

**CACHE COUNTY COUNCIL MEETING**  
**June 25, 2002**

The Cache County Council convened in a regular session on 25 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  
**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: Russ Akina, Janet Borg, Mark Brenchley, Paul Campbell, Paulette Campbell, Kim Cheshire, Barbara Daniels, Brett Daniels, Lila Geddes, Lorene Greenhalgh, Danny Larsen, Greg Larsen, Don Liebes, Don Linton, Joel Lundstrom, Lisette Miles, Benny Moody, Rachel Moody, Andy Neff, Ty Newberry, David Nielsen, Herm Olsen, Reese Olvia, Evelyn Palmer, Pat Parker, Lee Reese, D'On Reese, Earl Rouse, Jamie Shepherd, Jim Smith, Auditor Tamra Stones, Loraine Swenson, Mark Teuscher, Rhonda Thompson, Peggy Tueller, Scott Wyatt, Lynn Zollinger, Jennie Christensen (KVNU), Leon D'Souza (Herald Journal) and Matt Flinton (Standard Examiner).

**CALL TO ORDER:**

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

**INVOCATION:**

The invocation was given by Pastor Ken Thurow, Prince of Peace Lutheran Church.

**REVIEW AND APPROVAL OF AGENDA:**

There were no changes to the agenda.

**REVIEW AND APPROVAL OF MINUTES:**

Minutes of Cache County council meeting of June 11, 2002, were discussed, corrected and approved.

**Council member Robison moved to approve the minutes as amended. Gibbons seconded the motion. The vote was unanimous, 7-0.**

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

**Appointment:** There were no appointments.

**Warrants:** The Warrants for the periods of 06-07-2002 to 06-13-2002 and 06-14 2002 to 06-20-2002 were given to the Clerk for filing.

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**Other Items:**

1. Jail Transition meeting. Executive Lemon reminded the Council of the Jail Transition meeting to be held tomorrow, June 26, 2002, at 8:00 a.m.
2. Worker's Compensation Premiums Reviewed. Workers compensation premiums increased 29% this year.

**UDOT I-15: REPAIR PROJECT**

Andy Neff from UDOT reviewed with the Council the I-15 repair project in Ogden that will commence on July 8, 2002. A letter had been sent to the Council regarding this.

The projects runs from 31<sup>st</sup> street to 450 North for about a 3½ mile stretch. One lane will be restricted in each direction for about 2½ miles. This will be a rehabilitation project with reconstruction of shoulders, repairing bridges and pot hole repair. An environmental study is being conducted for the possibility of adding a third lane; however full funding for that project has not been received as yet. Completion should be around the end of September.

Mr. Neff recommended as an alternate route to avoid the construction area: Hwy 89 from Brigham City all the way to Farmington; also recommended was to travel Harrison Blvd if Washington Blvd. was congested. Two other potential alternate routes were a) 1900 W which is West of the freeway and b) Wall Ave. However, there would be construction on 12<sup>th</sup> street where a railroad bridge is being replaced; it will be restricted to one lane there. Also on Wall Ave there will be construction on 23<sup>rd</sup> and 33<sup>rd</sup> street.

**Cache County road projects discussed:**

1. The Logan Main street project will start around July 8, 2002. This project will be a signal coordination project tying in 13 traffic signals to operate together by fiberoptic cable to help the traffic flow be more efficient. There will be medium impact on parking along Main street.
2. Starting August 1<sup>st</sup>, 2002 there will be an overlay project on Main street which is scheduled through mid to late August.
3. The Nibley-Hyrum road project will not start construction this year. Possibly it will start next Spring.

**BUDGETARY MATTERS:**

**JAIL REQUEST FOR INTRA-DEPARTMENTAL BUDGET TRANSFER:**

The Jail requested a budget transfer to pay for prisoners supplies and some camera surveillance equipment purchased from the Olympics' surplus supplies.

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**(Attachment #1)**

**REQUEST FOR INTRA-DEPARTMENTAL BUDGET TRANSFER:**

Extension requested a intra-departmental budget transfer for office expenses, quarterly newsletters and copies.

**(Attachment #2)**

**Vice Chairman Beck moved to approve the intra-departmental transfers. Robison seconded the motion. The vote was unanimous, 7-0.**

**PUBLIC HEARING SET: BUDGET OPENING**

A public hearing was set for July 9, 2002 at 6:00 p.m. to open the 2002 budget.

**Council member Yeates moved to set the public hearing to open the 2002 Budget. Hansen seconded the motion. The vote was unanimous, 7-0.**

**BOARD OF EQUALIZATION**

**Vice Chairman Beck move to go into the Board of Equalization. Yeates seconded the motion. The vote was unanimous, 7-0.**

**BCIA TAX EXEMPTION REQUEST:**

Bridgerland Community Ice Arena (BCIA) seeks an exemption for personal property which is used to facilitate operation of the Ice Arena classes and programs.

**(Attachment #3)**

**Council member Gibbons moved to accept the BCIA Tax Exemption request based on the opinion of the County Attorney. Yeates seconded the motion. The vote was unanimous, 7-0.**

**Discussion:**

**Kathy Robison:** Does the Aquatic Center pay taxes?

**Larry Anhder:** That is completely owned by the City.

**Layne Beck:** And operated by the City.

**Robison:** So, only Willow Park is what we do jointly?

**Beck:** The Zoo and the Fairgrounds.

**Anhder:** And the softball diamonds. We gave them (Logan City) the property for the swimming pool with the condition that County residents would always be charged the same as City residents who use the swimming pool.

**Vice Chairman Beck left the Chamber.**

**CAPITAL ARTS ALLIANCE TAX EXEMPTION REQUEST:**

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The Capital Arts Alliance continues to manage a cultural art center, raise funds for art organizations, present art events, and all things convenient and necessary to further these purposes. The application accompanies a board of equalization appeal, filed within the proper time limits. This application was recommended for approval.

**(Attachment #4)**

**Council member Gibbons moved to approve the Capital Arts Alliance tax exemption request. Yeates seconded the motion. The vote was 6-0. (Vice Chairman Beck absent.)**

**Council member Yeates moved to adjourn from the Board of Equalization. Robison seconded the motion. The vote was 6-0. (Vice Chairman Beck absent.)**

**BOARD OF EQUALIZATION WAS ADJOURNED**

**Vice Chairman Beck returned to the Chamber.**

**ORDINANCE 2002-07: AN ORDINANCE DISBANDING THE PROPOSED COLLEGE YOUNG INCORPORATION AREA AND THE COLLEGE-YOUNG PLANNING COMMISSION AND PROVIDING AN EFFECTIVE DATE**

**(Attachment #5)**

Council member Gibbons questioned what would happen with the litigation that was going on in the Court if the vote was to discontinue the Commission. Attorney Don Linton commented that it (the litigation) was up on appeal. If the ordinance passed, the township would be dissolved and there would be no Body who has standing other than this Council and/or the County Planning Commission. At that point the appeal could be withdrawn and there would be no more litigation.

Council member Gibbons felt that not only would it (Ordinance 2002-07) potentially do away with the lawsuit but also that it was in the best interests of the County to have one Planning Commission and to have one head answerable to the Council.

**Council member Gibbons moved to adopt Ordinance 2002-07 with regard to the College Young Planning Commission. Yeates seconded the motion. The vote was unanimous, 7-0.**

**ORDINANCE NO. 2002-07**

	ANHDER	BECK	GIBBONS	HANSEN	PETERSEN	ROBISON	YEATES	VOTES CAST
AYE	X	X	X	X	X	X	X	7
NAY								0

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	ANHDER	BECK	GIBBONS	HANSEN	PETERSEN	ROBISON	YEATES	VOTES CAST
ABSTAINED								0
ABSENT								0

**Discussion:**

**Kathy Robison:** Will we dissolve the Benson one then?

**Darrell Gibbons:** As I understand it. It (The Benson Planning Commission) was created differently than the College-Young and I'm not sure we have the authority to do that. Is that correct?

**Linton:** The only other way to resolve it if we don't go along with the State's motion is to have it brought up to Governor and have him go up to the State Legislature and let the State Legislature decide.

**Scott Wyatt:** The Lt. Governor's Office apparently believes that this Council could resolve it by resolution without going to the State Legislature because it is the only Planning Commission that was created under the 1978 Statute.

**Don Linton:** They have also agreed to write an opinion letter if you would like that so that you could look at that.

**Anhder:** Why don't you (do that) then.

Chairman Anhder recognized Lee Reese from the audience. Mr. Reese, who was from Benson commented that he hoped before the decision was made on the Benson Planning Commission, there would be more consideration of the program and more chance for further input from the public.

**Chairman Anhder affirmed that there would be more public comment received on the Benson Planning issue. It would be on an upcoming agenda and then left up to the Council to make the decision.**

**DISCUSSION:** AMENDING CACHE COUNTY LAND USE ORDINANCE. To-wit: Chapters 5, 6, 7 and 8

Council member Yeates requested the Countywide Planner, Mark Teuscher, to make some proposed changes to the current FR-40 Zone. He would like to debate those changes and then move forward with that rather than act on the ordinance. He felt more discussion on this zoning issue was needed.

According to Mark Teuscher the Planning Commission was finished working on the Chapters: Chapter 5 defines the uses: permitted, conditional and temporary uses. Chapter 6 defines all of the uses allowed in all four zones the County currently has and if amended today the RR Zone. That will be all under one zone. Chapter 7 defines the actual standards for all four zones. Chapter 8 is non-conforming uses.

It was Mr. Teuscher's recommendation to pass Chapters 5 and 8 because they are administrative sections. If change is wanted on the FR-40 zone, changes would need to be made on Chapters 6 and 7. It was his position that Chapters 5 and 8 were adequate to meet the needs of the County and were ready for action to be taken by the Council.

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**Council member Yeates moved to amend Section II of the Land Use Ordinance to adopt Chapters 5 and 8 and to hold Chapters 6 and 7 out for further discussion. Gibbons seconded the motion. The vote was unanimous, 7-0.**

**(Attachment #6)**

**ORDINANCE NO. 2002-03**

	ANHDER	BECK	GIBBONS	HANSEN	PETERSEN	ROBISON	YEATES	VOTES CAST
AYE	X	X	X	X	X	X	X	7
NAY								0
ABSTAINED								0
ABSENT								0

**Chairman Anhder asked Mr. Teuscher to submit a proposal to the Council for a better way to handle the County's FR-40 zone. More clustering and encouraging of clustering was desired, more considerations for sanitary water and/or septic systems, different and better standards for roads, and agricultural zone changes.**

**COUNTY ADMINISTRATION BUILDING UPDATE:**

Lynn Lemon: The Building committee met this morning. The County Administration Building has been delayed because of some steel issues as far as meeting the engineer's specs. The delay was about 18 days, which could be made up before the end of the period; completion date now officially is April 28, 2003.

There are some concerns on space needs to be talked about. On Friday, June 28, 2002, there will be a meeting with architects and Department Heads to discuss this. Because the bid was lower than estimated, the Committee is thinking about finishing the unfinished space so it will be available when needed.

The State Historical Society met with a number of the members of the building committee and at this point in time it has been determined that the paint on the historic Court house building is actually damaging the brick. The plan now is to write specs and hire a contractor to remove all of the paint from the building. Once that is done the option to proceed with will be determined. This will give an opportunity for more public appraisal and comment. The Historical Society also stated that adding brick to the historic Courthouse could cause the building to lose it's historical criteria. The committee should have an architect proposal on the cost to remove the paint by July 9, 2002.

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Auditor Tamra Stones also noted that the bond had been closed on the new buildings as of this day.

**Discussion:**

**Craig Petersen:** I just want to make one other comment. It sounds like this approach preserves all the options. In one sense it doesn't. The one that it doesn't is the option of actually re-bricking the building to match the administration building. The sense that it doesn't do that is in stripping the paint of the brick, you would have to use a very, very expensive process. The process could cost \$620,000.00 dollars. If you were to do that and then decided at some point you really did want to re-brick the building; you've spent a great deal of additional money rather than just ripping it off as carefully as you could. I understand the issue about historical designation. On the other hand, my main concern is having something that is attractive. You still have the form of the building and it would still look the same in terms of shape.

**Layne Beck:** I assume you have debated that on the building committee.

**Petersen:** Well, there was one lone voice of descent.

**Lynn Lemon:** The Historical Society apparently doesn't really like that option. Yet Craig did ask a very good point and that is so what if it is not designated as a historical building? What does that mean? I think there was a feeling that we might not be able to generate as much enthusiasm for raising funds privately if we didn't do that. So, we are trying to balance those two things.

**Petersen:** The option of re-bricking really wasn't discussed in not very much detail. Although the Historical Committee might not like the option, I don't think we have fully explored all the ramifications of that option.

**Anhder:** Is it something we should (explore)?

**Petersen:** I think so.

**Lemon:** We are going to meet again on the 9<sup>th</sup> of July. The architect is going to bring back specifications to do an RFP on removing the paint.

**Anhder:** What is some of the information we would want to help us make that decision?

**Petersen:** The cost of re-bricking versus the cost of striping in a very expensive manner, the indications for a historic designation (and) what groups might find that particular alternative objectionable.

**Anhder:** Is that something that you could asked to have explored?

**Lemon:** I am meeting with the architect and with the project manager and I'll ask them.

**Scott Wyatt:** Craig, I'm not sure you are the only voice of descent. I like that proposal too.

**Petersen:** That is kind of what I meant to imply. I though the meeting this morning was almost a forgone conclusion that we weren't going to do that but we as a committee, i don't think we have discussed in any great detail yet.

**Wyatt:** No, we haven't but I am in agreement with what you are saying.

**Petersen:** I don't know what it would cost to re-brick but you would have a substantial amount of the money that you would have saved by not stripping carefully if you re-brick.

**Lemon:** So you would like to know the what the cost of re-bricking would be and what the down side of the historical designation would be.

**FINAL PLAT APPROVAL: W. LEE REESE MINOR SUBDIVISION**

Lorene Greenhalgh: "This proposal was heard by the Benson Planning District at their last meeting. The Reeses' have gone through the two-lot cluster minor-subdivision process. They wanted to break off two lots for two grandchildren for new homes. They will be accessed by private roads which the applicants will have to construct, maintain and remove the snow from on their own. The Fire Chief's Office has required that they have a fire hydrant within 300ft. of each of the homes. They can receive hook-ups for culinary water for both of the homes by paying the fees and by signing over some water rights. I think they are in line with everything they need to do. The plat has been adjusted to meet the requirements of the ordinance."

**(Attachment # 7)**

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**Council member Gibbons moved to waive the rules and approve the two-lot subdivision as proposed. Hansen seconded the motion. The vote was unanimous, 7-0.**

**TV TRANSLATOR DISCUSSION: EARL ROUSE**

Earl Rouse, owner of the Valley Channel came before the Council to discuss the TV translator. Mr. Rouse believes that it is in the best interest of the County to maintain the TV translator and to continue broadcasting. Mr. Rouse explained that County owns valuable Spectrum. Which if is not used could be taken away by the Federal Government. Mr. Rouse recommended to develop the site in Clarkston to receive the Salt Lake signals, microwave them to this west site and then broadcast them. This project needs to be done this year or it will be too late.

**Discussion:**

**Craig Petersen:** The portions of the Spetrum that we own, do we truly own them?

**Earl Rouse:** No; you have a license to use them.

**Petersen:** Aren't those allocated for particular uses? They couldn't be resold or re-licensed for any use, right? In the second place, does the County have limitations in terms of it's ability to disposing of those licenses.

**Rouse:** I can't answer that. All I know is that in my own search for frequency, we talked dollars and cents. I don't know what your ability is to buy and sell. I just know that it's a use or lose thing and when it is gone; it is gone.

**Petersen:** Also we lost when they moved us.

**Rouse:** You were displaced; it wasn't taken from you. You had priority over many commercial applications that tried to file and had to wait in line behind you.

**Lemon:** Do you think, Earl, that could happen again. Could the Federal Government just say there is not that much usage of TV translators, we are going to just take them all away.

**Rouse:** There is a chance you could be displaced again. No, hang on to what you have; they are not going to take it away until you stop broadcasting. I am just urging a decision to get something done this Summer.

**Lemon:** We had money appropriated. I think we still have the purchase order for the road and the building and the electrical. When we got into investigating it last Fall, it wasn't sufficient. We have just had other issues that have pushed us; so, we haven't done a lot on that in the last six months.

**Rouse:** Choosing to wait and chosing to do nothing is making the decision for you. When the County decides which way you are going to move, I'll follow along. I'll make investments as well. The ideal thing is to have my station broadcasted from the same location that you are and everybody know that they can aim their antenna towards that one spot and it all comes in.

**Lemon:** Initially, when we came to you with the proposal last year, we planned to put it right up on top of our property. We were going to broadcast with an omni-directional antenna or whatever so that we covered Lewiston, Clarkston and everywhere that we could see from there. As soon as Franklin County heard about that, they contacted us and said: "We don't want that to happen because that will ruin it." They are using a translator to transmit from there to their translator station. Caribou County and Bear Lake County contacted us. We said: "We don't want to get into a fight about this." What we may end up doing is actually bringing it down off the mountain.

**Rouse:** One other comment about that: My understanding is that Franklin County is already out of compliance. They are already using as their studio-transmitter links the UHF signal to get from Clarkston to get to their transmitter site. They are already using frequencies that are not available to them. Those guys are going to find themselves out of business.

**Lemon:** Hasn't the FCC approved those sites?

**Rouse:** They are just doing it out of compliance and no one has complained. The Salt Lake Stations haven't realized that it is an issue. It isn't an issue right now because of what is happening with digital television but the day will come when it will; and they will be out of business. They are going to find themselves saying: "Gee, we can't find any spectrum anywhere!"

**A discussion for the TV Translator would be included on the next agenda for discussion**



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**CACHE COUNTY JAIL UPDATE:**

It had been stated publicly that the County had purchased property at about 1700 South along 1000 West for a future jail site on the West side of the road. Chairman Anhder made the statement that the final decision had not been made as yet. It was a fluid situation and there were other negotiations going on. It was decided to allow comment from the public on this issue.

Rachel Moody asked what the exact location was? Executive Lemon responded that it was the lot closest to the river; it is north of that street (1700 S.). She stated that her address was 1198 W. 1960 S., Logan.

**Rachel Moody:** I've talked to several neighbors. They are not looking forward to this. We are more worried about it because we only have one street in and one street out where we live. We don't have a lot of cops patrolling in our neighborhood. If something should happen, it is too close for comfort; we have enough problems. We really don't want to depreciate the value of homes anymore than what they already are. A lot of people in our neighborhood don't know what is going on because they don't take the paper. I only knew because a friend of a friend called and it went around the neighborhood like wild fire through five people; and it got to me. Three-fourths of my neighborhood is Hispanic and they get confused and get things mixed up. If you want to hear from people in my neighborhood about an issue, you're going to have to send people out with information. I know a lot of people won't like it because it is too close for comfort. There isn't a lot of room between their housing and there isn't room behind them even. I'm surprised none of them are here; they are closer to it than I am. We think it would be a better suggestion to go somewhere else.

When you look at the situation there, it might be a good place for you. You've got to remember that if someone gets out they are close to highway. They are close to Icon. They are close to the houses and way too close to some of them to get out and get away. I would really appreciate it if you would have more discussions and let my neighborhood come and notify them of what you are doing and what other possibilities you have for the site so that they have their expressions also. A lot of things that have been happening in these two neighborhoods. A lot of people were not notified. After the fact you can hear ranting and raving because they were not notified and there is nothing they can do about it. I am sure that they would appreciate at least to be heard. I don't want it because of my kids. I have a hard time with my kids and my main concern is that this will bring more damage to them.

Chairman Anhder explained the due process: Once the County decides on the site then there would be Public Hearings because of the conditional use permit that would probably be required. There would be ample opportunity then for the neighborhoods to discuss it. Attorney Don Linton commented that the environmental assessment includes the social aspect so that everybody in the area would be notified.

Mrs. Moody asked if there was another possible site. Executive Lemon assured her that there were others. Chairman Anhder said in defense of the proposed site to consider where the current jail is located right in the middle of downtown Logan with businesses and homes and school and all sorts of things all around within a rock-throwing distance of it. The security has been very successful. Mrs. Moody didn't feel there would be enough law enforcement around. Chairman Anhder assured her that the Sheriff's Office, the Highway patrol, and a couple of other agencies were all going to be located in the very same building.

**Benny Moody:** My main concern is we have lived here now for almost seven years. We have had trouble with trying to have law enforcement just take care of the neighborhood as it is. We have about three or four school busses that go through and approximately 250 small kids. We are talking grade-school ages here. We can't seem to get

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anything done out there through the City, Now the County has bought the City's property next door to us and the County will split this establishment area. I thought about what you are talking about. There will be a lot law enforcement there but at the same time the County doesn't patrol our neighborhood. This is telling me that now whenever the City gets called, if it is in the zone of the County, why not let them handle it. We have been down that route. We live in Logan but we have a Wellsville mailing address. When we called for a police officer during the first two years that we were there. You never do know who is going to show up the County or the City. I told the dispatcher today, they argued over who's got the right to that area. There was a wreck in the neighborhood were the County showed up. The City showed up and the State Highway Patrol showed up. The put two guys out flagging and I flagged personally myself out there as a resident to help them. They stood there for over an hour, these three law divisions trying to decide who was going to write the tickets and write the report. In the meantime you've got people out here injured and all of this.

It is a really bad area out as far as people that live in that area because we are right on the edge of the City and on the edge of the County. We have tried for five years now to get a second access road out of our neighborhood. The City promised us that two years-a-go when I worked for them and it still hasn't happened. Now we are looking at something across the highway here and one street over they are going to put in a place over here that would probably have two accesses at a bid.

I can't see the County putting something in an area like that just right on the river that is low-land property. Just about everybody out there floods all year. Have you ever been on that road to take a look out there? ...Is the County looking at what it is going to cost you to go in there and build that property up along that river there in that low-land area in order to put this facility that you are talking about there. You are talking about several hundred-thousand dollars just to prepare the property to build this establishment. Higher risk to children lowland property. We don't have a lot of people that speak a lot of English there; so, they don't come to things like this to put their input in. They are kind of getting run over more or less. We have \$125,000 homes in our neighborhood and they are putting \$35,000 trailers next door to us. Now they will be putting a prison across the street. All these law enforcement people that are coming out there, I can't see that helping our neighborhood. All I can see is putting my three daughters ages 10, 8 and 4 in at a higher risk of some guy breaking out of prison and doing the same thing that is happening at Salt Lake, kidnaping one of them over there. I use that for an example here. That is the sort of thing that a parent would look at. I hope they did get the change for everybody in that area to put their input in. It is really rough out there as it is and I hate to see it get worse.

Chairman Anhder responded that the property the County controls now lies in the unincorporated part of the County and zoned agricultural adjacent to Logan City. He was sure that it would probably be in an industrial zone with a conditional-use permit if it were annexed into Logan. A public jail would require a conditional-use permit in any zone it would go into.

Deputy County Attorney Linton also noted that part of the City's zoning plan requires the County to put the jail within Logan City and that it can only go in an industrial zone.

**APPROVAL OF MAY TAX SALE MINUTES:**

Auditor Tamra Stones reviewed the outcome of the Tax Sale which was held on June 12, 2002. Of the three properties two were sold and one was struck off to the County. Ms. Stones gave recommended approval of the sale. She noted that since the sale, there had been a person contact her and was willing to buy the property that was struck off to the County. Canyon Ranch had no wish to redeem it because they had transferred title to North Logan City due to a requirement for their subdivision ordinance that they provide land for retention. If the County approved the sale and the property is struck off to the County the County could dispose of it if wanted. The process to do that was to declare a surplus of property and to offer the property back to the original owner. If the original owner did not want to buy it back, the County could

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sell it.

Ms. Stones requested approval of the minutes.

**(Attachment #8)**

**Council member Gibbons moved to approve the minutes of the Tax Sale. Petersen seconded the motion. The votes was unanimous, 7-0.**

**RESOLUTION NO. 2002-23:** A RESOLUTION AUTHORIZING THE CACHE COUNTY COUNCIL TO PLACE ON THE NOVEMBER 5, 2002 ELECTION BALLOT A COUNTY OPTION SALES AND USE TAX REFERENDUM BEFORE THE VOTERS OF CACHE COUNTY TO FUND RECREATIONAL AND ZOOLOGICAL FACILITIES, ARTS ORGANIZATIONS, AND PARKS

**(Attachment #9)**

Chairman Anhder noted the resolution that was before the Council was for first reading authorizing the County Council to place on the November 5, 2002 election ballot a County option sales and use tax referendum before the voters of Cache County to fund recreational and zoological facilities, arts organizations, and parks with a 1/10th of 1% sales and use tax which would be as follows: Allocations of 10% for disbursement to the zoo, 45% to recreational facilities and botanical organization and 45% to cultural organizations as defined by the Utah Legislature. Russ Akina was then asked to address the Council.

As a spokesman the Recreation, Arts, Parks, and Zoo (RAPZ) Coalition, Mr. Akina felt the allocation was most equitable in regards to future disbursement. He noted that the way the legislation was currently written, the Zoo fell into a distinction by itself in Class-1 Counties. Being that Cache County is not considered a Class-1 County, the RAPZ (Recreation, Arts, Parks, and Zoo) Coalition was making a recommendation to the County Council on behalf of the organizations that would be represented by way of the legislation in the way it is currently written.

It was anticipated that if it would go on the ballot the way Resolution No. 2002-23 is written and passed, then the County Council would come back and make guidelines on how it distributes the 45% in one category and to which organization and the other 45% in the other category; that we would refine that through guidelines of the County Council in the future.

Mr. Akina affirmed that was a good point because refinement was what was needed to take place. Refinement would have to take place on what qualifies the organizations from year-to-year because it is a 10-year commitment according to the Statute. The ZAP Tax would be reviewed in 10 years and It would need to reflect the current legislation as opposed to what had been gathered in the files of the RAPZ Coalition before the legislation was changed.

Resolution 2002-23 appeared to be a good compromise and the amount of money being considered was about \$900,000.00 dollars. Refinement would probably be needed; however in

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the Resolution the recommendation would be that the Zoo's contribution would be dedicated to their specific percentage.

**Council member Yeates moved to waive the rules and adopt Resolution 2002-23 authorizing the placement of the ZAP tax question on the November ballot. Hansen seconded the motion. The vote was unanimous, 7-0.**

**ORDINANCE NO. 2002-10:** ADOPTION OF ADMINISTRATIVE DETERMINATION OF A BUILDABLE AGRICULTURAL LOT.

Mark Teuscher lead the Council in discussion concerning the section of the Ordinance regarding the administrative use of agricultural lots and drafted some changes. Under Section 900-1 in Ordinance 2002-10: "Define" says that lots for the purpose of establishing one single family dwelling unit and associated buildings structures would require the (approval) of acquiring a building permit. Any further division of subject parcels shall meet the requirements of a minor/major subdivision for the original 1970 parcel as defined in section 100-4 of this ordinance.

This basically allows to approve the parcel for one home and any associated structures such as a detached garage, a barn, etc. Any further dividing out will subject it to the full segments of the process and require all parcels to come together (for approval).

The Planning Commission recommended that it not be the Zoning Administrator but the Planning Commission to review these (parcels). The Zoning administrator, Lorene Greenhalgh, agreed with the Planning Commission. Changes were made to reflect that.

**Discussion:**

**Larry Anhder:** Why? This is a administrative determination.

**Mark Teuscher:** That was the Planning Commission's recommendation. I could change it back to the Zoning Administrator. It is up to you. (The Council)

**Darrel Gibbons:** She is going to have to do it and recommend to the Planning Commission anyway.

**Teuscher:** She'll take the application and give it to the Planning Commission.

**Anhder:** I would gladly accept a motion to change that. The idea is to streamline it for one home. We are not streamlining it if we have to wait to get on an agenda, which could put them out almost three weeks because of calendaring. It is something that is perfunctorily approved and stamped anyway.

**Gibbons:** I agree with Larry.

**Council member Gibbons moved to change function of the review process back to the Zoning Administrator. Yeates seconded the motion.**

**Discussion:**

**Teuscher:** Okay, that is easy to change.

**Lorene Greenhalgh:** Today I made a determination that met with the requirements of the ordinance. The person was disgruntled and came over to Lynn's Office. He made at least four telephone calls to me while she was in his office. She has been in my office at least 15 times. She withholds information. She hasn't told us the whole story ever. We had to find it out by our own methods. When these kinds of things are determined by one person, that one person never gets out of the hot water ever! If the Planning Commission or some Body makes a determination, it does not single out any one person. It is a Body (decision) and it is much easier to defend. Having the Zoning Administrator do this, no matter who it is, it is not a good thing to put that much pressure on one person who has to

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take the heat and then they don't like what you say and go to the powers above. You are constantly on the chopping block. They are trying to get out of following the ordinance requirements. We have this wonderful streamlined subdivision ordinance; now these people are trying to circumvent and not have to go through that process. You want one person to tell them that is okay. That's not good. They need to go through some kind of a process whether it's the subdivision process or the agricultural determination of an available lot; so that it is a Body that is doing it and not one individual.

**Anhder:** It is the very same thing as a police officer. A law is written; that person makes a determination according to the points of the law; and the decision is fairly easy to make. They would fill out the very same kind of information presumably to make the request to your office as they would to the Planning Commission. I think it is a fairly normal thing in most jurisdictions to have Staff members make a number of these routine (decisions). If there is anything that is not routine, then presumably it would go to the Planning Commission.

**Greenhalgh:** In that case, we won't have subdivisions because everyone will want their property determined an agricultural buildable lot.

**Anhder:** That is not what it says here at all.

**Lynn Lemon:** These were division that happened prior to January 1, 2000.

**Greenhalgh:** Do you know how many of those there are?

**Lemon:** How many agricultural divisions there are?

**Greenhalgh:** Yes, hundreds and hundreds!

**Gibbons:** If they meet the requirements of the statute, it doesn't matter.

**Teuscher:** Lorene brings up a good point. Under 900-3, paragraph 2, subsection (a), the 10-acre is really too small. It really needs to be bumped up to say something like 40 acres.

**Greenhalgh:** If you are going to do this for 40-acre lots, are you going to allow them to do it in their Forest recreation and not have to do the subdivisions after all. We determine each of those 40-acre lots as an agricultural buildable lot? There's a lot of them!

**Teuscher:** (A lot of them) that already exist.

**Lemon:** Have they already been split?

**Teuscher:** You could do it in 10.

**Lemon:** Lorene, in the Forrest recreation zone, if they have 40-acres, they can still only use it for a seasonal cabin.

**Greenhalgh:** That's correct but now with our new subdivision ordinance, everyone of those have to go through this subdivision approval process. Before we got that new ordinance, anybody that had a 40-acre lot was eligible to have a seasonal cabin. Now they have to go through the subdivision.

**Lemon:** Why do they have to go through the subdivision if they are already in place?

**Greenhalgh:** Because most of them were divided prior to this date that you have on there.

**Teuscher:** It is the same issue. The 10-acres is not relevant because we do have the statement that says that even if the Zoning District is 40-acres. The biggest issue will be in the FR-40. If you want to go higher than 40-acres, that's (up to you.) I think 10-acres is way too small. That's a real problem.

**Anhder:** Isn't the intent of this that if a person has a lot size that is at least 10-acres and they want to build a home on it, they come in and receive a building permit from the Zoning Administrator?

**Teuscher:** The point that Lorene is making is that will basically eliminate the need for many subdivisions in the County. We just won't have them.

**Anhder:** Why?

**Lemon:** They can only do one home!

**Teuscher:** You have 10 lots that were all done by agricultural divisions. You come in and do each one independently. Now you have a 10-lot, 10-acre subdivision.

**Lemon:** They would have had to divide their lot before January 1, 2000.

**Teuscher:** There are thousands of lots! That is one issue and I didn't change it there. From an agricultural perspective, that is probably too low.

**Gibbons:** I am not sure I agree with that argument. From an agricultural perspective, 10-acres doesn't do diddley.

**Teuscher:** That's exactly right.

**Gibbons:** It probably serves a better function to be an available lot than agriculture. If these people own 10-acres and you have 100-acres that have been previously to this divided into 10-acre parcels. To say you can't build because it serves as a better purpose in agriculture, I don't think is defensible.

**Teuscher:** Then you will circumvent the subdivision laws.

**Lemon:** Wouldn't it be better to allow them to build one home on 10-acres than to have them come in and ask for a 5-lot subdivision on 10-acres?

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**Teuscher:** They won't come back and ask for a subdivision! They will just come in and do this and get one home on one 10-acre piece and one home on another 10-acre piece; you will never see subdivisions of small lots unless they don't have 10-acre parcels.

**Anhder:** So, what is your recommendation?

**Teuscher:** My recommendation is to take it up to 40 or 50-acres because you will stop seeing subdivision. What you will find is a way to circumvent the subdivision process.

**Gibbons:** Don't argue that it is going to preserve agriculture!

**Teuscher:** I'm not arguing that. You will just start seeing 10-acre subdivisions but they won't be subdivisions; they will be just individual parcels.

**Lemon:** Mark, this is not something that somebody can go and do retroactively.

**Teuscher:** No, there are hundreds of 10-acre parcels that exist that were split.

**Lemon:** For agricultural purpose?

**Teuscher:** Yes. There are hundreds of them out there.

**Anhder:** Even a 10-acre parcel now can come in under a 10-acre subdivision.

**Teuscher:** If it (the parcel) is divided for agricultural purposes, it is not eligible for building.

**Greenhalgh:** Unless it was divided prior to 1970. Anything between 1970 and now has to go back to the 1970 parcel for the subdivision.

**Teuscher:** There are a lot of 10-acre parcels.

**Lemon:** Wouldn't we rather have one home than have them come and get a five-lot subdivision?

**Anhder:** They can still do that. This advantage is only that the Zoning Administrator approves it without have to go to the (Planning Commission.)

**Lemon:** I agree; they can still do it.

**Teuscher:** Planning homes on 10-acre parcels, the reality is you will end up with just houses on big lots and they don't maintain the 10-acres.

**Anhder:** This does not prohibit them from doing something like that. This just means that they don't have to go to the Planning Commission. It is just an Administrative decision if it is on this size of lot. That's the only difference.

**Teuscher:** Yes. I guarantee it is a way to circumvent the subdivision process.

**Anhder:** Well, let's throw the whole thing out!

**Greenhalgh:** Yes.

**Teuscher:** Thank you. I agree.

**Lemon:** I don't know where the magical line is because I had somebody at the last meeting say: "If you are going to give them (approval) to 10-acres, why don't you give them (approval) to 5-acres.?" It is hard to really determine. We had the Court divide a family farm. Somebody ended up with 120 acres. We told them that they could get a conditional-use permit before we changed the ordinance. They went out and started the process. In the meantime we changed the ordinance. They came back and we said: "We've changed the ordinance and you can't get a conditional-use permit; you can't put one home on that." It seems to me like we would be better off to let them put one home on that 120 acre piece than have them do whatever.

**Teuscher:** I don't have a problem with that. What I have a problem with is that 10-acres is just way too small. I think you need to be up to 40 or 50 acres.

**Greenhalgh:** I would say at 120. We have a lot of those but fewer than we do of the others.

**Lemon:** Aren't we better off to have somebody want one home on 100-acres than bringing 100-acres in and saying: "I want to do a minor/major subdivision?"

**Teuscher:** There is no problem with that Lynn.

**Greenhalgh:** Once it is determined a build-able lot, can't they come back and ask for zoning.

**Teuscher:** No, we've changed it.

**Lemon:** No.

**Greenhalgh:** You changed that portion? Well, that would be fine if it were to stick. What is going to happen is there is going to be a divorce and the Courts are going to pass it out to the kids and they are going to divide it up anyway; and then what are we going to do with it? Tell them that they have six pieces that they can't do anything with. Each of the kids are going to come and say: "I want to put a house on that; it's my property."

**Anhder:** We'll just tell them: "I'm sorry!"

**Darrel Gibbons:** I propose we change the 10-acres to 30. Thirty is a substantial parcel; it is still farmable if you want to maintain it in agriculture. I think you are holding property owners hostage if you require 50, 60 or 100-acres.

**Teuscher:** It's up to you; it doesn't matter. I think 10-acres is just too small.

**Craig Petersen:** Let me make sure I understand this. If they have 10-acres, what are their options?

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**Teuscher:** Without this section basically they have to go through the subdivision process. If there are 5, 10-acre pieces, one of those pieces could hold the other 4 people hostage. The issue is we have a number of spectrum of parcels, but a 10-acre parcel is really difficult as an agricultural piece. There are very few things that can happen on a 10-acre piece that is viable to agriculture. Like Darrel said: An optimum lot size may be a 30-acre piece. It is really an operable piece to allow some agriculture to take place if you knew you were going to be able to put a house on it. The problem I see is that if we go to 10-acres, we are going to just create a bunch of 10-acre lots all through the County and just eliminate the subdivision process.

**Petersen:** If that 10-acre lot is dividable for agriculture and under the current ordinance they can be held hostage by the other owners, what good is that?

**Teuscher:** That's a civil issue between those properties.

**Petersen:** I know. What benefit is it to the County to have that happen?

**Teuscher:** I don't think it is a benefit to the County because the County sets the ordinance. All this is doing is finding a way to go around the subdivision process on particular-size parcels. What a lot of people are saying: "Are we really helping a parcel that is 100-acres or 50-acres or 30-acres with one home? No, I don't think so. Anything smaller than that, I think what you are going to create is just a bunch of 10-acre housing lots that become "weedettes"!

**Petersen:** If the 10-acre parcel isn't dividable to agriculture, would we be better off having houses?

**Gibbons:** I think what has happened, Craig, is a lot of these parcels are not divided up and petitioned into 10-acre pieces. The family, maybe 4 or 5 family members who own that, traded it to farm as a larger parcel.

**Teuscher:** Looking at NRCS's mapping of fields, the parcels don't match the fields. You may have 4 or 5 parcel ownerships within a one actual field that is being farmed; maybe owned by the family in terms of what they are farming in multiple parcels. I am just concerned that the 10-acre parcel is really going to create a lot of weeded lots and pushing on to problems because of continued growth.

**Anhder:** This is on for first reading should we put it on for pending action in our next meeting?

**Gibbons:** I think there is going to need to be a lot of discussion.

**Teuscher:** Also, as we have looked at this section when Bruce wrote it originally, there are some additional recommendations just to have consistency thru the minor lot-split and the minor subdivision. To get the wording almost exactly the same, Bruce tended to write this a little different so that it looks different. We are recommending some changes under Section 900-3. Basically it is just things that would go on the plat.

**Gibbons:** Lynn, since we have such a good computer property system, is there anyway we can ask that to identify those parcels?

**Lemon:** Can they determine whether they (the parcels) have been approved by the zoning or not?

**Teuscher:** No, they can not. They can determine the number of parcels that are 10-acres.

**Lemon:** They can certainly determine the size.

**Gibbons:** How many are determined to size. Can it also determined the day of creation?

**Teuscher:** Don't know; is that in the data base?

**Lemon:** Yes, it is.

**Tamra Stones:** We probably have the last abstract date.

**Teuscher:** That may be a problem because parcel may have a number of changes that have taken place: ownership, transfer; what she is saying is you only may see the last transaction date but maybe one of those converted to a 10-acre parcel in that year; and you may or may not be able to see that.

**Stones:** Depending on what year you query it, it could change size in those 10-years three or four times.

**Teuscher:** We could give a general idea of how many parcels there are in the unincorporated part of the County.

**Gibbons:** I think that is good information that we need to have.

**Teuscher:** Do you want to look at a range, 20 - 10?

**Gibbons:** That's fine. I really do think that is one of the circumstances that has happened in this. It is not feasible to farm small portions so they bring them together to farm. It is an event when one of those portions want to develop on their parcel because you can do it under the current ordinance.

**Teuscher:** When you keep cutting the pie smaller and smaller, it becomes very, very disjointed.

**Hansen:** Mark, if you have 10-acres, you are not going to allow that to become a weed patch. That is going to become a pasture or someone will lease that for you to farm it. If you have an acre, it may become a weed patch but not 10-acres. You just can't afford to waste your land that way. You just can't allow that to sit idle; you have to pay property tax on that.

**Teuscher:** I understand. There are people that build houses. Housing is not cheap in the unincorporated part of the County. It is not a cheap affordable housing issue to buy a piece of ground and build a house on it. For the cost of that you are up into a very expensive neighborhood.

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**No action was taken due to the fact that further discussion was needed.**

**2002 RESTAURANT TAX RECOMMENDATIONS:**

The Council reviewed the recommended allocations of the TRCC tax. The TRCC Committee increased their recommendation from the Executive's a little bit with the majority going to the Bridgerland Travel Region and Utah Festival Opera. There were no dissenting opinions from the committee. Another recommendation from the committee was that future applicants be asked to furnish photographs or other supportive documentation of how they spent prior year's money allocation.

The TRCC Committee said there was a provision on the Cache Valley Cruising allocation. All food vendors participating with the CVC be required to have business licenses so that they are collecting the restaurant tax on all of the food sales during the Car Show.

**(Attachment #10)**

**Council member Yeates moved to suspended the rules and to approve the 2002 Restaurant Tax allocations. Robison seconded the motion. The vote was unanimous, 7-0.**

**LEWISTON AND HYRUM CITY 4<sup>th</sup> of JULY PARADES:**

Council members were reminded of the upcoming Fourth of July Parades in Lewiston and Hyrum.

**COUNCIL MEMBER REPORTS:**

There were no Council Member Reports; however Darrel Gibbons commented on the Administration Building. A firm bid on what re-bricking would cost. He was opposed to having three different colors of ugly brick and spend \$100,000.00 to get it that way! Council member Hansen did not want to jeopardize the historical classification. Executive Lemon would get the estimate.

Council member Petersen also thought it would be helpful to have more information concerning the TV translator. Kent Parsons would be invited to come back and discuss this with the Council.

**ADJOURNMENT:**

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



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ATTEST: Jill N. Zollinger  
County Clerk

APPROVAL: C. Larry Anhder  
Council Chairman