

**CACHE COUNTY COUNCIL MEETING**  
**June 11, 2002**

The Cache County Council convened in a regular session on 11 June 2002 in the Cache County Council Chamber at 120 North 100 West, Logan, Utah.

**ATTENDANCE:**

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

The following individuals were also in attendance: Jay Aguilar, Sandy Akhavan, Gerald Alder, Russ Akina, Grant Alder, Bruce Baird, Ray Bankhead, Alina Bokdle, Mark Brenchley, LeRoy Brown, Sterling Brown, Donna Cook, Randall Cook, Bobbie Coray, Jay Curtis, Joe Fuhriman, Lila Geddes, Recorder Michael Gleed, Lorene Greenhalgh, Gaye Gunnell, Cindy Hall, Monti Jones, Kurt Lindley, Don Linton, Sherry Lowery, Donna Major, David Miller, Scott Morrill, Sheriff Lynn Nelson, Grant Nelson, Bonnie Nielsen, Bryan Nielsen, Bryan Nielsen, Evelyn Palmer, Pat Parker, Reed Pearce, Susan Psalmonds, Steve Roberts, Jim Smith, Brent Speth, Coreen Speth, Jeremiah Stettler, Mary Schupe, Mark Stevenson, Wendall Sullivan, Auditor Tamra Stones, Mark Teuscher, Peggy Tueller, Rhonda Thompson, George Whitney, Rod Wilhelm, Attorney Scott Wyatt, Leon D'Souza (Herald Journal)

**CALL TO ORDER:**

Chairman Anhder called the meeting to order at 5:00 p.m.

**INVOCATION:**

The invocation was given by Darrel Gibbons.

**REVIEW AND APPROVAL OF AGENDA:**

Executive Lemon suggested having an Executive Session to discuss the location for the jail.

**Council member Gibbons made the motion to move into an Executive Session at the appropriate time. Petersen seconded the motion. Vote was unanimous, 5-0. ( Beck and Yeates absent.)**

**REVIEW AND APPROVAL OF MINUTES:**

Minutes of Cache County council meeting of May 28, 2002, were discussed, corrected and approved.

**Council member Robison moved to accept the minutes as amended. Gibbons seconded the motion and the vote was unanimous, 5-0. (Beck and Yeates absent)**

County Council  
June 11, 2002

County Council  
June 11, 2002

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

**Appointment:** Ray Bankhead - Wellsville/Mendon Conservation District Board of Trustees

**RESOLUTION NO. 2002-22:** APPOINTMENT TO THE WELLSVILLE/MENDON CONSERVATION DISTRICT BOARD OF TRUSTEES

A resolution approving the appointment of a director to the Trustee District No. 1 Wellsville/Mendon Conservation District Board of Trustees.

**(Attachment #1)**

**Council member Gibbons moved to accept the recommended appointment of Ray Bankhead and to waive the rules and adopt Resolution 2002-22. Robison seconded the motion. The vote was unanimous, 5-0. (Beck and Yeates absent.)**

**Appointment:**

Preston Ward	Employee Compensation Committee
Lt. David Bennett	Employee Compensation Committee
Randy Crowther	Employee Compensation Committee

**Council member Petersen moved to approve the appointments. Gibbons seconded the motion. The vote was unanimous, 5-0. (Beck and Yeates absent.)**

**Appointments:**

Peggy Tueller	TRCC Advisory Board
John Booth	TRCC Advisory Board
Art Jones	TRCC Advisory Board

**Council member Gibbons moved to approve the appointments to the Tourist, Recreation, Cultural and Convention (TRCC) Advisory Board . Hansen seconded the motion. The vote was unanimous, 5-0. (Beck and Yeates absent.)**

**Warrants:** The Warrants for the periods of 05-31-2002 to 06-06-2002 were given to the Clerk for filing.

**Other Items:**

1. Utah State Association of County Commission and Council Meetings:

June 14 <sup>th</sup>	Tourism House Bill
July 26 <sup>th</sup>	Children Justice Centers
August 2 <sup>nd</sup>	Property tax administration
September 25th-27th	Workshop

2. Tax Sale: Parcels that could not be resolved would be sold tomorrow at 10:00 a.m. for

County Council  
June 11, 2002

property taxes due. A Tax-Sale Report was given to the Council.

**(Attachment #2)**

The proposed, deferred tax application from Ferris Jay Hubbard of Wellsville was recommended to the Council by Executive Lemon in the amount of \$1,000 per month for the next seven months. If 2002 taxes were not paid on or before 12/31/2002, his property would go to the tax sale next year. Penalty and interest had not been waived; avoidance of tax sale was the intent so as not to put people out of their residence.

**Council member Petersen moved to approve deferment of tax payment on the property of Ferris Jay Hubbard in the amount of \$1000.00 for seven months. Gibbons seconded the motion. The vote was unanimous, 5-0. (Beck and Yeates absent.)**

**EMPLOYEE OF THE MONTH: SANDY AKHAVAN**

Jim Smith Smith introduced Sandy Akhavan and related the following about her: "Sandy was selected by her peers as the Cache County Employee for the month of June. Sandy began her career with the County 18-years-ago on Monday, Sept 10, 1984. She has been an employee of the County Recorder's Office since her first day on the job. Through the years, Sandy has recorded mortgage records and property deeds. She has maintained ownership documents of land records as well as maintained plat maps of the County. Sandy has assisted public customers with property and boundary questions, ownership, mortgage and lien information and property abstracts. She assists in entering property information under the County's INGEO data base software program."

"Sandy enjoys interacting with the public. She also treasures the association with her coworkers and other peers in the historic courthouse. Sandy, one of your peers wrote of you: 'I've worked with Sandy and noted that she always dealt fairly and graciously with the public.' 'She is very knowledge and helpful to all'".

**County Executive Lemon presented Sandy Akhavan with the Employee of the Month Award and County Recorder, Mike Gleed, presented the gift certificate.**

**RECOGNITION OF THE GOVERNOR'S SILVER BOWL AWARD FOR VOLUNTEERS - SUSAN PSALMONDS**

Bryan Nielsen recognized Susan Psalmonds as the recipient of the Governor's Silver Bowl Award for Volunteers, which is an honor to the County. He prepared the following information on what Susan does on a daily basis: "Susan has been an active volunteer at Options for Independence for the past 4 years. She has undertaken many local advocacy issues which affect the lives of people with disabilities throughout the community. Susan displays an incredible initiative and desire to make needed change happen. She actively uses her personal experience and knowledge of disabilities to advance independence. Susan leads and sits on many different boards that are improving the lives of many individuals and the needs of those

County Council  
June 11, 2002

she serves. Susan is a relentless in her pursuit to see needed change accomplished by promoting the quality, dignity and independence of people with disabilities.”

Chairman Anhder congratulated Ms. Psalmonds on behalf of the County Council.

**LETTER OF SUPPORT FOR PUBLIC LANDS TO CONDUCT A PUBLIC OPINION SURVEY FOR FUNDING OF PURCHASE OF DEVELOPMENT RIGHTS PROGRAM: CINDY HALL**

Cindy Hall explained to the Council how important the Purchase of Development Rights could be as a tool in preserving the agricultural land in Cache County. In the last discussion with the Council, it was suggested to pursue the State enabling legislation for a sales tax because the Council felt that it would be less of a strain on the citizens than a property tax.

Representative Buttars drafted some legislation that expanded on what Representative Olsen presented in the previous years; however, he was unable to get the support from the League of Cities and Towns and the Associations of Counties and various other entities that would need to support the proposed legislation.

At the last Ag. Advisory Board meeting, Brad Barber, who had been working with legislation on this, presented a realistic scenario to us: The Legislature has become more conservative and more real estate oriented. Some Representatives were adverse to a local option sales tax because Cache County was the only county that was pursuing that type of a tax to the voters and there is no Statewide support. Therefore the sales tax option does not exist for the purchase of development rights.

The Ag. Advisory Board determined that it would be appropriate to find out what the citizens of Cache County could support. The Board asked that an opinion poll be completed ahead of the time to find out if there were enough support to put this question on the ballot. Noted was the fact that money could be available to the County from the State if there were a 1:1 match from the County.

Chairman Anhder asked Ms. Hall what she expected from the Council? Ms. Hall stated “That in order for them to engage in the opinion poll the County Council would need to request it.” Also there would be a cost of around \$12,000.00 associated with the opinion poll. It would be a phone poll of registered voters to find out if there was public support, how much support they would be willing to give and through what mechanism.

Executive Lemon asked if there was money through the Quality Growth Commission to use for the poll? The \$12,000.00 that the County received from the Quality Growth Commission is to develop the program that would outline the tools to be used for Ag. land preservation and to develop the system for prioritizing which lands should be protected with public funds. The \$12,000.00 could not fund an opinion poll.

John Hansen questioned if this legislation were passed, would the farmer or landowner be excluded? Ms. Hall responded: “Recognizing the hardship the farmers are facing, it could help them possibly to be profitable if they did not have to pay that extra tax; I am actually

County Council  
June 11, 2002

investigating that.

Alina Bokdle: I work with the Trust for Public Lands (TPL), a National non-profit land conservation organization that works with communities to look at ways to reach their goals in agricultural protection, open space protection or whatever it is the community has defined is important to protect. The timing this group has gotten together can work really well in that the Farm Bill was just passed by President Bush and the Congressional House of Congress. The Farm Bill allocates \$600,000,000.00 for the purchase of development rights on farms and ranches across the country. This funding source is definitely available for the State of Utah but there is an opportunity only if there is a local match that can basically match the Federal funds that will come into the State. That is really the critical point where in Cache County and many other communities within the State of Utah are contemplating at this point: "Is this a program that is appropriate for our community; and if so and that answer is yes, then doing a poll would at least give the information to you as the Council to determine numbers within the communities that are willing to pay for that agricultural protection. The request that is put before you (the Council) tonight is really the opportunity to allow and give the opportunity for the Trust for Public Land to work with Utah State University or other partners to perform such a survey that will then give you a stronger indication on whether some kind of ballot initiative is an answer in terms of ag. protection within this community.

Trust for Public Lands has done these measures across the Country. Along with a survey they can do an analysis and come back to the Council with a recommendation. Provide more information on what Ag. preservation would mean to this community.

Executive Lemon questioned how to make a public opinion survey so that it closely reflects the vote. He referred to the public opinions taken on Water Conservation and Fluoride that did not have the same outcome. Ms. Bokdle responded that only registered voters would be polled and TPL would develop questions that would reflect the ballot language.

Recommendation to the Council would be based on a percentage of registered voters. There are certain thresholds that the TPL organization would measure public response. Also, if a valid initiative was brought forward by the Council, TPL would work with the County as well as partners to help with the campaign to make sure that information is getting out to the voters in a way that voters can understand what they are going to be voting on, what the ballot language means, how it is going to impact them. The public campaign is a critical component in making sure the people have the information. Doing a survey is not enough; you have to make sure we do the campaign as well.

**Council member Hansen made the motion to approve the public opinion survey and to allocate \$4,000.00 as the County's portion.**

**Hearing no seconded on the motion, Chairman Anhder declared the motion dead.**

**Council member Petersen moved to approve a letter of support from the Council to the Trust for Public Lands to conduct the poll. Hansen seconded the motion. The vote was 5-0. (Beck & Yeates absent)**

County Council  
June 11, 2002

**WILLOW PARK/FAIRGROUNDS PROPOSED 2002/2003 BUDGET: RUSS AKINA**

Russ Akina from the Logan City Parks Recreation Department addressed the Council. Information was given to Council pertaining to the Willow Park fund proposed 2002/2003 budget. The information included both the projected revenues and also the expenditures proposed for the upcoming fiscal year.

**(Attachment #3)**

The Willow Park Advisory Board had reviewed the Budget and approved it. Also, the Logan City Council had reviewed the budget; however the City Council would not take formal action on it until June 19<sup>th</sup>, 2002.

**The County Council agreed to let the City Council be aware that members of the County Council were in agreement on this budget.**

**ZAP TAX PROPOSAL: RUSS AKINA**

Russ Akina, explained that he was representing a coalition that represent organizations in the County that work or have interest in recreation, arts, parks and the zoo. Current legislation that had been passed by the current Legislature regarding the 1/10 of 1% sales tax for zoo, arts, and parks tax. He submitted a proposed distribution of that 1/10 of 1% sales tax: 1) A percentage to Willow Park, 2) a percentage to recreational and park facilities and 3) a percentage to cultural arts organizations.

The Coalition was collectively asking the County Council to execute a resolution that would authorize the County Council to place this referendum on the election ballot of November 6<sup>th</sup> for the voters of Cache County to decided whether on not they want to have 1/10 of 1% of sales tax dedicated to arts, parks, recreation and to the zoo.

**This item was scheduled to be on the next agenda for discussion. At that time a drafted resolution would be brought forward.**

**PUBLIC HEARING: PROPOSED SECTION 900 - BUILD-ABLE AGRICULTURAL LOTS - TO SUBDIVISION ORDINANCE**

Mark Teuscher gave an introduction to the section being proposed. In State law there are requirements that all land be divided by subdivision process excluding agricultural divisions of land. The situation at hand was were farmers have taken for example a 500 acre parcel and breaking that into 5 (100-acre parcels). The old County code allowed any parcel 10 acres large (1970-1978) to be a build-able parcel. After that everything is subject to subdividing.

The problem being these large divisions are not eligible for building parcel. They all have to go through the subdividing process; our code refers back to the 1970 parcel. If a person on one of

County Council  
June 11, 2002

the 100 acres of the 500-acre parcel wants to build a house, he must obtain all five property owners permission to participate in the subdividing process or he can not proceed.

There is minimum ½ lot size. What this allows is a provision in the subdivision code for individual parcels to come to the zoning administrator, which is because it's in house, can request a house. As long as they meet all of the conditions of the County Zoning Code, this provision would allow them to have one house on that piece. At that point it would be a legal lot and eligible for re-subdividing. The standard being any lot larger than 10 acres can be developed. It becomes a civil issue between property owners.

County Wide Planning Commission recommended changes to the Code. They wanted to eliminate the re-subdividing standard within that to say if one building permit is granted, after that if the property owner wants to re-subdivide, the other property owners would need to be brought in again for the sub-dividing process again. The College-Young and Benson Planning Boards did not recommend approval of this. They felt it was just a way to legalize every 10-acre parcel in the County as a build-able parcel.

Basically, the request to build would go to the County Zoning Administrator and she would make sure that it was in agreement to all county codes: access, road right-of-way, etc. If not the process would not proceed.

Chairman Anhder asked for public comments concerning the ordinance.

#### **PUBLIC COMMENTS/COUNCIL RESPONSES:**

**David Miller:** I own 200 of these 600-acres out there between Wellsville and Mendon. I bought the ground in 1997. At that time by law they were build-able lots. Since that time and through some confusion, in late 2000 there was an ordinance passed that stated that the lots that I purchased and that some other of your constituents purchased under this understanding previously were now unbuild-able. What I stand here before you this evening is that myself and several other people in my position have commenced with agricultural and forestry plans, well permits, home permits, with architectural plans to commence to build our dream homes up there. The desire of the property owners as it stands today is not to subdivide this thing into a Black-hawkish type scenario. As a matter-of-fact, we applaud the 10-plus acre provision that you have in this ordinance. On behalf of myself and the other constituents that you have in the same situation, we urge the passage of this ordinance as it is written. I might also add that while this lays out 5 property owners - In some of these cases where there is 100-acre parcel, there may be six property owners of that 100-acre parcel. So, you are not simply dealing with 5 property owners. In theory you could be dealing with 15 or 20; and as you probably noted Larry, giving consensus out there is going to be very, very tough.

**Anhder:** Let me understand your point. You disagree with the Planning Commission's recommendation?

**Miller:** No sir. I agree with it as amended.

**Anhder:** So you would go with the idea that you could put a house on 100 acres and that's, that.

**Miller:** Yes sir.

**Bruce Baird:** Mr. Chairman, I'm Mr. Miller's Council. The confusion is that up until the year 2000, you could have done these individuals as a conditional use. What happened in the year 2000 was that it took away the conditional use ability. Mr. Miller thought he had the property and could have built on it in 1999; and two days later he couldn't build on it. That is what the confusion is. He didn't win the race at the courthouse; he didn't know there was a race going on. He assumed it was a lot. We think this is a good ordinance. I think one thing you could do if you wanted to and make sure that there was no re-subdivide ability. You could say, for example, on lots less than "X" acres, you couldn't have more than that. You could also just adopt the County Planning Commission's recommendation on that. We think it is so good; we wanted to take this time to thank the staff. We have worked quite closely with Mark and

County Council  
June 11, 2002

with your County Attorney and I think they did an excellent job. This is one of the more thoughtful ordinances that I've seen. This is unfortunately all that I do and I'm going to claim the blame for changing the State law in 1992 to cause this problem. I think this is a well-thought-out solution. I would suggest that this County should pass its ordinances on to several of the other agricultural counties who have similar ordinances.

**Cindy Hall:** I haven't had an opportunity to really study this and to investigate this but it seems to me that the existing ordinances were adopted for a good reason. This here is an exercise to appease a few land owners that may be to the detriment of the agricultural zone to the County. Essentially what this does is create all of these building lots in an agricultural zone that these lots were originally divided for agricultural purposes. I just ask you to consider the ramifications of this.

**Lynn Lemon:** Mr. Chairman, could I just ask a question of Cindy. We really have debated this a lot but it seems to me like it would be better to build one home on 100-acres than have them come in and propose a major subdivision. That is what we're struggling with, is it not? They own this 100 acres. If they wanted to they could come in and propose a major subdivision.

**Larry Anhder:** They can't do that though under the current ordinance unless they have the concurrence of the other property owners of its 1972 original size, is that right, Mark?

**Don Linton:** That's right, Larry.

**Lemon:** I have struggled with the idea that you could own 100-acres and you can't even put one house on it. I would rather us allow someone to put one home on 100-acres than I would have them come in and say they want to do a subdivision.

**Hall:** So, under a conditional-use approval, they couldn't put one home on the 100-acres?

**Lemon:** No. Not unless they get those other five property owners to agree. That just doesn't seem fair to me. It seems to me that if we are trying to preserve agriculture, we would be better off to allow one home and then they are going to keep their 85-acres or 95-acres in agriculture.

**Scott Wyatt:** If that is parcel 1 through 5. Parcel 1 could have 5 or 10 joint owners who are all heirs of the same Grandfather. Parcel No. 5, that's a one owner and they would like to build a house on it.

**Hall:** I know that you have debated this a lot more than I have but the Ag. Advisory Board has had a couple of discussions now on the importance of zoning and how zoning can play a bigger role in keeping agricultural viable and not encouraging urban development in prime agricultural areas. We just want to make the County Council and the Planning Commission aware of what ramifications the zoning decisions have on agriculture.

**George Whitney:** (College Ward) This ordinance did come before our Planning Board and I still am honestly confused about a couple of things that have been said here tonight. I do not know of any ordinance change in the year 2000 that in any way impacted what has been happening up here. The subdivision ordinance was changed; and if that was in 2000 that might have been in 2000 if that is what they were referring to. Before the subdivision code was changed, it still was such that once a parent parcel was divided, you were given 2 or 3 what they called a "mini subdivision" before you then started to be subject to the bigger requirements of the larger subdivision ordinances. As far as I know that has existed since the late 70's. So, any parcels here that have been split since the late 70's have always been the same. Although it is true when these wind up being split between several owners, the issue does start to become whether those owners necessarily have the same interests or not. For the life of me with an ordinance that clearly specified anything past those few splits were then subject to the major subdivision ordinance. I guess I am at a loss now why 20 years later we say: "Let's just go back to beginning, throw all of that history out and just start again with single ordinances." The lady tried to say quite strongly; one of the biggest detriments that we do to agriculture in the Valley is the fractionalization of the property. I guess some day we'll actually decide if we want to pass an ordinance and then work through it or whether we'll just keep saying "King's X"; let's ignore what we have done and let everybody start again at the starting line. If anybody, Mark Teuscher included, can clarify for me whether there was some ordinance changed in 2000 that really in essence changed that at all from what it had been before, I would like to know. Thank you.

**Jerry Alder:** Mine is more of a question. In 1970 me and my brother owned a piece of ground together. In 1980 we divided it. Was I liable to ask him or was it just divided in 1970? Was every 10ft. Mine and every 10ft. His or what?

**Lynn Lemon:** There would be single proprietors after that because it is a division and would require a name change.

**Alder:** It isn't a name change. I'm just eliminating his name and he is eliminating my name.

**Larry Anhder:** For instance, you took a 10-acre piece that was in both your names. If you put 5-acres in your name and 5-acres in his name, then that by definition becomes (private ownership).

**Alder:** No. By definition 5-acres was his to start with and 5-acres was mine to start with.

County Council  
June 11, 2002

**Darrel Gibbons:** The 10-acres belonged to the partnership. When you dissolved the partnership, those parcels became property of the individuals not partnerships.

**Lemon:** Mark: Wasn't it the Subdivision Ordinance we adopted in 1999.

**Mark Teuscher:** It was the adoption of the Subdivision Division Ordinance and the elimination of the conditions use lots splits. You can not divide land for conditional use.

**Whitney:** Even under that conditional use lots splits, once you divided a parcel 3 or 4 times for homes, didn't it make them subject to that major subdivision?

**Teuscher:** State law changed. Prior to 1990 the definition of State law was any division of 3 or more lots; in 1990 the State Legislature changed the definitions to 2 or more lots.

**Bruce Baird:** That was in 1992.

**Teuscher:** Basically, you could do 2 divisions as not a subdivision; but after 1992, the definition went to 2 divisions.

**Council member Petersen moved to close the public hearing. Robison seconded the motion. The vote was unanimous, 5-0. (Beck and Yeates absent)**

**Chairman Anhder thanked the public for their comments and stated that the "Proposed Section 900" would be on a future agenda.**

#### **PUBLIC HEARING: REVIEW OF EXISTENCE OF COLLEGE-YOUNG AND BENSON PLANNING COMMISSIONS**

General overview given by Lynn Lemon: Legislation allowed the Township to be formed; and then a couple of years later, the State Legislature changed the Township and took away their ability to control their borders and basically established them as Planning Commissions. We had elected people to those positions and some appointed people prior to that time. They all became appointed individuals after that point in time. With that State Legislation, there was also a provision in there that the County Legislative Body would review the issue after that date. It became effective in May of 1999 and so the review period came up in May 2002.

This process was not being done because of the College-Young incorporation and feasibility study. There was a decision back in May of 2000 by the Council when individuals were appointed to that Planning Commission that this would be reviewed three years hence.

Chairman Anhder opened the public hearing for comments.

#### **PUBLIC COMMENTS:**

**Donna Cook:** I believe the College-Young Township Committee should be dissolved because the people of that area can be represented completely by the County. If there are concerns of people of this area, they can always be brought before the Cache County Council or Planning and Zoning and can be listened to and dealt with fairly. By dissolving the Township Committee, one of the steps in a long process of building permits, etc. would be saved. Some of you may say that there were not very many signatures on the petition, which was correct. I did talk to different people in our area who agreed that the Committee needed to be dissolved but felt that they could not put their name down because of what their neighbor might say. Some of the comments I received: "I have children who go to school or church with these people's children and I can't risk having them hurt." "I hold a position in the church and I have to go into these people's homes and I can not have bad feelings towards me." "There are already too many people who are upset with me and I don't need more." I feel very sorry that some of the people of our area are so oppressed. I feel even sorrier for the ones that are putting down their neighbor and talking behind their back; or letting their children hurt other children because of what they hear in their homes. I ask the people of College-Young and Spring Creek to stop being so petty and mean. I am not asking the committee to be dissolved for vengeance but because the three years have passed. It is time to re-consider the reasons for having this committee.

County Council  
June 11, 2002

**Grant Nelson:** As stated by Mr. Lemon, when this Township was formed this Board had some merit. It only lasted one year not two years as I recall. It's my opinion that this Board now serves no real purpose. Actually it is a layer of government that is really not needed. It is a duplicated thing. They serve the same ordinance the same rules and regulations that the County goes by all over the unincorporated area. This Board is actually responsible for a little contention, a division in the people of our area and I would recommend that you dissolve this Township Board. I don't know how many people signed that petition; I signed the petition. A lot more would if they wanted to be public. There is a lot of concern out there about this Board whether they are on the petition or they are not on the petition.

**Gerald Alder:** I'm in favor of keeping the Township Committee. I can't speak for Benson Ward but I would probably be in favor of their's too for this reason: They're opening the flood gates for the Cities that opposed this town to start with. Through my own personal experience, which I've been through your Board, their Board and the County Board, fighting Logan City's on different issues, I've got more help in College and Young Ward than I have of all the rest of them put together. If you take this away, I don't think the individual of College-Young Ward can have no where to go be represented.

**Brent Speth:** I am a former resident of College Ward and own property in College Ward along with my mother. My mother, Edna Speth, residing at 2200 S State Hwy 89-91, has a small parcel of ground (1.4-acres). The land was our farmstead when we were in the dairying business. ...I had to leave the dairy business to get insurance. We had about 20 buildings on our property and had about 46,000 square feet under some type of construction. We had cement corals and whatever. Some of the buildings had been vacant for a number of years and were beginning to tumble down even though we tried to paint them and keep them fixed up. With not being in the business any more they deteriorated fast. We tried to keep the rodents and the weeds down and it was a problem. My mother was 87-years-old at the time....We felt that we needed to come up with some means of support for my mother, who will be 89 this year and still lives alone but getting close to going in a rest home. We wanted to do something with the land that had the least impact and not do something requiring services because there is no sewer. We didn't want to impact water; we didn't have any fire protection. It was our desire then to build some storage sheds. We approached the Zoning Board and they told us that we needed to get a conditional use permit to build these storage buildings. We went before the College-Young Planning Commission. We wanted to build 2 buildings that were 40 X 250, which would be 20,000 sq. ft. In those meetings we were denied those condition-use permit. We then made an appeal to the Board of Appeals, which they overturned that decision and allowed us to have the conditional-use permit. We were able to obtain the demolition permit for the building and we were allowed to start getting a building permit. Within a very short time, 30 days, we were given notice that a lawsuit had been filed against us from the Planning Commission against the County Board of Appeals. So, we have a County entity suing a County entity. This didn't make sense (that) one division of the County sues the other division of the County. Prior to the meetings we ran into lots of comments about: I was exploiting my mother; I was being rude to do this to her; that she didn't want this. We ran into some of the comments that were indicated from some of the people on the commission that there was some bad feelings being spread around.

To make a long story short, we went to the District Court and fought it for a year and we won at the District Court level. It cost me personally \$25,000 for attorney fees. The judge asked us to stop working on the building while we went through the process and we were stopped for a period of about 6 weeks while he made his decision; and then we started working on the buildings again. Within a short time after the judge had made his ruling, we received another suit that had (been) taken (to) the Utah Appeals; that is were we are at today. The Planning Commission is now suing the County and my mother and I at the Utah State Court of Appeals. These people just don't want to give up. They tell us all the time that all they are doing is following the law but it is very evident that they have gone beyond that. Their desire is to control people, and control property and not let people have things that are within the law. Within the law that the District Court says (and) the Board of Appeals says, they have gone way beyond that. If the Utah Court of Appeals (rules against them) where is it going to going from then, the 10th Circuit Court of Appeal in Denver? There is no end to this thing; they just keep going.

We are now at the Court of Appeals level and my attorney is telling me now it will be \$50,000 to fight this at the District Court level. You're involved in it too! You are going to have to take money out of you coffers. You're going to have to take tax payers money to pay also this law suit. It really bothers me that being a tax payer having my money going for frivolous law suits to sue myself and to be against me and what I'm doing. It is just a crazy thing. It has caused a lot of frustrations. It has caused a lot of financial hardships. It has caused a lot of problems with us. In fact, we have not been able to finish completing the block walls; I am laying them myself. I go out about every morning at

County Council  
June 11, 2002

5:30 to lay block because I don't have the money to finish the block walls. I don't have any money to deal with it and I've got to have the block walls finished before I can rent the rest of the buildings.

With the North building, we have received the opportunity to have a valid business license (and) a certificate of occupancy. The buildings are complete. Everybody that I have talked to have commented that the buildings in the area have made a better-looking situation than we had there before. Other than three people who originally gave us the problem, those buildings really have not impacted anybody adversely. In fact, most people are very happy with them. I might sum up what I say in this: We have followed totally the process of the County. We have not tried to circumvent any of the laws that have been given to us. We have complied all the way down the line, even to the building and constructing of a 100,000-gallon tank of water that is under the storage shed for fire protection. We have built the buildings and we have received the certificates of occupancy. We have a valid business license and we are still being sued. It just doesn't make sense. I think this Commission needs to be abandoned. I think they need to be dissolved. I think they hadn't ought to continue. They are causing serious harassment and hardship on the people of that community out there. That is my feelings; thank you.

**Question - Craig Petersen:** I assume the County Attorney is providing legal support to the Planning Commission?

**Speth:** The County has had to pay Christopher Daines independent counsel because of the conflict of interest with the County Attorney representing both sides.

**Donna Major:** The reason I came tonight was because I was mostly curious of how the College-Young Planning Commission came to be and what this is all about. As you know, this came in the hearing of the re-zoning to Power Mountain. It seems like every time we heard that the County Planning Commission had voted down, someone would pop up and say: "But, the College -Young and the Benson Planning Commission voted for it." I often wondered how can they represent their body and we in the other unincorporated areas don't have anyone to represent us as an area. I presume that if we did in Avon, we would have to incorporate or something so that we would have a representative. I think that as far as the other County members throughout the County, in my opinion that was a little deceiving to the people to have 3 Planning Commissions. If you have got a Planning Commission, that should represent the area. I hope you understand what I'm saying because as those issues came up, every time the issue that the County Planning voted that down, someone would say: "But, someone else voted for that." I was curious how that came to be and just what representation they had and how come the other unincorporated areas don't have representation. Thank you.

**George Whitney:** Kind of an interesting debate. I saw the notice a few weeks ago. I am aware of the law that calls for review. Certainly, (there) is no impression of anybody that I've talked to that this was intended to be a vindictive situation. At the same time, as far as I know, no one on our board had been notified. I suspect more would have been here if they had been given a little notice.

I did say in the previous presentation that everyone of those lots is still develop able but they have to then conform to the higher standard of the major subdivision. So it is also in the discussion of the College-young Township. Are we just some fly-by-night divisive entity in our community? It may be so. Maybe there has been some division as there has been in the paper over the last few weeks over the Powder Mountain thing and the Chairman of the County Planning Commission. The interesting thing is though, however, relative to Mr. Speth's discussion. That decision came before us at a meeting that also included a request by Steve Thatcher to re-utilize their business down there. We tried very hard to get information before we made our decision about that. We talked with Mark Teuscher. We talked with Bruce Parker, who is re-writing the code. We talked with several other people and were told categorically that 100 mini-storage units on 1-acre that started out being a 1.7-acre lot and 1.2-acres was split off of the home lot to put 100 storage units on it was clearly a commercial business. In fact, the 100,000-gal. water tank Mr. Speth references is required by State Code specifically by the nature of the size of the commercial business. In denying him in the ag. zone, we actually suggested to him that he come to the County Council if he wanted to pursue that and get a commercial re-zone. For all the talk the County does about helping agriculture and trying to write in the zoning ordinance differentiate between agriculture and commercial, day-to-day sometimes we don't seem to do that very good. We did deny him based on the commercial nature on his business and did tell him to come to you to get a commercial re-zone if he wanted it. By the code, he was entitled to appeal that to the Board of Adjustments. You didn't hear any of us whining about that. He went to the Board of Adjustments and appealed that decision. The irony is Lamar Clements sat on that Board and led the charge to overturn that decision. Based on the information that we had initially, they had to find that somehow we (were in error) based on the code. We sighted traffic concerns and safety. We sighted several findings of fact. They said very categorically they just saw it different than we did. They didn't say we (were in error). Lamar Clements said specifically that traffic didn't make a "hill-of-beans" and that the commercial business there was more appropriate there and ag. use would be. I say that only that because I am so

## County Council June 11, 2002

dumfounded that he finds that the traffic at Powder Mountain is going to be a terrible thing when in fact those communities are 10 or 12 miles from Power Mountain whereas this is right in the heart of College Ward and is surrounded immediately by 12 homes. In any event, the law does allow interested parties of standing to appeal that to a Judicial review, which we did. We felt it was important enough to decide whether the ordinance meant anything or not. We were within our rights to appeal just as he was within his right to appeal. Is that grounds to dismiss us? Maybe so.

I believe we have been a positive influence. The Travel Lodge, which is now the Ramada Inn, was actually done before our Board was set. That was a very contentious issue done in our area. We actually sponsored some meetings between the Travel Lodge owners and the immediate inhabitants around there. We feel like it cleared the air. If those people were here, they would tell you they appreciated our efforts on their behalf. Numerous times we have found as the proposals have come before us, they have omitted information on irrigation ditches; and we have been a positive influence to make sure that the Irrigation Boards have been notified and that the systems haven't been impacted. In fact, over one of the last things that came up with Logan on the Marv Hansen property, we actually got quite involved. For the first time in a long time, (we) got the City to talk with the irrigation company and enter into a basic understanding on what they wanted to dump their drain water into the spring creek from 100-unit subdivision.

Although I suspect he would speak against keeping the Township Board, Mr. Curtis that sits here bought a lot that was subdivided before our Board was law. Because no one was too familiar out there, the developer wound up not being required to improve the road. So, when he went in for his building permit, the Zoning Office required him to widen and improve the road not only in front of his property but down past Lex Anderson's property all the way to Lamar Nelson's road, the oiled road (of) 20<sup>th</sup> West. Lamar Nelson didn't get involved but our group got involved to know why he was expected to pave and improve the road in front of somebody else's property. In the end I believe the County wound up reimbursing him his money for the portion that was in front of somebody's property. We did the same with Lance Olsen. I would represent that because we are familiar with the area, we actually do the County a service. I suspect that some of the thought is that if we're not there, they won't have to go before any Planning Board which obviously isn't true. I do think we have done some service and yet at the same time, sometimes it seems like a thankless job. I'll almost (be) glad if you do dissolve us. Thank you.

**Bonnie Nielsen:** I'm here to speak that I think it is redundant to have three Planning Commissions in the County. We all deal with the same ordinance. One woman brought up that the entire County is not represented by having these small Planning Commissions. I think it is an inefficient use of staff at the Planning Office. (For) the characterization of the Board of Adjustment's actions, I think they should be judged by the minutes. The action was certainly taken in accordance with the County Ordinance. I would strongly suggest that both Planning Commission be dissolved and there be one Planning Commission to represent the entire County. Thank you.

**Jay Curtis:** I would just like to clear one thing. George, when I bought that land, I didn't even know that Planning Commission existed. The only help that I got was from the County. Lynn Lemon and Lamar helped me. I think from the last past vote that we had out there of becoming a City, the majority of the people have spoken and said that we are well satisfied with the service that the County gives us. I feel that having more than one Planning Commission is a waste of time for the property owners to have to go between so many Boards to have their process processed. I do voice my opinion of having that Board abolished.

**Scott Morrill:** I'm the past recent Chairman for the College-Young Township and current Vice-Chairman. As you know, our meetings aren't well attended but we have individuals that are willing to come. On that Board we have two licensed professional engineers who understand the code, who understand UDOT, who understand storm water issues, who understand environmental issues. We get professional help at essentially no cost. We have had issues where a 6-lot subdivision was approved and the State also allowed 6 6-inch wells within 9-acres, which was of a tremendous concern. The County obviously would defer to the State saying they granted it. We were able to bring together the owner and the concerned neighbors and basically negotiable an acceptable resolution so that for instance, existing pioneer wells wouldn't be drawn down. I don't know that the County a) has that expertise available to them and b) would have the time and staff to take care of a very vocal, acute issue. With the engineers and a recently retired UDOT individual, we were able to look at our roads and assess our roads and know of the particular problems that need to be taken care of. As Chairman of the College-Young Township, the Brent Speth issue predated me coming on Board. I can say that at no time was it discussed as part of the Commission. It was totally taken care of by those direct individuals outside of Commission time. I was involved because I was the Chairman and in

County Council  
June 11, 2002

some cases they wanted to know whether or not I supported it.; I said: "I really don't have a position because I don't know the facts." I just allowed the individuals to carry forward as they wanted. In my opinion, more people in government is better not less. I believe that we have served a purpose that we are able to know local issues and handle local issues and take care of the people's needs. I think it is needed. I urge you to keep the College-Young Township Commission.

**Council member Petersen moved to close the public hearing. Robison seconded the motion. The vote was unanimous, 5-0. (Beck and Yeates absent)**

**ORDINANCE NO. 2002-06: AN ORDINANCE ESTABLISHING THE BOUNDARIES OF THE 72 PRECINCTS IN CACHE COUNTY**

Attorney Scott Wyatt stated that the description of the precincts had been updated in this ordinance. He had previously met with the County Clerk, Jill Zollinger, and she went over with him the documentation of how people were assigned to the different precincts with an intent of placing something in the Ordinance Book and also with the intent of answering questions that the public has in some kind of an orderly layout.

The description is a general one. The difference between a general description and a precise description is there is no surveyor involved. Jill Zollinger and Attorney Scott Wyatt simply went through the maps and tried to describe (the Precincts) as best as possible and then had the Precinct map created describing the boundaries in pretty good detail.

Municipal boundaries may change, however, as they annex and move; the map then would require some interpretation.

**(See Attachment #4)**

**Council member Petersen moved for approval of Cache County Ordinance No. 2002-06. Robison seconded the motion. The vote was unanimous, 5-0. (Beck & Yeates absent)**

**ORDINANCE NO. 2002-06**

	ANHDER	BECK	GIBBONS	HANSEN	PETERSEN	ROBISON	YEATES	VOTES CAST
AYE	X		X	X	X	X		5
NAY								0
ABSTAINED								0
ABSENT		X					X	2

**ADMINISTRATION BUILDING UPDATE:**

There was no update on the Administration Building.

**COUNTY JAIL UPDATE:**

County Council  
June 11, 2002

Executive Lemon requested holding discussion on the County Jail until after the Executive Session at the end of the meeting.

**Chairman Ander granted the request.**

**RESOLUTION NO. 2002-21:** CONSIDER ADOPTION OF A RESOLUTION AUTHORIZING THE ISSUANCE OF APPROXIMATELY \$14,000,000.00 OF SALES TAX REVENUE BONDS AND RELATED MATTERS.

**(Attachment #5)**

County Attorney had reviewed and was comfortable with it.

**Discussion:**

Lynn Lemon: We have amended the numbers slightly to reflect what actually happened during the sale of the bonds. Executive Lemon asked Kent Mitchie to briefly review what happened with the bonds. Kent Mitchie representing the underwriting team of Zions Bank public finance and also Wells Fargo public finance reviewed the bond issue. The size of bond issue was affirmed at \$13,835,000.00 and rated by Standard and Poor out of California at AA minus. This is a high-rate bond. The bonds were marketed showing an average interest rate of 4.67. That was felt to be a good rate; therefore, it was recommend to accept this transaction.

Part of the resolution authorizes a bond purchase agreement between the underwriting team and the County and the papers were presented for signature. The money would be in the bank on June 24.

**Council member Petersen moved to waive the rules and approve Resolution No. 2002-21. Gibbons seconded the motion. The vote was unanimous, 5-0. (Beck and Yeates absent.)**

**RESOLUTION NO. 2002-19:** ADJUSTMENTS TO THE 2002 BUDGET

A RESOLUTION INCREASING THE BUDGET APPROPRIATIONS FOR CERTAIN COUNTY DEPARTMENTS.

**(Attachment #6)**

**Council member Gibbons moved to adopt Resolution No. 2002-19. Petersen seconded the motion. The vote was unanimous, 5-0. (Beck and Yeates absent)**

**RESOLUTION NO. 2002-20:** SUPPORTING THE CREATION OF THE CACHE UNIFIED EMERGENCY MEDICAL SERVICE ADVISORY BOARD

Executive Lemon explained that an Adhoc Board was functioning and it was felt that it was important that all the cities in the County join and form an additional Cache Unified Advisory Board. The County was asking for the adoption of this EMS Advisory Board. On thing that was being looked at very closely was Countywide training of personnel.

**(Attachment #7)**

County Council  
June 11, 2002

**Council member Gibbons moved to waive the rules and adopt Resolution No. 2002-20. Robison seconded the motion. The vote was unanimous, 5-0. (Beck and Yeates absent.)**

**ORDINANCE NO. 2002-07:** DISSOLVING COLLEGE-YOUNG TOWNSHIP AND COLLEGE-YOUNG PLANNING COMMISSION

**Council member Gibbons suggested that all members of the Council be present to vote on this issue. It was agreed to hold action over to the next agenda.**

**ORDINANCE NO. 2002-09:** AMENDING ORDINANCE NO. 2000-16/17 - SUBDIVISION ORDINANCE NATURAL BARRIER DETERMINATION DEFINITION

Deputy County Attorney, Don Linton: felt that this ordinance had been brought prematurely. Because this ordinance was an amendment, it will technically have to go before the Planning Commission for their review and for technically a public hearing; then it would be up to the County Council. It should be sent back to the Planning Commission so that we are legally correct.

**There was no action take on Ordinance No. 2002-09.**

**Council member Petersen moved to adjourn to the Executive Session at 7:15 p.m. Gibbons seconded the motion. The vote was unanimous, 5-0. (Beck and Yeates absent.)**

**EXECUTIVE SESSION:**

The Executive Session convened at 7:15 p.m. and was held to discuss property for the County Jail.

**COUNCIL MEMBER REPORTS:**

There were no Council member reports given.

**ADJOURNMENT:**

Council meeting was adjourned at 7:40 p.m.

---

ATTEST: Jill N. Zollinger  
County Clerk

---

APPROVAL: C. Larry Anhder  
Council Chairman