?

Draxler: They are using the facility. Ty (Newberry), to what degree are they being charged?

Ty Newberry: Actually we have a grant (inaudible)

Darrel Gibbons: Of these programs listed, how many of them have fees?

Draxler: Ty, do any of them have any fees?

Newberry: All of them except the School Outreach, the Boys and Girls Scouts Merit Badges.

Draxler: Hockey has a fee that is considerably less than those things like Soccer. The lessons collect fees to pay for the instructors.

Newberry: With that we do provide scholarships for people who are financially challenged and things of that nature. We work with the public as much as we feasibly can to provide an opportunity for everybody who wants to get out on the ice.

Executive Lemon commented that an operating agreement versus a lease agreement had been under debate even before the bonds were put into place. It was known that if it were an operating agreement, it would be tax exempt and if it were under a lease agreement, it would be subject to taxes. Looking at this application on the strict letter of the law, it does not qualify that it is used all except the minimum use for educational purposes.

There was one precedence in the State that Executive Lemon was aware of and that was "Seven Peaks Resort" in Provo owned by Provo City and Utah County. The County has granted tax-exempt status for that facility. Executive Lemon made it clear that he did not want the Ice Arena to be strictly for educational use and that he really wanted it to be open and available to the public so the public could use it. However, he felt that even though it didn't meet exemption status by the strict letter of the law, tax exemption ought to be granted.

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If for some reason BCIA said they couldn't make it work and they needed to turn it back to the County and the other entities, the County would have to come up with the money to keep it operating and make it work.

Tamra Stones felt that personal property tax exemption was the concern being discussed because the County owned the land and the building. She noted that there was property tax for personal property and privileged tax for the building. Executive Lemon clarified that privilege tax was the major issue of concern. Ms. Stones also stated that in the contract agreement it said if the Council made personal property tax exempt, then the County would not charge the privilege tax. That was affirmed by Executive Lemon.

Council member Petersen questioned Chairman Anhder as to if there had been a hearing on this issue? There had been a hearing and the recommendation of the hearing officers, Layne Beck, Lynn Lemon, Cory Yeates, and Chairman Anhder, was stated as follows: "It serves an educational purpose, the personal property affidavit is submitted and tax exemption for this year should be granted."

The standards for education exemption clearly says that it has to be 100% educational but a precedent had already been set by granting the Utah Festival Opera Company tax exemption. If the ice arena was not tax exempt, then UFOC is not exempt either because their claim was very consistent with this one and their operation was not 100% educational. American West Heritage would be likewise.

The definition of education was discussed. One of the standards that the State Tax Commission uses for the definition of education is a Court case that happened in Michigan. It has to do with lightening the burden of the tax payers in other pursuits that education would normally provide.

Executive Lemon had struggled with this point because this facility was not only built for educational purposes; it was built for a public recreational facility. On the flip side, if the exemption was not granted then the County or the other four entities would have to make up that money so the arena could operate. He recommended that because of the precedence set with Utah County, the exemption should be granted. Chairman Anhder noted that if the exemption were passed, it could be challenged by the State; and the person who would challenge would be the County Assessor.

Vice Chairman Beck moved to go into Board of Equalization and handle the Board of Equalization items. Yeates seconded the motion. The vote was unanimous, 7-0,

THE COUNCIL MOVED INTO THE BOARD OF EQUALIZATION

BOARD OF EQUALIZATION:

BCIA REQUEST FOR TAX EXEMPTION (CONTINUED):

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Vice Chairman Beck moved that the Council adopt the recommendation of the sub-committee to declare BCIA tax exempt by using the findings of fact prepared by the Board's secretary, our County Auditor, as a point of justification for granting that tax exemption. This would include moving towards an operating agreement. Hansen seconded the motion. The vote, which was held until the follow discussion was completed, was

Discussion:

Craig Petersen: What is the basis for the finding of fact that if it is an operating agreement rather than a lease agreement that it complies with the legal requirement.

Lynn Lemon: When we were going through bonding for the ice arena, bond council said that if it were a Lease Agreement, they would be subject to property tax. If it is a Operating Agreement, they would not be subject....

Don Linton: In the operating agreement, the County leases the property to BCIA. Just like a property owner who leases the property to a tenant. The tenant does not pay the property tax. The owner pays the property tax. The owner being the County is not subject to property tax.

Petersen: Don, In the argument you just made, I see how that would apply to real property but would that also apply to personal property?

Don Linton: No it wouldn't.

Petersen: That is part of what we are talking about, is it not?

Linton: That is part of what we are talking about; but I understand, that is not the major part.

Petersen: It seems like to me by separating this and making it an operating agreement, you are able to separate the privilege tax, the real property tax. Lynn, from the personal property tax, but there is no necessary reason to believe that the personal would be exempt.

Petersen: It seems to me that by separating it and making it an operative agreement, we are able to separate and make it a privilege (real property tax) but there is no reason to believe that personal property tax would be exempt.

Linton: I believe that is true.

Petersen: The problem I have with this is we don't know very much about the implications of an operative for property taxes. We don't know very much about the implications of an operating agreement for property taxes. We don't know much about the implications of an operating agreement in terms of the financial liability of the County. I think this is a decision that would be better postponed.

Linton: I might make one other point. I don't think I made myself clear earlier when I was talking about Counties. What I was trying to say is that education is so loosely defined that in some ways we might be able to look at this thing again in another year.

Beck: This comes up every year. They have to apply every year for tax exemption.

Linton: We might look at this thing again to see if this group and define what is a clear definition of education and what is an educational use. It was be to this group's benefit rather to say after-the-fact in an appeal that we initially said "No, this isn't 100% for educational purposes." We really need to define that way.

Lemon: The State spells out very clearly what is educational and what is charitable.

Petersen: I still think we should put it off.

Beck: One thing we should keep in mind as we consider this issues that we have already set precedent in defining what education is when we granted tax exemption to the Utah Festival Opera Company. We have not addressed the issue of the American West Heritage Center but that is a facility that is owned by a public entity leased to a private non-profit foundation. Why we have not addressed that, I don't know but we haven't; We have set a precedence. (For) the Utah Festival Opera Company, we have granted that facility tax exemption. If that facility is used 100% used for educational purposes?

Anhder: It is for sure that the ramifications of our vote could possibly cause us to re-look at other exemptions that we have given to consider their qualifications.

Beck: The only other precedence that we have in the State is in Utah County with "Seven Peaks Resort" and Utah County has granted tax exemption to a facility that is owned by the County and the City and leased to, I think, a for-profit entity. Do you know that Tamra?

Tamra Stones: No, I don't (know). What I think is that it is operative for the County and for the City. That makes it a government entity.

Beck: So its an operating agreement; they don't have a lease?

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Stones: I would have to check it; that's why I think it is exempt.

Anhder: We are speculating; we really don't know.

Gibbons: There is no urgency in acting on this tonight; whereas, I think we could benefit from a little bit of research.

Linton: It is not an easy question just to answer off the top.

Council member Petersen moved to table the motion. Gibbons seconded the motion. The vote was 4 Yes - 3 No. Anhder, Petersen, Gibbons, and Robison voted Yes. Hansen, Yeates and Beck voted No.

The issue was tabled and would be placed on the next Council meeting agenda and the Attorneys were advised to be prepared to give information and opinions on the following questions:

1. What issues are there on real and personal property under both the current arrangement and the operating agreement?
2. What financial obligations might be created for the governing agencies if they move (BCIA) into an operating agreement?
3. What really happened at "Seven Peaks?"
4. A more specific definition of what is considered educational?

MOBILE HOMES:

Brandon Birch: USU Trailer Court #76, Logan Ut 84341 - recommended purchase price of \$5,000 market value for the 2002 tax year.

Brad & Melanie Fillmore: USU Trailer Court #144, Logan UT 84341 - recommended purchase of \$11,900 market value for the 2002 tax year.

(See Attachment No. 2)

Council member Yeates moved to approve the personal property action for the mobile homes. Robison seconded the motion. The vote was unanimous, 7-0.

CITIZEN REQUEST FOR EXTENSION OF TIME TO PAY PROPERTY TAXES:

There was a letter before the Council members where the party requesting an extension of time agrees to pay \$200.00 a month beginning on June 2nd; however, that amount would not totally clear up the tax debt by next year. Executive Lemon would get in touch with them and let them know they would need to pay more than \$200.00 or it will be up for sale next year. It was his recommendation that the Council accept an offer from the party to try and clear up their taxes by next year.

Council member Gibbons made the motion to authorize the Executive to proceed in that manner. Petersen seconded the motion. The vote was unanimous, 7-0.

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Council member Petersen moved to adjourn from the Board of Equalization. Yeates seconded the motion. The vote was unanimous, 7-0.

THE COUNCIL ADJOURNED FROM THE BOARD OF EQUALIZATION

BUDGETARY MATTERS:

There were no budget transfers.

PUBLIC HEARING: OPEN 2002 BUDGET - TAMRA STONES

Chairman Anhder, opened the public hearing for the opening of the 2002 budget. Chairman Anhder asked Auditor Stones to review the changes being made to the 2002 budget.

Stones reviewed the following:

1. Federal Grant reimbursements received basically increased overtime and benefits for the Sheriff's Office through the general fund and the municipal services fund.
2. The sundry revenue was increased by \$26,000.00 to implement the safety bonus plan that was approved by the Council and the longevity services awards.
3. Travel had some State funding moneys cut and additional revenue in various departments. An adjustment to their budget was done making an increase of \$2,595.00
4. Capital projects takes into account the County's last debt service information received on the bond following that year of what is moving forward. It takes \$13,840,000.00 worth of bond proceeds plus community contributions and Federal grants for \$1,048,000.00 allocated to the public safety building (\$11,421,177.00) and the historic courthouse, the administration building and parking (\$7,146,793.00)

Executive Lemon pointed out that bonds would be sold on June 10th and 11th, 2002 with the idea that the final sale would be brought to Council meeting on June 11th for approval. He requested this budget adjustment not be approved until after that date because there may have to be a slight amendment depending upon the outcome of the bond sale.

PUBLIC COMMENT:

Respondent #1: I don't mind what you do with the budget, but I think the public needs to know more about these shifts and whether it increases the total budget or holds it the same.

Chairman Anhder: In total it does increase our budget quite a bit because of the monies that we are going to receive in the sale of bonds.

Tamra Stones: The Capitol Projects Fund will increase \$16,067,971.00

Respondent #1: That is a lot of money Council.

Anhder: Thats a lot of money.

Stones: It is.

Corey Yeates: An awful lot of money.

Anhder: Most of that money will come from the sale of the bonds and from the grant on the jail.

Stones: \$13,840,000.00 is bond proceeds. \$1,048,000.00 is a Federal grant from the Criminal Juvenile Justice. \$1,000,000 is from the Community contributions for the Construct Courthouse renovation. There is \$43,103.00 for interest proceeds and the premium we will be offering is \$136,868.00

Lynn Lemon: Mr. Chairman, I agree it is a lot of money but certainly it is something that we have wrestled with for a

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very long time. We have been in the process of planning an administration for many years. I've been involved with this since 1994. We have been trying to deal with the jail issues for a number of years. In fact, we've resisted any tax increase at all from 1994 on. We did have a tax increase in 1994 when we were forced by a Federal mandate to remodel the jail. We do realize that there is going to have to be a tax increase to pay for that facility but we are trying to manage that as carefully as we can; and we have tried to make sure that the public is aware of that.

Respondent #1: My concern here is we are talking and have spent most of this Council meeting on a tax exemption. Now we come back and talk bonds and increases. We know that we are going to get hit with property taxes. How can you justify here giving tax exemptions in one hand and charging me more taxes on the other? This is my concern: Bonds are a good way to finance these things. I don't deny that but, someday somebody has to pay the bill on these bonds! It isn't just the County; it is the City. We are getting hit pretty hard on taxes. Thank you.

Donna Major: We have never heard how much of a tax increase we are looking at.

Lemon: The estimate that we came up with on \$150,000.00 home, we are talking about \$32.00 On \$150,000.00 business, we are talking about \$50.00

Sherry Lowery: Is that a sales tax increase or a property tax increase?

Anhder: Property tax.

Paul Cook: Who is handling our bond sale?

Lemon: Zion's Public Finance and Wells Fargo Finance.

Anhder: Good questions.

Cook: Do we have a rating in on that bond?

Lemon: Yes, a double A minus, which was the best we expected.

Council member Yeates moved to close the public hearing. Hansen seconded the motion. The vote was unanimous, 7-0.

LAW ENFORCEMENT EMPLOYEE AWARD RECOGNITIONS:

Sheriff G. Lynn Nelson explained to the Council that two week ago was National Law Enforcement Week. There was a banquet held and the following awards given:

General awards that were office-wide: Deputy Andy Barnes for his work through the past year of dealing with the Olympics and for his assignment in the Jail division.

Clair Mauchley Memorial Community Policing award: Deputy Dennis Larsen

Sheriff's Metals:

Lt. Dave Bennett - During the Olympics, he handled both the Patrol Division and the Investigative Division plus scheduled all the personnel for the ice arena and for the Wildlife Resource Park.

Chief Deputy County Attorney Don Linton- for his help in getting the jail project off the ground.

Citizen of the Year: Scott D. Wells from Nibley. He has been very active coming out and riding with our patrol division and being actively involved there.

Star Deputy of the Year: Deputy Wyatt Goring and Deputy David Peatross who were both assigned to Wellsville City. Star Deputies are deputies assigned to communities and assigned with the task of improving relationship between those communities and the Sheriff's Office.

Outstanding Achievement Award to the Civil Department: Sgt. Jim Meacham and Deputy Doug Hunsaker, Deputy Pam Farrell, Deputy Todd Marcus, and Secretary Sherry Preece.

1st and 2nd Place in Swat Competition and training: Deputy Joe Yonk and Deputy Shawn Earl. This is

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about the third year in a row that they have won those awards.

Monty G. Coleman Distinguished Service Award: Deputy Jared Glover

Presidents Award: Sgt. Matt Bilodeau.

Richard Mecham Firearms Award: Kandis Wallace

Reserve Deputy of the Year: Reserve Deputy John Beddingfield

Chairman Anhder postponed discussion and action on Ordinance No. 2002-03.

ORDINANCE NO. 2002-05: CACHE COUNTY RESORT AND RECREATION (RR) ZONE AND PROVIDING AN EFFECTIVE DATE

Even though this item was not intended to be a public hearing the Chairman did grant a point of person privilege to Council members.

Council member Gibbons moved to adopt Ordinance No. 2002-05. Petersen seconded the motion. Vote was held until after the discussion.

Mark Teuscher, the Countywide Planner went over the adjustments suggested to the ordinance. Definitions were added to the ordinance; redundant items were dropped; and a better clarification of uses were written out. Environmental impact items were separated and best-management practices were set out.

(Attachment No. 3)

Those adjustments and changes would not go into effect until they had become recommended changes to the ordinance. Mark had made the changes or additions visible on the copy of the ordinance before the council.

Council member Petersen brought up the question: "What happens if the County fails to take action on the development agreement in the 6 months allotted?" Chairman Anhder felt that failure to act by the County Council meant that it was denied and that language should be included in the Ordinance.

If the developer does not get approval from the Planning Commission, they are going to have to come up with something that is going to meet the requirements. If they were constantly denied, then they have court action. At some point there has to be a recommendation to the Council. The assumption is that the zoning exists and uses are allowed and if denied, they are taking the arbitrary act by going to the Board of Adjustments.

Mr. Teuscher explained that the developer has three choices: 1) Submit the revised plan to the Planning Commission 2) They could appeal that decision to the Board of Adjustments. 3) They could elect not to pursue it any further. They have to go through the Administrative Process first then to the Board of Adjustments and then to the District Court. After that it would go to the Court of Appeals.

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The bottom line was that this can not get to the County Council until at some point the Planning Commission has approved some variation of it. They must make a recommendation to the Council and they may be forced by the Courts to do that.

Council member Petersen moved to amend main motion to incorporate the changes that Mark Teuscher proposed. Yeates seconded the motion.

Discussion:

Layne Beck: Page 2 on ski lift requirements for a ski area... I think we ought to have a length of the chairlift listed.... On a golf you have to have USGA standards.

Mark Teuscher: There is no criteria for a ski lift.

Beck: I believe that it would be in the best interest of this County, because this is going to be a Countywide ordinance if it is adopted, that we have some standards there.

Craig Petersen: Alternatively the Planning Commission would say looking at the Master Plan, that's a sham and we won't approve it; it is really taken care of.

Beck: I would like to tighten the definition of what a ski area is.

Brent Ferrin: May I recommend that if you wanted to tighten that up just say these two lifts must service a vertical drop of over 2,000 ft; that is a serious ski lift.

Vote was taken on the Amendment and the result was 6 yes-1 no. (Hansen voted No) The amendment passed.

Chairman Anhder asked for comments on the RR Zone ordinance.

Further Discussion:

Craig Petersen: Mark, on Page 18 when you talk about equivalent density, that is a good scheme to help understand what is happening, what teeth does it have within the ordinance.

Mark Teuscher: The unit density equivalence are not to be treated as residential units or commercial units. It is how to define those units but what it gives the developer is flexibility. He would get an approval to that density range and then they would break it down into a number of units.

Petersen: The Planning Commission really is not obligated by this ordinance to use this?

Teuscher: Yes; they are. They will divide up the density based on these equivalence.

Petersen: Show me in the ordinance where that is required.

Teuscher: Under 3408 - Density of development is a factor of both number and size of structures... That will define the uses that will be allowed and the maximum develop-ability the developer will have.

Petersen: It sounds to me that they are simply a tool for better understanding, but there is no requirement there.

Kathy Robison: I am still looking at water issues. You say you can't tell a State agency to respond but some of these water issues would be defined through the State Water resources.

Teuscher: Water quality would go through Tom Rushings office in the Division of Water Quality. Water rights will go through the State Engineer's Office through the Division of Water Rights; they will typically respond..

Larry Anhder: Part of the development agreement would be the proof positive that they have their water rights available to them.

Teuscher: Actually to get the zone they would have to show that. That is in Section 2; they would have to meet all 8 requirements. Page 2, Item No. 6. Now in terms of how storm water management would have to happen, that would not come under that rule. Water issues in terms of providing culinary water and sewer would be under that. No matter what you do, you are always subject to the EPA National Discharge and Elimination. They will have to get storm water permits.

Anhder: So there really is a two step process for any developer: 1) to change zone and 2) the subtitle of a master plan.

Teuscher: There is really a three step process: 1) Rezone it 2) Process the master plan/agreement 3) begin development. This is always circular. If you change the master in any way that alters the masters plan by greater than 10%, it comes back to the master plan process.

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Anhder: My point being that somebody doesn't come in with a blank piece of paper and say re-zone this piece of property.

Teuscher: No, they have to show that they can meet those 8 requirements.

Anhder: Then they have to come back with their master plan and development agreement.

Hansen: I have a concern that the Planning and Zoning Board recommended against this as did the Weber Planning and Zoning Board. We appoint those people to study the issues and for what ever reason, they recommended we not at lease at this point move forward. As a Representative of Southern District, this issue has generated lots of concern. A lot of folks would say a lot of emotion, which it is; but I also thing they have some legitimate points that ought to be discussed. Well over 50 letters and many phones (have come in). These are good people; these are intelligent people. It seems to me like if we discuss an item long enough that we ought to come to some kind of resolution. I would hope that we could postpone making a decision on this until perhaps we have some additional hearings and maybe discuss this further. At this point there is certainly not the consensus at all. It just seems to me like intelligent people can come to some kind of resolution if they talk long enough.

Petersen: Mark, could we turn to appendix C about physical analysis: I have three concerns about that. 1) In terms of ongoing revenue sources. What the developer is required to provide is ongoing revenues to build-out. You could have a development that never achieves build out because it is stuck in limbo for years. I would like to see more analysis of revenues prior to build-out. 2) Expenses can be calculated in one of two ways: Under "C," there is no alternative way that the developer can take. The developer can simply use Cache County statistics like an averaging of expenses per services on a per capita basis.

Council member Petersen made the motion that under Appendix C to 1) strike out item "3-c" under expenses and to make 2a) on estimating ongoing revenue estimated at 25%, 50%, 75% and 100% of build out. In the paragraph immediately following the last sentence should read the same with the 25% , 50%, 75% and 100%. Gibbons seconded the motion. The vote on the amendment of the items in Appendix C was 6 yes; 1 no. (Hansen voted No)

Mark Teuscher commented on Weber's denial. The denial was for a re-zone request for approximately 2200 acres in their FR-40 zone which was different than ours. Currently they have a residential zone (C-3) and a commercial zone. The request would have allowed them to increase their current residential density of 900 unites up to 1200 units. I will go to the County Commission. Under their current development without changing the zoning they are up to about 900 depending upon how they are developing. They have a graduated zoning so that if they put it in a higher density, some units could get up to 20 units-per-acre. They still have to go through a development process and they still have development rights according to Craig Bark from County Planning.

Council member Hansen asked the Chair for a point of personal privilege and allow if Mrs. Lowry to speak. The Chair recognized that point of person privilege.

Mrs. Lowry said the denial wasn't just because of the density. She gave several point of denial, the first 6 being the main points:

1. The road issue was a really big thing there especially in the Winter.
2. Economic study. They didn't feel it was feasible either.
3. They felt like they needed some inter-county interaction with Cache County.
4. Water issue. They were really concerned that the Pineview reservoir was going to be polluted.
5. They didn't feel like the Weber commission should make the final decision.
6. They won't even allow a helicopter pad in the Huntsville are at all because of noise pollution. They didn't want people going shopping to Powder Mountain on a helicopter or driving back and forth from the airport all the time in a helicopter.
7. The ski area would be priced out of local people.

Hansen: I would just like to make one other point. I think there is some mis-information concerning the windfall that

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would come to public education. If we had read the letter, which we have, he talks about the equalization fund that would come into play and so it would help education across the State but not necessarily a windfall for the Cache or Logan School Districts. That is not the way I understood that early on and I think that needs to be clarified.

Anhder: All of the things that Mrs. Lowry commented on and the questions about the physical impact study would all be handled in the development agreement as part of the master planning process.

Council member Hansen asked for another point of personal privilege for Mr. Summers to make comment.

Sharell Summers from Paradise: I have several acres up in that area. My biggest concern today is law enforcement. If you put more people in the mountains, you are going to have more trespassing. I am opposed to change of the zone but if you do change it to an RR Zone, I hope you will budget enough money for strict law enforcement in the mountains not only in the Summer but in the Winter for snowmobiles and such things.

Petersen: John, on the letter that came from the Cache County School District because they get subsidy from the State, is the same true for the Logan City School District?

Hansen: It is.

Anhder: The Logan City School District isn't impacted by this at all because it is only going in this area, the County School District not the Logan's School District's area.

Yeates: Mr. Chairman, I would like to ask Mark, are you comfortable with the way that the ordinance is written that we have instituted enough protections as far as water quality, quality of life issues, and other things? Are we adequately giving ourselves enough say in these projects that this ordinance is actually a benefit to the County?

Teuscher: I believe the Ordinance gives the County a lot of leeway in terms of managing the life of a project whether it be one year or twenty-five years. With the master planning process and the environmental reviews as compared to FR-40 zone. The only thing that could not be done would be the amount of density that is proposed on this. We would have some control over the runoff, no control over the water issues, no control over the septic issues and no control over the roads. As compared to the FR-40, yes it gives you a lot of control and management of the project. On the other hand it does increase development in that location. There is always the unintended consequences. The question would be that you would have to be ready as a jurisdiction to recognize if the ordinance is not working to change it so it does not create problems. As problems do initiate and it is a problem within the ordinance, then you will need to plug that whole. At this point, I believe this gives the County a maximum control that they would desire at any time.

Anhder: It is control we don't have under the FR-40 Zone; under our Commercial Zone, under our Residential zone.

Hansen: Mark, it is possible that we could tweak our FR-40 Zone and give us more safeguards giving some coalition between and FR-40 and a strictly RR Zone.

Teuscher: Yes, we probably could. The Countywide Comprehensive plan recommended there may be changes that could be made to the FR-40 Zone and the Ag. Zone. They are in my professional opinion inadequate to protect the issues that even the Paradise and Avon people have.

Beck: One of the concerns I have if this ordinance is adopted: We did have as I recall a rancher from Hyrum visit with us regarding lots of land and a lot of cattle running on the land. Their concern was property taxes that if this zoning change happened that they would be essentially taxed out of the cattle-running business. I have a hard time believing that because Ag. land is based on the production of the land not on the value of the land. However, she did bring up an issue: If this happens and you want a cabin on every 40 acres, that is exactly what will happen.... I don't know what we can do, Mark, with the FR-40 but I would like to see us do it.... I know there are some large tracts out there where they could put several recreational cabins on every 40 acres and put roads anywhere they want and not get concerned about water quality and road issues and runoff, esthetics, anything. Certainly we do need to post hast deal with FR-40 if this is adopted.

Hansen: A lot of the comments I received about the FR-40 was simply that. A lot of the folks are saying: "Why don't you overhaul the FR-40 and make so it really works.

Yeates: one of the problems there is Planning Commission, who looked at the RR Zone and revised it and sent it to us..., also looked at the FR-40 Zone and chose to do nothing with it.

Gibbons: As we are considering what to do, we have heard from these good people from the South end of the Valley;

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and if we chose to adopt this ordinance which will permit development at a greater degree than our FR-40 currently permits, there is going to be some impact to their communities. I think we have to weigh the negative impact to you guys versus the positive impact that the entire rest of the community might receive by the adoption of this ordinance. It is a tough decision to make. It is interesting and this is a little aside. I sat in a meeting today with Representative Jim Hansen and we talked about development of a trail system in this community. They are proposing to do the very thing that you are concerned about and that is to designate a public trail through our Forests. (Public comment: I've looked at that map and they have trails going through much private ground; I don't know how they are going to swing that.) They are going to ignore the private ground for now and address the public ground. There is an attitude that if we designate a trail then those people who operate four-wheel ATVs will stay on the roads. (Public comment: That won't happen.) Anyway, I appreciate your concerns.

Council member Gibbons asked for a point of personal privilege for the Chair to recognize Mr. Guy Ray Pulsipher. Privilege was granted.

Guy Ray Pulsipher: I have lived in Avon since 1938. This road system doesn't just start in Paradise. From Hyrum on up, it does not take care of the traffic that we have today. I don't think the County has the money; the State certainly hasn't got the money. This bothers me to know that if we get the RR zone and whatever density and whatever development transpires there, we are going to be faced with access some way from our County. That canal has taken its toll over the years. All you need to do is live up where I do to see the traffic that goes up South....I don't think we are ready to take care of that. The road situation isn't a part of it at this point but it will come if we get the RR Zone. Thanks for the time.

The vote to adopt the RR Zone as amended was 6-1, (Hansen voted No). The ordinance passed.

ORDINANCE NO. 2002-05

	ANHDER	BECK	GIBBONS	HANSEN	PETERSEN	ROBISON	YEATES	VOTES CAST
AYE	X	X	X		X	X	X	6
NAY				X				1
ABSTAINED								0
ABSENT								0

Council member Yeates moved that the Council go into an Executive Session. Robison seconded the motion. All were in favor of the motion, 7-0.

(Attachment No. 4)

EXECUTIVE SESSION:

During the 15 minute recess members of the Council, the County Executive, the County Clerk retired to the Executive's Office for the Executive Session. Land issues were discussed. The Executive Session adjourned at 7:45 p.m.

CACHE COUNTY COUNCIL MEETING RECONVENED AT 7:45 P.M.

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CACHE COUNTY ADMINISTRATION BUILDING UPDATE:

Executive Lemon explained that the Committee met and discussed four options of what to do with the brick on outside of the historic courthouse building. Their objective was to determine the cost of each of the following options and then bring a recommendation to the Council.

Options considered:

1. Take off the first layer of brick on the entire building and then put a new brick that would look like a historical brick.
2. To clean it and to take all the paint off from it and re-stain the center to match the East and West sides.
3. Leave it natural.
4. To paint.

CACHE COUNTY JAIL UPDATE:

Executive Lemon told the Council that Sahara, Inc. had been selected as the Construction Manager for the Jail complex. A letter was sent out to each of the Construction Managers who had submitted proposals which was copied and given to the Council members.

(Attachment No. 5)

RESOLUTION NO. 2002-19: ADJUSTMENT TO THE 2002 BUDGET

No action was taken on this item.

COMMUNITY FOUNDATION: SET UP CATEGORY FOR RENOVATION OF 179 NORTH MAIN BUILDING (COUNTY COURTHOUSE)

Council member Petersen moved to suspend the rules and set up a category for renovation of 179 North Main building. Gibbons seconded the motion. The vote was unanimous, 7-0.

FINAL PLAT APPROVAL: BEAVER CREEK SUBDIVISION

Lorene Greenhalgh: Paul Keller, agent for Glenn R. Keller and the Keller Cattle Corporation, is requesting approval of an 8-lot major subdivision on 417.811 acres of property in the Forest-Recreation (FR-40) Zone to be called Beaver Creek Subdivision for the construction of a seasonal cabin on each lot with a private road accessing each lot from the highway at 9800 North Highway 89, Logan Canyon. The property is located on the East side of State Road 89. The Planning Commission determined the State Road to be a natural barrier. The Planning Commission recommended that this subdivision be approved with the addition of one protective covenant stating: Any fencing on this property will be a maximum height of 42 inches. This

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covenant has been added to the Mylar plat.

(Attachment No. 6)

The Council was made aware that because of the new ordinance, as it is written, requires these folks to pay an additional fee to take the matter back before to the Council for final plat approval. It was noted that for a minor subdivision, there is one approval with the Planning Commission and one approval with the County Council; and then it is completed. With a major subdivision that is not the case. It was written that way in case someone wants to do spaces on the subdivision. After a 50-lot subdivision had been approved, the owner might want to come back with spacing for maybe 10-lots at a time. That way each space can come back to the Council for the final approval. Ms. Greenhalgh stated that if the Council approved the Bear River Creek subdivision plat in this Council meeting, the final plat approval fee would still need to be paid again; however, the Council could designate someone to read and approve the final plat and sign it rather than having it come again before the council.

Council member Gibbons made the motion to suspend the rules and approve the Beaver Creek Subdivision; and also that Council appoint the Zoning Administrator to handle the second review. Hansen seconded the motion. The vote was 5 yes; 2 abstentions, (Yeates and Anhder abstained.)

ORDINANCE NO. 2002-06: TO CLARIFY VOTING PRECINCT BOUNDARIES

This ordinance was on for first reading and no action was taken.

COUNCIL MEMBER REPORTS:

There were no Council member reports given.

ADJOURNMENT:

Council meeting was adjourned at 7:56 p.m.

ATTEST: Jill N. Zollinger
County Clerk

APPROVAL: C. Larry Anhder
Council Chairman