

**CACHE COUNTY COUNCIL MEETING
October 8, 2002**

The Cache County Council convened in a regular session on 8 October 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 Gibbons, John Hansen, H. Craig Petersen, Kathy Robison,
Cory Yeates
County Executive: M. Lynn Lemon
County Clerk: Jill N. Zollinger

The following individuals were also in attendance: Lt. Kim Cheshire, Lorene Greenhalgh, Meridene Hancock, Sheri Lowery, Donna Majors, Jim Malouf, Sheriff Lynn Nelson, Evelyn Palmer, Pat Parker, Paul Rogers, Lonnie Stauffer, Auditor Tamra Stones, Jim Smith, Mark Teuscher, Tim Wagner, Jennie Christensen (KVNU)

(See Attachment No. 1 - Attendance Roster for Public Hearing.)

CALL TO ORDER:

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

INVOCATION:

The invocation was given by Cory Yeates.

REVIEW AND APPROVAL OF AGENDA:

There were no additions or changes to the agenda.

REVIEW AND APPROVAL OF MINUTES:

The minutes of County Council Meeting for September 24, 2002 were reviewed, corrected and approved.

Vice Chairman Beck moved to approve the minutes of September 24, 2002. Robison seconded the motion. The vote was unanimous, 7-0.

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

Appointment : Travis Kevin Moser - Deputy Sheriff

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

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Warrants: The Warrants for the period of 09-13-2002 to 09-19-2002 were given to the Clerk for filing.

Other Items:

1. Cloud Seeding. The evaluation for last year's cloud seeding had been received and copies were available for review. Box Elder County Commission had decided not to participate with cloud seeding. A letter would be submitted indicating that the County intends to do cloud seeding based on the Council's motion in their last meeting.
2. Letter to CMPO. The CMPO would like a letter from Cache County saying: "We agree with the alignment of 1st East in Logan City and Spring Creek Parkway in Providence." There is a very small portion that is in the County; therefore, agreement to that was necessary.

Council member Gibbons moved to accept the proposed alignment of 1st East. Petersen seconded the motion. The vote was not taken.

Chairman Anhder felt that rather than to take action in this meeting, it should be a first reading. Vice Chairman Beck commented that because it had just been brought before the Council under the Executive's report, it should be placed on an agenda so that it could be published before action was taken.

Council member Gibbons withdrew his motion with the agreement of Council member Petersen.

This item will be placed on the next Council agenda for action.

EMPLOYEE OF THE MONTH: KIM CHESHIRE

Jim Smith presented Lt. Kim Cheshire to the Council as the "Employee of the Month" for October.

Jim Smith: "Kim's law-enforcement career began in 1979 as a Patrol Deputy working for the city of Hyrum. After about a short year on the job, Kim was promoted to be the Chief of Police for the city. Three years later, the city disbanded their police force. The leaders of Hyrum City saw the value in contracting with the County Sheriff for their law-enforcement services.... Kim was hired by the County in February of 1982. Through the years he has worked in the Patrol Division, Investigations, in the Jail and the School Resource Program."

"Kim has the distinction of being the first 'Dare' Officer in the Sheriff's Office. Always looking for ways to be an effective public servant, Kim conceived the idea of a 'Bike Patrol' for the Sheriff's Office. Kim was also instrumental in starting the 'Victim Witness Program' in Cache County."

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"Kim was promoted to the rank of Sergeant in 1993 and Lieutenant in 1998. He served four years as the Division Commander for the Patrol Division. In April of this year, he was assigned to the Jail Division, which he thoroughly enjoys."

One of Kim's peers wrote: "Lt. Cheshire has been working extremely hard on the new jail. He also has raised the morale of the jail staff since he moved to the Jail Division. He is appreciative of his staff and we appreciate him and all the work that he does."

County Executive Lynn Lemon and Sheriff Lynn Nelson present the award and certificate in appreciation for the work that Lt. Cheshire had done. Chairman Anhder on behalf of the Council extended their congratulations.

CACHE VALLEY TRAVEL REGION REPORT: MARIDENE HANCOCK

Maridene Hancock reported:

Tourism: This Summer was down in the months of June and July; it was off about 8%.

Transfer and Tax: So far this month it is up. Last year \$155,193.00 was collected and this year \$165,108.00.

Federal Grants: The Cache Valley Travel Region received designation as a national scenic byway. From part of that a C-Grant from the Federal Government \$25,000.00 will be received for the next five years. That money is to be used to hire the Byway Coordinator to assist communities that are named as a "National Scenic Byway." That designation opens the door to about \$23,000,000.00 for communities that are on either side of the byway. There will also be a committee assigned for this. This designation really carries a lot of weight. Being named a "National Scenic Byway" is similar to being designated a "National Park" or a "National Monument." With this comes a lot of publicity. There is a website: "www.byways.org" in which Cache County will now be included featuring Logan Canyon. The amount of money that will be received, \$25,000.00, will be placed directly into salaries.

Matching State Funds Program: The State of Utah had ceased operating their "Matching Funds Program," which takes away about \$32,000.00.

Motel Occupancy: Motel occupancy is down due to the economy; people were just not traveling as much. Other regional areas in the State were down as well.

Campground Occupancy: From all indications we are going to be down. We think this may be due to fires not being allowed during some of the months.

Forest Service Gift Shop: This was the first season. Almost \$12,000.00 worth of items were sold; \$7,000.00 was spent showing a gain so far of \$4,465.00 Projected revenue in 2002 is \$8,273.00 All of that money comes back into tourism. This money was used for printing brochures, etc. In the contract with the Forest Service, the Region agreed to pay 10% back to the Forest Service; however, they agreed to give the money back for printing.

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Advertising: A new brochure, a new logo and 4 new tag lines were created this year.

National Ad Campaign: An ad was placed in "National Geographic Travel" for which 2,474 label responses came back. For a Parade Magazine ad, there were 661 label responses and 665 internet responses received.

Rack Cards: These cards are in all Salt Lake area motels.

Newspaper Ads: 1) *Salt Lake Tribune* in the Summer Fun section 2) Salt Lake City visitor brochure (*CVB Guide*) 3) *Travel Pal* add 4) *Billboards* to promote the new web site. (Twenty-two boards were up a month during June, July and August. 5) An article in *Sunset Magazine* on food tour which was free. 6) *American Snowmobiler* and 7) *Snowman's Magazine*. Cache County is ranked in the top 15 snowmobile destinations in the Country.

Website: "tourcachevalley.com"

It was noted that it has been one year as of July 1, 2002 since Tourism pulled away from the Chamber. The Chamber would like a long term lease of a 5-year agreement; however, there had been some challenges with the Attorney's Office and so as of now the County is paying the Chamber rent on a month to month basis.

As yet the permanent place of operation for Tourism has not been established. Ms. Hancock suggested having a business-provided space in a hotel, restaurant or a gift shop.

INTRA-DEPARTMENTAL BUDGET TRANSFER REQUESTS:

The following budgetary transfers were presented to the Council: **1) The Auditor** for \$2,000.00 to transfer funds to update monitors, **2) RSVP** for \$3,000.00 to transfer funds to pay for recognition banquet, **3) CPDO** for \$1,803.00 to upgrade existing computer systems to maintain current technology needs of the office, **4) Support Services** for \$1,210.00 to meet telephone expenses and to replace 12 monitors and **5) Public Defender** for \$5,000.00 to pay for additional transcripts and evaluations.

(See Attachment No. 2)

Council member Petersen moved to approve the budget transfers. Yeates seconded the motion. The vote was unanimous, 7-0,

PUBLIC HEARING SET: OPEN 2002 BUDGET

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The Council set a public hearing for October 22, 2002 at 6:15 p.m. to hear comment on opening the 2002 budget.

Council member Yeates moved to set the Public Hearing for the 2002 Budget Opening. Petersen seconded the motion. The vote was unanimous, 7-0.

THE COUNCIL MOVED INTO THE BOARD OF EQUALIZATION

APPROVAL OF BOARD OF EQUALIZATION ACTIONS:

Auditor Tamra Stones presented the Council with a current year list of parcels going thru BOE for abatement of taxes in 2002 dated 09-17-2002 thru 10-04-2002.

(See Attachment No. 3)

Auditor Tamra Stones recommend approval with the exception of those parcels noted that had not been finalized.

Council member Petersen moved to approve the actions for tax abatement brought forth by Auditor Stones. Gibbons seconded the motion. The vote was unanimous, 7-0.

THE COUNCIL MOVED OUT OF THE BOARD OF EQUALIZATION

ADMINISTRATION BUILDING UPDATE:

Council member Petersen commented on an issue regarding security in the new building that hadn't been planned for. Basically, the proposal was to add some surveillance cameras in selected locations. Cost estimates which included the cost for wiring and 16 cameras came to between \$5,000.00 and \$6,000.00.

The Courthouse was on schedule. The committee discussed seismic standards for the Courthouse. Executive Lemon said they were getting close to knowing what the costs will be to restore the old courthouse. It was hoped that a bid for refurbishing would be ready in a month or so. Now that the floor plan was fully developed, it was time to go forward and obtain donations. It was suggested that Newel Daines be invited to the next Council meeting to discuss fund raising.

CACHE COUNTY JAIL UPDATE:

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Executive Lemon noted that the 30-day notice period of time would be up on the 11th of October. Sheriff Nelson had met weekly with the architects and the engineers. A ground-breaking ceremony is planned for next Thursday, October 17, 2002 at 2:00 p.m.

A building permit was applied for today for the foundation and footings. Most of the major sub-contractors have been selected. Executive Lemon commented that in the construction part of the project, hopefully as many of the local contractors would be used as possible.

In regards to furniture, the Herman-Miller representative was here last week. Tomorrow they meet again with the Herman-Miller installers to unload and reload the furniture so that an accurate accounting can be made.

AMENDMENT TO AGENDA:

Council member Yeates moved to amend the agenda in order to move item 9-c Ordinance No. 2002-13 allowing the rezone, to take place immediately after item 8-b Public hearing. Gibbons seconded the motion. The vote was unanimous, 7-0,

PUBLIC HEARING: RECOMMENDED CHANGES IN THE COMPREHENSIVE PLAN - RE: RR ZONE

Mark Teuscher told the Council that the change was fairly generic. As the Planning Commission was reviewing the RR Zone, they were concerned that the Comprehensive Plan did not specifically delineate the RR Zone. We prepared a paragraph with an implementation recommendation to deal with potential changes to 'zoning' and not only to the RR Zone. It anticipates possibly other zones being created and not just the RR Zone."

The Implementation Policy out of the Countywide Comprehensive Plan states: "Update and develop the standards for the Forest Recreation Zone (FR-40) to deal with current needs and conditions of the area."

The added paragraph states: "The Forest Recreation Zone (FR-40) allows for development of large recreational properties." (Presently there has been limited pressure on The County for these types of development; however, as the County population grows, demands for these type of development will increase. The current standards for the current Forest Recreation Zone will provide the County with little or no ability to manage the overall development of these types of large, commercial recreational projects. Current Cache County land-use, development ordinances are incompatible with addressing the developments of these size and scale.) "Develop a new zone to provide the County ability to better manage the development of large unique projects within the current FR-40 Zone."

The "Implementation Policy" would be a recommended guideline that would go into the County's Comprehensive plan.

Question/Answers:

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Council member Yeates: Is any discussion given to clustering or density-based types of developments in the FR-40 Zone?

Mark Teuscher: It is always under consideration in other implementation policies to consider the use of density zones in clustering. The specific is just looking at the FR-40 Zone itself in this particular component. There are some 30 or 40 implementation policies; clustering is one of them. Currently we have clustering clauses that have been added to the Subdivision. In fact, the Planning Commission just held a public hearing to recommend changes to that clustering section to clarify the definition of clustering; so, you will be seeing some changes. The plan already addresses density and already addresses clustering. The Planning Commission is working through changes in all the zones right now to look at those issues also.

Chairman Anhder: Basically what this does is we are adding language for the master plan. It basically says: our FR-40 as currently written is incapable of handling large recreational and resort type developments. So, our master says that we should develop something else to help handle that; and that's what we are adding to the master plan.

Teuscher: It doesn't just anticipate the RR Zone. It may anticipate that in other areas there may be additional zoning that might be necessary. It provides for the Council and the Planning Commission to look at multiple options in zoning.

CHAIRMAN ANHDER OPENED THE MEETING TO PUBLIC COMMENT

PUBLIC COMMENT:

Sherry Lowery: What exactly does that paragraph do? Does it cut out any public hearings for any re-zones? Does it make it possible for you to have changes in any kind of zone without a public hearing?

Mark Teuscher: No. State code is very specific that all changes to zoning and comprehensive plan have public hearing requirements both at the Planning Commission and the County Council. This doesn't change it. This is just a modification of the County's Comprehensive Plan.

Lowery: Does it make it possible for different kinds of zones or, make it possible for recreational zones that are maybe not quite as big as the Powder Mountain Zone?

Teuscher: It basically gives the flexibility to the County to look at multiple types of zones whether it be a RR Zone or, if there was a need (of) circumstance, to look at overlay zones; they may want to apply it to canyons. It is not specific to any one zone; it gives them more flexibility in their decision making.

Council member Petersen: It seems to me that more importantly than that, this is part of the Master Plan, which is a guiding philosophy of the County. The Master Plan doesn't power us to do anything. That has to be in the zoning ordinances.

Teuscher: Right.

Petersen: This is specifically saying that we think that maybe our Master Plan has missed some things and we probably need to develop some new zones. It really is a philosophical position; it doesn't allow us to do anything different.

Lowery: It doesn't develop any zones right now? It gives you more flexibility to add more zones?

Petersen: It just recognizes the need to go back and look at that zone.

Anhder: Then it would have to go through the whole process. A new ordinance would be written. Public Hearings (would be held) on that ordinance; Planning Commission and County Council discussion, amendments - passage or failure (would also be held).

Lowery: Could you have done the RR Zone without this in it?

Anhder: Probably.

Donna Majors: When was the public hearing set for this. Was that in the last meeting?

Anhder: We generally set it so there is time to advertise. I'm sure this has been advertized for a two-week period.

Mark Teuscher: By law, any changes to the comprehensive plan has to have 14 day notice prior to getting it into the Council meeting.

Majors: It seems to me that if they have a lot of work to be done to the ordinance, (We have already passed a new zone.) I think we need to hold off on accepting a new development within the zones that need some work. Cory, when you were the President of the Planning and Zoning in Logan, I know that they had neighborhood meetings. I know that they had citizen gatherings where they asked the citizens, "What do you want to happen?" We were directly affected by that because the citizens said: "We don't want any more four-plexes in the Northwest corridor of Logan." We own two lots there that are totally surrounding by four-plexes. We had planned on building a four-plex

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one Winter and we can't do that anymore. My husband said: "Look what you are doing to us financially because you are cutting our net because we can not build out there what we want to build." One time as I hear from one of the Council members just a couple-of-days-ago: "We are not responsible." They don't want to inhibit someone's opportunity to make money by zoning. I think that we need to be careful that we don't allow someone to make an extensive amount of money just because of the way the zoning ordinances are organized. We have responded; we have talked; we have sent letters. I don't think there has been the two-way feedback. It seems to me to vote on an issue that is going to come up in a little while when there is still a lot of work that needs to be done in the ordinances, it's being too hasty! I looked at that paragraph and I think: "Why did that come up today." Two-weeks-ago Mark Teuscher said that Mr. Ferrin could do 80% of the development in the FR-40 Zone. It looks to me like that allows the large recreation zone to happen. Now we are writing it down on paper that it could happen.

Darrel Gibbons: What you are suggesting is that this language is coming after-the-fact to justify Mr. Teuscher's statement.

Majors: Has it?

Gibbons: No, it hasn't.

Majors: Okay, so this has just been an oversight. I think that there are some oversights that we as citizens would like to have an opportunity to see a two-way feedback from you. I would like to if I may and maybe this is out of place but I would like to know why each one of you wants a big recreation development in our mountains, a big unit. I'm not talking little. Why do we want this in our County? It could be North, it could be West, if it met the stipulations anywhere where it meets the requirements. Why do you personally want it there, those who have personally supported this new RR Zone. Can I ask that? Is that out of line?

Anhder: It probably is. I think some of us are planning on making a statement when we get to that part of the agenda but that is not what we are talking about right now. Some will; some won't; you are certainly welcome to call any of us. Many of us have stated in public forms why we think one thing or another. That is not an item of discussion now. The Council members, if they chose to, will have that opportunity. That is probably out of order to ask that question now.

Majors: We would appreciate it as citizen to hear some personal feedback as to why you think it is important. My main comment is that it looks to me like some more needs to be done with the whole comprehensive plan. Mark said that. Let's hold off on anything big until everyone is sure we have got the kinks out. I think citizens, at least the ones that I know, are willing to understand and cooperate if we had the opportunity to see that the whole comprehensive plan is done right and is in the best interest of the County. Thank you.

Paul Rogers (Logan Resident): I'm just curious why Cache County has not displayed a map of this project as it was done in Weber County?

Anhder: I'm sorry but that has nothing to do with what we are talking about in this public hearing. This is a public hearing to consider changes in our general planning and has very little to do about the specific development that you are referring to.

Rogers: I'm sorry; I think it does relate. Could you answer that question?

Anhder: Many of us have seen a map of it. We certainly could display a map. Up to this point, we have talked about an ordinance. Even tonight we are not talking about a specific development. We are leaning towards going to a development. When that time comes in this process it is time to talk about the specifics of which you are referring to; that is the very next step on the development proposal that the Powder Mt. has to do.

Rogers: My concern is that the proposal keeps advancing down the line in the County. The citizens haven't had the same opportunity as those in Weber County, that seems very odd to me, very early on in the process; so, we know exactly where this is all headed.

Anhder: Have they requested a zone change in Weber County?

Rogers: I don't know if they have.

Anhder: That may be different.

Rogers: Early in the Spring they were displaying exactly the size and magnitude. I think that would have quite an impact of the citizenry of Cache County. I think it would be advisable to do that.

Anhder: That is the next step in the process - their display of size and magnitude. That is when the County Council will vote on what they will allow as the master plan is proposed. We have digressed.

Tim Wagner (Logan Resident): I would like to know if we specifically on the proposal of this ordinance change what really precipitated that at this year. I remember sitting directly with Mark Teuscher in a meeting two-years-ago. The

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discussion this very issue about the FR-40 Zone and he told me in no uncertain terms that the County would never change that. Those are his exact words.

Anhder: Would never change what?

Wagner: Would never amend the FR-40 Zone. He didn't ever expect the County to digress the FR-40 Zone to a more dense zone; that it would be the most we would ever see in this mountain area. I want to know exactly what needs precipitated it at this point at this year.

Anhder: As I understand, this does not make any change. This basically says there may be some problems with the FR-40 Zone; we need to look at that and recommend changes for it. "Develop a new zone to provide County ability to better manage the development of large, unique project area within the FR-40 Zone."

Wagner: Is it the whole creation of a new zone to allow a development like this of more dense development in this area?

Anhder: That's the point. There are those that feel there are problems with the FR-40 Zone that we need to create a new zone where there can be more input and more controls by the governing body than there currently is with the FR-40 Zone.

Wagner: I would like to know who those people really are and what the real purpose is. I can't for the life of me understand why anybody (a normal citizen like myself) in the Valley would be in favor of reducing the FR-40 Zone down to a more dense zone.

Anhder: Three or four years ago we received a proposal for 1600-acres in the Ant Flat area under our current FR-40 Zone (a rather significant development). At that time there were many of the Council that said: "Gee whiz!" "We don't like the way this goes in!" The reply was that it conforms with our ordinances and our current laws. It did! It was approved. At that time we started to recognize that there are problems with our FR-40 Zone. Part of the discussions that have gone on in this whole process of creating an RR Zone has pointed out weaknesses in our FR-40 Zone. I think there are a number of Council members who would like to either **a)** change the FR-40 Zone or **b)** create other zones that would help us deal with the pressures that keep coming for development in the Forest-recreational area. That is just one thing that this can lead to. Future development of ordinances and policies as it affects development in our current FR-40 Zone.

Wagner: If we are looking at a re-zoning of this magnitude. How well, if you really examine the cost the County and of the taxpayers, it costs to provide these services.

Anhder: We are not talking about a re-zone in this public hearing right now.

Jim Steitz: (USU Student): Is the Chair entitled to rule on what is considered a "Germain" or not "Germain" on comment from a member of the public.

Anhder: Until I am overruled by the Council, Yes.

Launi Evans-Stocker (Avon): What is the possibility of putting a moratorium on building large developments on the FR-40 Zone now while we iron out the Comprehensive Plan.

Teuscher: The State law does not allow for moratoriums in Utah. The State law allows for restrictions only to do temporary ordinances for six months. You can do a temporary ordinance for six months. But you have to fix it within that six-month period.

Sherry Lowery: Wouldn't that make you to site a specific ordinance if you do that?

Teuscher: No. That is how the State law is written.

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

ORDINANCE NO. 2002-13: AMENDING THE CACHE COUNTY ZONING ORDINANCE TO ALLOW FOR 3,580 ACRES OF PROPERTY IN THE CURRENT FOREST RECREATION (FR-40) ZONE ADJACENT TO THE WEBER COUNTY LINE AT POWDER MOUNTAIN TO BE RE-ZONED TO THE NEWLY CREATED RESORT-RECREATION (RR) ZONE.

(See Attachment No. 4)

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Chairman Anhder clarified to the public that public comment had been heard and received via mail; however discussion at this meeting was to be among the Council members unless a point of personal privilege was granted.

Council member Gibbons moved to adopt Ordinance 2002-13 to put it on the table so that it could be discussed. Petersen seconded the motion. The vote taken after the following discussion was 6-1. (Hansen voted "No.")

Discussion:

Council member Petersen: Mark, you have indicated that as we think about the Powder Mountain proposal that about 80% of that could have been done under the old FR-40 Zone.

Teuscher: It is a rough estimate on my part. But I would imagine that about 80% of what he (Ferrin) is proposing probably would be allowed if you look at what we have done in the past at Sherwood Hills, Beaver Creek Lodge, Beaver Mountain done in the FR-40.

Mark Teuscher presented an update of the development standards for the Forest-Recreation Zone (FR-40) that dealt with the current need and conditions of the area. "The Forest- Recreation Zone (FR-40) allows for the development of large recreational properties. At present there has been limited pressure on the County for these types of developments. However, as the County population grows, the demand for these types of recreational developments will likely increase. The current standards for the Forest Recreation zone (FR-40) would provide the County with little or no ability to manage the overall development of these types of large commercial recreational projects. Current County land-use development ordinances are incapable of addressing development of this size and scale."

Petersen: In the ordinance there is a provision for adjacent land-owners being able to add on to the project. Would you just briefly review the provisions of an adjacent landowner to add on?

Teuscher: The only way an adjacent landowner could add on is with the permission of the developer. He would have to come in and amend the zone itself. He would go through a whole re-zone process. To initiate that, it would have to have the developer, and the Home Owners' Association would also have to, be part of that amendment. The interested party of the project would have to agree to re-zone and amend that zone. He would have to have original approval to include that area. When those were in place we would consider the re-zone to incorporate in. The way the zone reads, (for) any development on that, the developer would have to come back and go through the master planning process and show us how that 200-acres is going to fit with the rest of the project. That has to be approved by Planning Commission. Any development agreement would be done at that time.

Petersen: Basically, it would have to come back and go through all of the steps of the Planning and Zoning Commission and the County Council again.

Teuscher: The match plan would have to be re-done, revised and approved

Council member Gibbons: With the development of 85 seasonal cabins under the current FR-40 ordinance that we have. What kind of sewer system do we have?

Teuscher: None.

Gibbons: It would be septic systems only.

Teuscher: There is no water requirement under the FR-40. They would have to have wells.

Layne Beck: What about development of roads into those 85 cabins. Do we have any control of the placement of those roads or run-off?

Teuscher: In the past those have been private roads maintained by the property owner. We don't manage them; we don't control them.

Yeates: What about watershed problems ?

Teuscher: We have very little requirements under the current FR-40 to even consider it. With the storm-drains' requirements of the EPA, we might have to kick in permitting from the State; but it would be fairly limited.

Darrel Gibbons: The potential of clustering under the FR-40 Zone?

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Teuscher: They can't do it. It is allowable under our current subdivision rules. They would still have to maintain the overall density, (which is) one unit per 40-acres. They can't cluster but again under the FR-40, there is no requirement to look specifically at roads. We do in the subdivision code. Primarily, it had always been in the agricultural zone not to upset agricultural areas but the same could be applied to the FR-40. You still would have limited control over that project. So, private roadway unmaned by the County (is what they use).

Anhder: There is not requirement to cluster?

Teuscher: No. It is a voluntary thing.

Beck: Is there a density incentive for a developer to cluster?

Teuscher: No. It is really up to the property owner whether he wants to do it or not.

Council member Hansen: Mark, how long have we had the FR-40 Zone?

Teuscher: Since 1970.

Lorene Greenhalgh: I think it was in 1973.

Teuscher: Pretty close to when we initially did zoning in Cache County.

Hansen: As I've discussed this with folks in Paradise, I've said that maybe the RR Zone gives us more control than the FR-40 Zone. They are saying to me: "Why don't we then change the FR-40 Zone?" Is that a realistic possibility?

Teuscher: The FR-40 Zone by itself takes up 66% of County. It's a substantial area. About half of it is in National Forest; there is wilderness area and the other is in private (ownership). It is very disjointed but it is the biggest zone the County has. It hasn't been altered in many, many years.

Greenhalgh: It has never been altered.

Teuscher: In my opinion, it is a very archaic zoning. It does not provide a lot of protection. The County Planning Commission is looking at all the zones and the FR-40 would be one. We can and probably should make changes there.

Anhder: We would ask as a County Council that you would review the FR-40 Zone.

Yeates: There has been some real reluctance on the part of the Planning Commission, I think even on the part of the Council at least in the past, to look at the FR-40 Zone. They have kind of wanted to leave it alone. After seeing the development of Legacy Ranch and the Powder Mountain issue now, I for one am glad the Commission is looking at it.

Teuscher: There are some planning tools that could be looked at it.

Sherry Lowery: Mark, going back to the adjacent landowners, we know that there is somebody who already wants to add on to the development. Because there is not a Homeowners Association in place right now, is that going to cause a problem?

Teuscher: It still has to go through the zoning process.

Lowery: It doesn't have to go through a Homeowner's Association and I think that would be a lot tougher.

Teuscher: I agree. Recognize the fact that the reason we do that is because with the development progress the Homeowners' Association become an interested party to the development. If there is no Homeowner's Association, there is nobody to act; so, it would be just the developer if he wanted to do that. It is up to the Council. They could say "no"; they could say "yes." They would still have to go through that process.

Lowery: I can see that being an immediate concern. If we get the zone today, they could sell to him. That is were the concern is going to come up - the adjacent landowner. By the way it will be coming soon.

Council member Gibbons: I think Mrs. Majors wanted to hear from the Council as to why we considered voting affirmatively for this proposal. Quite frankly, it is a frustrating process to listen to some of your concerns and then deal with some of the other issues that we have to deal with. As I have talked with my constituents at my end of the Valley, very few are concerned that the development is going to create a major problem in the valley. I have some concerns. Powder Mountain exists already. It's there; it has been there for years. There is going to be development even under our current and existing ordinance. I have a difficult time understanding why there is so much opposition in a County that is proposing to create a zone that would give us greater controls to protect the environment. Environmental issues have been raised; yet, the new zone will give us greater control to protect as far as waste water is concerned and runoff is concerned. In one of our meetings, someone talked about migrating patterns of deer and elk. It would seem to me that if a zone was created to cluster the development, it would leave far greater open spaces and protect those patterns rather than be a reason to curtail them. As I look at this, I think it gives the County far greater control to issue the kind of restraints with respect to the potential development that we need as a Council. Speaking for me, I think it is important for our community. I can't think of a reasonable argument why we should deny the request for the re-zone. I think it gives us much better control and a much more reasonable approach to put in

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the kind of safeguards that we ought to have. That is the reason I would vote for it. I know that there is a lot of emotional issues concerned with the fact that you don't want a great big development down there but the reality is that the development is already there.

John Hansen: I would just quickly say that I would vote against this because I ran on a platform that I would represent the people in my area. I think the folks in Avon and Paradise certainly are opposed to it. I would quickly point out that I don't have folks in Mendon or Wellsville or Hyrum saying that I should vote against it. I feel like those folks who are here and many others that I have heard from are opposed to it; so, I will take that position.

Craig Petersen: I agree strongly with what Darrel said and I think, folks, you are making an incorrect assumption about what the Council intends to do at this point. I think the argument Darrel made for the re-zone are very, very sound but I think you are assuming that the re-zone will be approved and the master plan will be approved with very little scrutiny. My intent is when we really have something very, very tangible to look at were we can make serious evaluation of the impact on the area, the Council will be very proactive at looking at that master plan. We really have two more steps with this. We have the right to approve the master plan and the right to approve the development plan.

Dawna Majors: Mr. Petersen, I read through that statement, I don't think the Council looks at the master plan until the development is in the development-agreement stage. If I understand it correctly. As I read through the process, it looked like it went through Planning and zoning through Lorene; and they recommend it to you and you don't see it again until it becomes a development agreement.

Petersen: One way or another, we still have our opportunity to look at the specifics of the project. Right now we are talking about things that might be but without enough specifics, I'm sure in many cases, to make a good decision. When we look at very tangible proposals, as least I intend to be very proactive in terms of making sure that those are in the interest of the Valley. For right now, I want to make sure that the Council members will have the power to do that. It's exactly as Council man Gibbons said; if we don't do the re-zone, I lack a lot of that power. I want to maintain that power for a careful examination.

Yeates: I thought a great deal of what I was going to say tonight prior to the meeting. First of all I've received a tremendous amount of mail from concerned citizens. I've received letters both for and against. The first thing that I would like to say is shame on you for some of the comments made that I felt have been very disparaging toward Brent Ferrin. Brent Ferrin does not deserve some of the venomous attacks that have been placed on him. ...Also, there was one other letter which I received that told me I had no choice. Because he felt that if this thing should not go through, I had to do what he had told me to do. I was offended by that letter. I have looked at this project closely and once again I have to agree with Craig. I agree whole-heartedly with what Mr. Gibbons has said. The most important thing is that the County have control. If we vote not to pass this, there are a couple of steps that Mr. Ferrin has available to him. **1)** He can go ahead and do as Legacy Ranch has done and bring forth the development on the FR-40 level, (over) which we have no control. If you think that this proposal now would create watershed problems, you can not imagine the nightmare we would have with the FR-40 regulations that are in place now. The control is very important. **2)** Also, Mr. Ferrin and the other owner-investors could incorporate. It is always another possibility. They could make their own zoning laws and zoning for their own incorporated area and build whatever they wanted. So, once again the County could be left out.

I think the proposal that is before us to annex this property into the community is by far the fairest to all the residents to the valley because it gives each of us a continued opportunity in this process. I take exception to the people who say we have we have rushed through this process. We not rushed through this process. There has been a great deal of input that has been sought by the Planning Commission; there has been a great deal of input received by us. We appreciate that input. We don't always agree with it and there are concerns. Those concerns should be addressed during the developmental phase when that project is brought before us. According to the recreation zone, a person needs to have 2,000-acres if he wants to have re-zone. Also, it has to be based on either a golf course or a ski resort. It has been said that the ski resort has been in existence for a very long time.

Another avenue will open if we vote this down, we could find ourselves in court because legally, Mr. Ferrin has, and this opinion was expressed to me, met all of the conditions to be accepted into the Resort-Recreation Zone. So, we walk a very fine line. This is not over. Your opportunity for input is not over. I strongly encourage you to continue to be vigilant and help point out some of the things that you feel are flaws in this project. As we get into the project, they

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always say that the devil is in the details; and I think a lot of this will come out in that. It also gives the developers the opportunity to get the answers to those problems and hopefully they will be to everybody's satisfaction. I do plan to vote in favor of this tonight.

Layne Beck: (Referring to a letter received by one of his constituents.) Basically, it goes along the lines that have been discussed by three of the previous Council members. "We all have concerns about how this project could degrade watershed, wildlife habitat, drain on County resources and another of other issues. I, as Councilman Yeates has suggested, do take some offense at the idea that this Council has not been willing to listen to citizenry. At every meeting where we have had this on the agenda, we have been willing to listen to public input and sit here for sometimes hours to listen to public input. We have asked you for your written comments and have been grateful to receive them. Maybe you don't feel like it has been a two-way street in terms of us responding to your written comments and maybe we should have been doing that. One thing you should all realize about the members of this Council. We don't have a staff other than our secretary who works hard for us but she also works for the County Executive and a number of other Boards for the County. We don't have staff who can respond to these things. We all have to earn a living outside of what we do for the County. This is really a public service thing that we do as elected officials and we can respond as best we can; however, we have a limited amount of resource in terms of time that we can commit to this. For us to respond to each letter that comes on a personal basis would be very difficult to do. I do assure you that we have read them and we are concerned as you are about the issues. (Quoting from the letter) "The best and really only way I see to manage these critical issues at this point in time is to proceed with the rezoning of the property to RR Zone which then would have the opportunity for the County to control these issues in a mutually beneficially manner. Under the RR Zone, Cache County works with the developer in the master plan and has control over the placement of buildings, roads, paved services, water runoff, utility design, colors, light pollution, density, wild life corridors and land issues." Along with Councilmen Yeates and Petersen and Gibbons, I to will suggest that this change give the County more control over the development than we would have if we left the zoning the way it is under the FR-40.

Kathy Robison: I agree with Craig, Darrel, Cory, and Layne. With the Master plan, I'm going to carefully scrutinize all of the issues and make sure that all of the necessary certifications is in place before voting for it. I think it will give us a much better opportunity in the County to make this a development that will be the least impact to the County and the best managed.

Anhder: "Ditto." The only thing I would say to these people is I'm not sure Mr. Ferrin is a very smart man. He or any other investor in this property could under our current ordinances still develop and market some sort of development. He could have even come in and asked for a re-zone to our commercial zone for parts of it. He would have had a whole lot less to deal with than we anticipate that he will have to deal with our new zone.

On the other hand, he is probably pretty smart because he recognizes the economic market that he wants to deal with wants these kinds of things. They want developments that are compatible with their environment. They want developments that are responsible. While he is willing to submit his development to questions and quite a bit of scrutiny, it is probably a win-win situation. It gives him something that he believes is marketable; it give us as citizens of the County better control over the development that goes in there. The challenge now really comes from here on, assuming this passes tonight, when his development plan starts to come before us. That's when you are encouraged to be involved and make sure that you understand that. Development in the Powder Mountain area is not in question; it is already happening. For those that said that they don't want any development, I'm sorry because the development has started and could continue without nearly as much control. I complement the citizens that have made reasoned and thoughtful arguments. I have thrown in the trash every single letter that has had an innuendo of impropriety either directed toward us or the developers. I would encourage as you make your comments in the future, that you stick to the issues and not the personalities that are involved.

Petersen: (A procedural question.) As we come to the master plan and development agreement, am I correct that there will be public hearings in connection with that?

Anhder: Yes.

Petersen: Both with to the Planning Commission and the County Council. There will be opportunities for both written and verbal input.

Anhder: Yes, plus it becomes a public document as soon as it is filed with the County.

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Petersen: One of the things we might think of doing is we ought to mount that on the web so that everybody has access to it.

Anhder: That's a good idea.

ORDINANCE NO. 2002-13: The vote was 6-1.

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

TAX ABATEMENT REQUEST: JIM MALOUF

Mr. Jim Malouf had appeared before the Board of Equalization with a problem that they felt statutorily limited as to what could be done. He presented his request to the Council. The matter dealt with a subdivision development on Parcel 04-140 in which he had invested in 1997. The development was platted. The roads and the major infra-structure were developed short of the water development and some of the engineering oversights had come to light over the last few years.

For the last five years, the parcel had been a recorded as a subdivision in North Logan City for which North Logan had been unwilling to allow the infrastructure to be developed and had been unwilling to address the lots in a way that the lots could be used for building purposes. Building permits were refused for these lots. North Logan Administration, the Mayor and everyone except for the City Council signed a letter that Mr. Malouf presented to the Board of Equalization addressing these problems. In the letter it was clearly admitted that it was problems from North Logan City that had made it impossible to proceed with the development.

For four years full taxes on those lots had been paid to the County. Last year the Board of Equalization adjusted the lot values about 20%. Mr. Malouf had paid basically 4 3/4 years of full tax on the lots that were basically no more valuable than agricultural land until such time as they could be put into sell-able and develop-able lots.. He was not looking for a tax refund but requested some way of abating this year's taxes until these issues were resolved with North Logan City.

The Council discussed the market value of the property and the facts concerning the amount of taxes paid in past years and the amount of taxes assessed this year. The Board of Equalization report was also taken into consideration.

Auditor Stones clarified that past taxes are not abated. The County could collect less than what was billed if there were a cancellation of the rest of the tax based on whatever rule they wanted to use. The value would not be changed. The only change could be on the current tax and not

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in years passed. The County did change the market value of the property to 70% last year and 60% for this year. The total taxable amount this year was \$441,039. Auditor Stone also clarified that once you plat the subdivision, taxes were based on 30% of the expected sale according to State law. Once the improvements are in, it was 70% of the expected market value of the lot.

Mr. Malouf stated the problem was that for four years he had paid 100% of the tax on the expected market value on build-able lots, which hadn't been able to be developed beyond his control because of North Logan City's recalcitrance in dealing with the infrastructure. The subdivision was approved; it was platted and was started and then North Logan City said: "Wait a minute; you can't finish this."

Ms. Stones reminded the Council that the value of the lot was adjusted and reduced last year. Council member Gibbons reminded the Council that the years prior to 2001, he had been assessed at 100% with no reduction of value.

Half of the subdivision was dependant on a water tank that was not in. The remainder of the subdivision had been sold and developed with the exception of a row of lots that have been approved at a very narrow state; and the city had been unwilling to issue building permits because of the narrowness. About half of the lots in that row were too narrow for building and the other half of the narrow lots had no water. The water depended on the infrastructure that was not in, which the city has refused to allow to be put in. Even though the city had just recently approved the water there were some rather extraordinary terms for the tank. They were in the process of negotiating how to make that work. Those issues have not been resolved.

Council member Gibbons was of the opinion that the County may have assessed the property improperly but there was no appeal rendered on the taxes. Mr. Malouf said he was out of the country and was not aware the lots were not build-able or that he should appeal. He would have if he had known the situation. When he returned and realized what was happening, he began steps to resolve the problem.

The Board of Equalization had determined that these lots had value. When they could actually be sold, Mr. Malouf could sell them for more than the amount the County had agreed to as far as the value in the meantime. His concern was that they could not be sold right now. It was not a value issue, it was a tax issue both past and current.

There was much debate over the amount of the abatement of this year's taxes being requested. Council member Petersen requested the total amount of tax Mr. Malouf was being assessed this year. It was estimated that there had been about \$30,000.00 in overpaid taxes. Mr. Malouf requested some recognition of his overpaid taxes in the past toward the tax being assessed now. Executive Lemon was under the impression that the only thing being requested was whether or not the Council would consider an abatement of this years taxes to some value that Mr. Malouf thought was reasonable.

Council member Yeates moved to put these parcels on standby.

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Lynn Lemon: Putting it off on standby will just say that we will go back and look at the value every year. If you would like to put it on your next agenda, I would be happy to prepare additional information for you so you can see how much was paid in prior years, what the value was in prior years. I didn't even know that would be an issue.

Darrel Gibbons: Something I would also like to see is the total taxable amount on this parcel plus the taxes due.

Council member Petersen moved to table this request for two weeks. Yeates seconded the motion. The vote was 4-2. (Anhder and Hansen voted "No;" Beck absent.)

DISCUSSION: PROPOSAL OF RE-ORGANIZATION OF CACHE COUNTY SHERIFF'S OFFICE - SHERIFF LYNN NELSON

Two weeks ago Sheriff Nelson made a proposal of adding five people to his staff, one being a 1st Sergeant and then four correctional people. At that time there was a discussion on the housing of inmates outside of Cache County and the financial burden it was having on the County. Sheriff Nelson was asked to look into this dilemma and possibly come up with some options to present to the Council that might help decrease the burden.

Sheriff Nelson presented a Memo to the Council describing the following plans to curtail jail costs.

(See Attachment No. 5)

Plan Options:

1. The Jail could set up emergency release procedures. This option would need an additional review of the judges and AP&P. They may or may not approve the release.
2. Over crowd our facility by adding 35 beds increasing the number of inmates from 74 to 109. This could be risky and would be essential to add additional staff as well as approximately \$10,500.00 for the purchase of extra beds.
3. Continue paying the housing cost at other county jails for our prisoners.

Plan No. 1) would totally reduce costs. Plan No. 2) would reduce inmate costs by \$45,000 a month. Plan No. 3) would increase costs to somewhere around \$600,000.00-750,000.00 for 2003.

Since the new jail was being built, The County could house more prisoners temporarily with no liability issues; however, there would be additional risks involved. The additional staff was already in the plans for the new jail. The overcrowded situation would only be for 12 to 14 months until the new jail was ready.

Discussion:

Lemon: I really like a combination of the first two, first 2 and then 1. We are trying to resolve this issue; we are building a new jail. Part of the cost of Plan 2 is to hire additional staff and we had already agreed earlier this year that we would hire additional staff to staff the new jail. It seems to me like it would be a lot more effective for us to allow the Sheriff's Office to hire an additional staff of five people; that gives us the additional staff and lets us put 109 people in the jail. After that, release them based on a set of rules.

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Petersen: Set goals. For Plan 2 set a goal of pulling back prisoners to 35 to cut back and add 20 beds and for Plan 1 have 10 early releases.

Anhder: Really, with these options we are looking at \$5 to 700,000 to pay for costs.

Nelson: In reality, I really want to see as many bad guys in jail as possible.

Council member Petersen moved to authorize the sheriff to use a combination of Plans 1 and 2. Gibbons seconded the motion. The vote was unanimous, 6-0. (Beck absent.)

HARDSHIP REQUESTS:

There were three hardship requests for tax abatement: **1) Taunya L. Roberts** for \$250.43, **2) Kimber Brown** for \$193.72 and **3) Randy and Marsha Hodges** for \$254.00. Roberts and Brown were previous requests and Hodges was a new request.

(See Attachment No. 6)

Council member Yeates moved to accept the two previous hardship requests. Hansen seconded the motion. The vote was unanimous, 6-0. (Beck absent.)

Auditor Tamra Stones recommend approval of the new hardship request for Randy and Marsha Hodges.

Council member Gibbons moved to accept the new hardship request. Yeates seconded the motion. The vote was unanimous, 6-0. (Beck absent.)

LETTER OF SUPPORT: JON WHITE'S REQUEST FOR PERMANENT CONSERVATION EASEMENT

The Council agreed to write letters of support for Mr. White.

(See Attachment No. 7)

DISCUSSION: REVENUES FOR 2003 BUDGET

This discussion was held over for the next Council meeting.

UTAH STATE UNIVERSITY HOMECOMING PARADE:

Council members were reminded of the USU Homecoming Parade to be held Saturday, October 19, 2002.

COUNCIL MEMBER REPORTS:

There were no Council member reports.

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Pat Parker announced that she had received a notice from UAC on the annual gift for the November convention. A Dutch oven cooker, dutch ovens and recipe books were suggested.

ADJOURNMENT:

Council meeting was adjourned at 7:50 p.m.

ATTEST: Jill N. Zollinger
County Clerk

APPROVAL: C. Larry Anhder
Council