

**CACHE COUNTY COUNCIL**  
**October 13, 2009**

**AGRICULTURAL PROTECTION AREA, 37.67 ACRES LOCATED IN THE HYRUM AREA OWNED BY FARRELL D. PETERSEN – Public Hearing-October 13, 2009-5:45 p.m.-Resolution No. 2009-28 ..... 4**

**AGRICULTURAL PROTECTION REQUIREMENTS – Change from 10 acres to 5 acres-Public Hearing – October 13, 2009-6:30 p.m. .... 7**

**BOARD OF EQUALIZATION ..... 3**

**BRIDGE REPLACEMENT UPDATE – Franklin Basin, Temple Fork ..... 2**

**CDBG PROJECT PRIORITY LIST ..... 7**

**COUNTY CODE – Change in County Code 9.17.010-Day Time Curfew-Ordinance No. 2009-09 ..... 3**

**COUNTY COUNCIL MEETING – Special-October 20, 2009-5:00 p.m. .... 1**

**CURFEW – Day Time-Change in County Code 93.17.010-Ordinance No. 2009-09 ..... 3**

**ELLEN ECCLES THEATER RESTAURANT TAX – Resolution No. 2009-29 ..... 6**

**EMPLOYEE OF THE MONTH – Giles, Marsha ..... 2**

**ENGLISH LANGUAGE CENTER OF CACHE VALLEY, INC. – Property Tax Exemption Request....5**

**FRANKLIN BASIN – Bridge Replacement..... 2**

**GILES, MARSHA – Employee of the Month..... 2**

**NATIONAL ARTS AND HUMANITIES MONTH OCTOBER 2009 – Proclamation..... 2**

**NIBLEY EASEMENT REQUEST ..... 7**

**ORDINANCE NO. 2008-08 – Imposing a 1% Tourism, Recreation, Cultural, and Convention Tax and Providing for the performance by the State Tax Division of all functions incident to the administration, operation, and collection of the tax and for the use of the revenues from this tax..... 6**

**ORDINANCE NO. 2009-09 – Change in County Code 9.17.010-Day Time Curfew ..... 3**

**PETERSEN, FARRELL D. – Agricultural Protection Area, 37.67 Acres Located in the Hyrum Area Owned by – Resolution No. 2009-28 ..... 4**

**PROCLAMATION – National Arts and Humanities Month October 2009 ..... 2**

**PROPERTY TAX ABATEMENTS..... 3**

**PROPERTY TAX EXEMPTION REQUEST – English Language Center of Cache Valley, Inc. .... 5**

<b>PROPERTY TAX HARDSHIP REQUESTS .....</b>	<b>5</b>
<b>PUBLIC HEARING – October 13, 2009-5:45 p.m.-Agricultural Protection Area, 37-67 Acres Located in the Hyrum Area Owned by Farrell D. Petersen.....</b>	<b>4</b>
<b>PUBLIC HEARING – October 13, 2009-6:00 p.m.-Declare Surplus Property .....</b>	<b>5</b>
<b>PUBLIC HEARING – October 13, 2009-6:15 p.m.-Comprehensive Plan Proposed Amendments.....</b>	<b>6</b>
<b>PUBLIC HEARING – October 13, 2009-6:30 p.m.-Change Agricultural Protection Requirements from 10 acres to 5 acres.....</b>	<b>7</b>
<b>RESOLUTION NO. 2009-28 – Agricultural Protection Area, 37.67 Acres Located in the Hyrum Area Owned by Farrell D. Petersen .....</b>	<b>4</b>
<b>RESOLUTION NO. 2009-29 – Ellen Eccles Theatre Restaurant Tax.....</b>	<b>6</b>
<b>ROADS – Bridge Replacement-Franklin Basin, Temple Fork .....</b>	<b>2</b>
<b>ROCKY MOUNTAIN POWER MEETING .....</b>	<b>2</b>
<b>SENIOR CITIZEN CENTER PRESENTATION/REQUEST .....</b>	<b>2</b>
<b>SURPLUS PROPERTY – Public Hearing–October 13, 2009-6:00 p.m.-Declare Surplus Property .....</b>	<b>5</b>
<b>TRCC TAX – Ordinance No. 2009-08-Imposing a 1% Tourism, Recreation, Cultural, and Convention Tax, etc.....</b>	<b>6</b>
<b>TEMPLE FORK – Bridge Replacement .....</b>	<b>2</b>
<b>UTAH FESTIVAL OPERA UPDATE – Wallis, Kent .....</b>	<b>2</b>
<b>WARRANTS – 09-03-2009 to 09-17-2009, 09-18-2009 to 09-24-2009.....</b>	<b>1</b>

**CACHE COUNTY COUNCIL MEETING**  
**October 13, 2009**

The Cache County Council convened in a regular session on October 13, 2009 at 5:00 p.m. in the Cache County Council Chamber at 199 North Main, Logan, Utah.

**ATTENDANCE:**

**Chairman:** H. Craig Petersen  
**Vice Chairman:** Gordon Zilles  
**Council Members:** Craig W Buttars, Brian Chambers, Kathy Robison & Jon White.  
**Cory Yeates absent.**  
**County Executive:** M. Lynn Lemon  
**County Clerk:** Jill N. Zollinger  
**County Attorney:** James Swink

**The following individuals were also in attendance:** Jay Baker, Michael Ballam, KaeLynn Beecher, Paul Berntson, Wally Bloss, David Brown, Lila Geddes, Marsha Giles, Steve Giles, Gary Griffin, Darrin Hancey, Sharon L. Hoth, Lt. Chad Jensen, Tom Jensen, Kara Kawakami, Leslie Mascaro, Dave Nielsen, Pat Parker, Carol Dee Petersen, Farrell D. Petersen, Rick Plewe, Bruce Rigby, Jackie Robinette, Josh Runhaar, Brett Stuart, David Thomas, Malinda Tolson, Kent Wallis, Suzy Willie, Megan Wiseman, **Media:** Charles Geraci (Herald Journal), Jennie Christensen (KVNU), Jeremy Threlfall (KUTA-TV).

**OPENING REMARKS AND PLEDGE OF ALLEGIANCE**

Council member Buttars gave the opening remarks and led those present in the Pledge of Allegiance.

**REVIEW AND APPROVAL OF AGENDA**

**Item 12a – *Decision-Logan Canyon Gateway Trail Grant Application* – was deleted. Executive Lemon asked the Council to consider scheduling a Special County Council Meeting on October 19, 2009 or October 20, 2009 to consider the last Board of Equalization Hearing Officers' recommendations. The Council set Tuesday, October 20, 2009 at 5:00 p.m. for the Special Council meeting.**

**REVIEW AND APPROVAL OF MINUTES**

**ACTION: Motion by Council member Zilles to approve the minutes of the September 22, 2009 Council Meeting as written. White seconded the motion. The vote was unanimous, 6-0. Yeates absent.**

**REPORT OF THE COUNTY EXECUTIVE: M. LYNN LEMON**

**APPOINTMENTS:** There were no appointments.

**WARRANTS:** Warrants for the period 09-03-2009 to 09-17-2009 and 09-18-2009 to 09-24-2009 were given to the Clerk for filing.

**OTHER ITEMS**

- ❑ **Rocky Mountain Power** has requested a meeting with Cache County on October 28, 2009 at 8:30 a.m. in the Council Chambers. Any County Council members interested are invited to attend. There is also a lunch meeting on the same day at the Copper Mill Restaurant from 12:00 to 2:00 p.m. and Council members are asked to RSVP by October 25, 2009 if attending the lunch meeting.
- ❑ **Bridge Replacement Update** – Executive Lemon reported that Temple Fork is closed for work on two bridges and will remain closed for the season. The upper bridge in Franklin Basin is currently being worked on with a completion date of October 23, 2009 and the lower bridge will then be closed on October 26, 2009 with a completion date of November 13, 2009.
- ❑ **Senior Citizen Center Presentation/Request** – Tom Jensen stated that the land east of the present Cache County Senior Citizen Center has been acquired and a design review needs to be submitted to Logan City. The design review must have the signatures of all landowners and Jensen asked Cache County to sign as owner of part of the properties involved. This does not obligate the county to the proposed project.

**ACTION: Motion by Council member Robison that the County Council is willing to pursue this project with the understanding that there is no final commitment to sell the land or to be a participant in the proposed project. Chambers seconded the motion. The motion passed 5 aye – Buttars, Chambers, Petersen, Robison & Zilles and 1 nay – White. Yeates absent.**

**ITEMS OF SPECIAL INTEREST**

- **Proclamation – National Arts and Humanities Month October 2009** – Chairman Petersen asked Vice Chairman Zilles to read the proclamation to the Council.

(Attachment 1)

**ACTION: Motion by Council member Chambers to approve the Proclamation – National Arts and Humanities Month October 2009. White seconded the motion. The vote was unanimous, 6-0. Yeates absent.**

- **Employee of the Month** was presented to Marsha Giles of the Zoning Office by Malinda Tolson as Jim Smith was out of town.
- **Utah Festival Opera Update – Kent Wallis**, Chairman of the UFO Board, reported that the \$873,000.00 ticket sales made 2009 the second best season the Opera has had. Total attendance was 22,915 patrons. The audience donation campaign was successful. Additional information shared with the Council included: 46% of the patrons stayed at least one night in Cache County, 78% ate at least once in a local restaurant and nearly 54% spent money shopping in local businesses, 21% of patrons were from out of state and 60% were from out of Cache County. Income levels of attendees are spread across a wide range indicating that everyone attends and enjoys the opera programs. The UFO Board meets Wednesday, October 15, 2009 and will be welcoming Ron Godfrey to the Board representing Cache County. A viable long-term financial plan will be presented at that meeting and forwarded to Cache County after approval.

Adjustments focusing on those items that bring in the most money include a closer coordination effort with Cache Valley Center for the Arts, reducing the number of opera performances while increasing the number of musical concert performances and additional performances by Michael Ballam. UFO has partnered with Dr. Craig Jessop and the American Festival Chorus for a Verdi Requiem. Dr. Jessop's time as well as the AFC's time is being donated. UFO will also launch an adult education program.

Council member Chambers asked what the status of the Utah Theater makeover is? Michael Ballam responded that the project is on hold until the economy improves and funding for the foundation established for the project will once again be available.

**Council member Buttars left the meeting.**

#### **THE COUNCIL CONVENED AS A BOARD OF EQUALIZATION**

- **Property Tax Abatements** - Executive Lemon called the Council's attention to three parcels which were impacted by the recent mudslides and recommended abating the taxes on those parcels. *(Details are on file in the office the Cache County Auditor.)*

**ACTION: Motion by Council member Chambers to abate the taxes due for 2009 on Parcel Nos. 06-091-0008, 06-091-0007 and 06-091-0009 as recommended by Executive Lemon. Robison seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.**

- **Approval of Board of Equalization Hearing Officers Actions** – A copy of the parcels already considered at hearings through 10-07-2009 was provided. Executive Lemon recommended approval of the actions of the Hearing Officers thus far. *(Details are on file in the Office of the Cache County Auditor.)*

**ACTION: Motion by Council member Robison to approve the actions of the Board of Equalization Hearing Officers to this point. White seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.**

- **Set Board of Equalization Hearing Dates** – The date of October 15, 2009 was considered and staffed with Hearing Officers.

**ACTION: Motion by Vice Chairman Zilles to adjourn from the Board of Equalization. Robison seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.**

#### **THE COUNCIL ADJOURNED FROM THE BOARD OF EQUALIZATION.**

#### **PENDING ACTION**

- **Ordinance No. 2009-09 – Change in County Code 9.17.010 – Day Time Curfew** – Attorney Swink noted the changes to the ordinance were minor spelling corrections, changing the word city to county in several instances and adding some "Whereas" clauses. Robison indicated that the word "or" needed to be inserted under Item B. Offenses, paragraph 2. "...by insufficient control **or** allows..."

**(Attachment 2)**

**Discussion on the motion:**

Council member White stated he is opposed to Ordinance No. 2009-09 because it is the job of parents and schools to keep students in school, not the Sheriff. He has not had any parents contact him in favor of the ordinance.

Vice Chairman Zilles asked Attorney Swink why the ordinance is needed? Swink observed that the cities in Cache County who already have the day time curfew like it and say it does help keep students in school. School administrators like it. Home schooled students are exempt from the ordinance. Zilles also contacted law enforcement for input. They noted that this will probably only affect a small percentage of the student population and is a valuable tool. Zilles was in favor of a sunset clause.

*Tape1, Side B*

Council member Chambers reported he had visited with many school administrators and all were in favor of the ordinance.

**ACTION: Motion by Council member Robison to approve Ordinance No. 2009-09 – Day Time Curfew with the addition of No. 3 under Section III – *Sunset Provision – This ordinance will be repealed two years from its effective date unless renewed by the Cache County Council.* Chambers seconded the motion. The motion passed, 4 aye – Chambers, Petersen, Robison & Zilles and 1 nay – White. Buttars & Yeates absent.**

**Ordinance No. 2009-09:** The vote was 4-1. Buttars & Yeates absent.

	<u>CHAMBERS</u>	<u>YEATES</u>	<u>ZILLES</u>	<u>PETERSEN</u>	<u>WHITE</u>	<u>ROBISON</u>	<u>BUTTARS</u>	<u>VOTES CAST</u>
AYE	X		X	X		X		4
NAY					X			1
ABSTAINED								0
ABSENT		X					X	2

**PUBLIC HEARINGS, APPEALS AND BOARD OF EQUALIZATION MATTERS**

**PUBLIC HEARING:** OCTOBER 13, 2009 – 5:45 P.M. – Agricultural Protection Area 37.67 Acres Located in the Hyrum Area owned by Farrell D. Petersen - Chairman Petersen opened the Public Hearing and invited public comment. There was none.

**ACTION: Motion by Council member Robison to close the Public Hearing-October 13, 2009-5:45 p.m.-Agricultural Protection Area 37.67 Acres Located in the Hyrum Area owned by Farrell D. Petersen. White seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.**

**INITIAL PROPOSAL FOR CONSIDERATION**

- **Resolution No. 2009-28 – Agricultural Protection Area 37.67 Acres located in the Hyrum Area owned by Farrell D. Petersen** – Director Runhaar stated that his office received a letter from Hyrum City protesting the agricultural protection status for this property because of a possible impact on future annexation.

**(Attachment 3)**

**ACTION: Motion by Vice Chairman Zilles to waive the rules and approve Resolution No. 2009-28 – Agricultural Protection Area 37.67 Acres located in the Hyrum Area owned by Farrell D. Petersen. White seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.**

- **Property Tax Exemption Request**

- English Language Center of Cache Valley, Inc.

**ACTION: Motion by Council member White to approve the property tax exemption for the English Language Center of Cache Valley, Inc. Zilles seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.**

### **PUBLIC HEARINGS, APPEALS AND BOARD OF EQUALIZATION MATTERS**

**PUBLIC HEARING: OCTOBER 13, 2009 – 6:00 P.M. – Declare Surplus Property** – Executive Lemon said the property owner next to this parcel is interested in acquiring the property and when the county declares the property surplus, Lemon will be able to negotiate with him on the purchase. Chairman Petersen opened the Public Hearing and invited public comment.

Council member White recommended that the two properties be incorporated as one Tax ID Number. Lemon concurred.

There was no other public comment.

#### **(Attachment 4)**

**ACTION: Motion by Vice Chairman Zilles to close the Public Hearing – October 13, 2009- 6:00 p.m.-Declare Surplus Property. Robison seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.**

### **INITIAL PROPOSAL FOR CONSIDERATION**

- **Property Tax Hardship Requests** – The Council first considered requests from parties who have requested hardship abatements in previous years. *(Details are on file in the office the Cache County Auditor.)*

**ACTION: Motion by Council member Robison to approve the Property Tax Hardship requests as indicated. White seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.**

- **Property Tax Hardship Requests** – The Council considered first-time requests for hardship abatements. Three of the applications were set aside pending additional information requested by the Council. *(Details are on file in the office the Cache County Auditor.)*

**ACTION: Motion by Council member Robison to approve the remaining first-time Property Tax Hardship requests. White seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.**

**PUBLIC HEARINGS, APPEALS AND BOARD OF EQUALIZATION MATTERS**

**PUBLIC HEARING:** OCTOBER 13, 2009 – 6:15 P.M. – Comprehensive Plan Proposed Amendments – Director Runhaar explained the amendments deal with minor edits on density and language establishing the zones. Chairman Petersen opened the Public Hearing and invited public comment. There was none.

(Attachment 5)

**ACTION:** Motion by Vice Chairman Zilles to close the Public Hearing – October 13, 2009-6:15 p.m.-Comprehensive Plan Proposed Amendments. Robison seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.

**INITIAL PROPOSAL FOR CONSIDERATION**

- **Ordinance No. 2009-08 – Imposing a 1% Tourism, Recreation, Cultural, and Convention Tax and Providing for the performance by the State Tax Division of all functions incident to the Administration, Operation, and Collection of the Tax and for the Use of the Revenues from this Tax** – Executive Lemon reminded the Council that this tax must be re-authorized each year.

(Attachment 6)

**ACTION:** Motion by Council member Chambers to waive the rules and approve Ordinance No. 2009-08 – Imposing a 1% Tourism, Recreation, Cultural, and Convention Tax and Providing for the performance by the State Tax Division of all functions incident to the administration, operation, and collection of the tax and for the use of the revenues from this tax. Robison seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.

**Ordinance No. 2009-08:** The vote was 5-0. Buttars & Yeates absent.

	<u>CHAMBERS</u>	<u>YEATES</u>	<u>ZILLES</u>	<u>PETERSEN</u>	<u>WHITE</u>	<u>ROBISON</u>	<u>BUTTARS</u>	<u>VOTES CAST</u>
AYE	X		X	X	X	X		5
NAY								0
ABSTAINED								0
ABSENT		X					X	2

- **Resolution No. 2009-29 – Ellen Eccles Theatre Restaurant Tax** – Executive Lemon said this is for payment on the bond for the Ellen Eccles Theater and must be authorized annually.

(Attachment 7)

**ACTION:** Motion by Vice Chairman Zilles to waive the rules and approve Resolution No. 2009-29 – Ellen Eccles Theater Restaurant Tax. White seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.



- **CDBG Project Priority List – Discussion** – Executive Lemon stated that the Cache Community Food Pantry contacted his office as an additional applicant for CDBG funding; however, Pat Parker commented that a phone call she received from Steve Thompson indicated the food pantry will be applying through Logan City for CDBG funding. The consensus of the Council was to forward the following requests without prioritization:

<u>Applicant</u>	<u>Amount</u>
Sunshine Terrace Foundation	\$100,000.00
English Language Center	\$60,000.00
Cache Training & Employment Center	\$50,000.00
Neighborhood Non-Profit Housing Corporation	\$100,000.00
Bear River Activity and Skills Center	57% of \$63,000.00
Child and Family Support Center	\$75,000.00

- **Nibley Easement Request – Decision** – Executive Lemon said this deals with a water line and he sees no problem with approving the easement.

Vice Chairman Zilles warned that after utility lines, etc. are placed beside or under roads, the area tends to sink over time and needs repair. How should the county deal with the costs of repairs? Director Runhaar responded that this will be addressed in the Road Standards section of the County Comprehensive Plan.

**(Attachment 8)**

**ACTION: Motion by Vice Chairman Zilles to approve the Nibley easement request. Robison seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.**

**PUBLIC HEARINGS, APPEALS AND BOARD OF EQUALIZATION MATTERS**

**PUBLIC HEARING: OCTOBER 13, 2009 – 6:30 P.M. – Change Agricultural Protection Requirements from 10 acres to 5 acres** – Chairman Petersen opened the Public Hearing and invited public comment.

Director Runhaar observed that as the county reduces the required acreage size; it faces the possibility of marginalizing the current law. The state requires agriculture viability; is five acres agriculturally viable?

Executive Lemon responded that this is a recommendation from the Agricultural Protection Advisory Board and this is one of the best ways to protect agricultural land.

There was no other public comment.

**ACTION: Motion by Council member Robison to close the Public Hearing – October 13, 2009 – 6:30 p.m. – Change Agricultural Protection Requirements from 10 acres to 5 acres. White seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.**

**COUNCIL MEMBER REPORTS**

**Jon White** asked for a review of the private road situation in Cache County on a future agenda.

Cache County Council  
10-13-2009

*Tape 2, Side A*

**Brian Chambers** asked about the status of the culvert repair at 4200 North and 800 West. Executive Lemon said it was repaired Thursday afternoon. Chambers noted that it still needs to be widened and Lemon said the county will work on that.

**ACTION: Motion by Vice Chairman Zilles to adjourn. White seconded the motion. The vote was unanimous, 5-0. Buttars & Yeates absent.**

**ADJOURNMENT**

The Council meeting adjourned at 6:39 p.m.

---

**ATTEST:** Jill N. Zollinger  
County Clerk

---

**APPROVAL:** H. Craig Petersen  
Chairman

CACHE COUNTY  
CORPORATION

M. LYNN LEMON  
COUNTY EXECUTIVE/SURVEYOR

199 N. MAIN  
LOGAN, UTAH 84321  
TEL 435-755-1850  
FAX 435-755-1981

COUNTY COUNCIL  
CORY YEATES  
H. CRAIG PETERSEN  
KATHY ROBINSON  
BRIAN CHAMBERS  
GORDON A. ZILLES  
CRAIG "W" BUTTARS  
JON WHITE

PROCLAMATION

Whereas, the month of October has been recognized as National Arts and Humanities Month by thousands of arts and cultural organizations, communities, and states across the country, as well as by the White House and Congress for more than two decades; and

Whereas, a tradition of arts and humanities has thrived in Cache Valley since early settlement in the early 1860's and has contributed to the quality of life and culture in the valley; and

Whereas, many individuals travel to Cache Valley to attend performing arts events, bringing valuable tourism dollars and impacting the area's regional and national reputation by sharing the nature of their experiences; and

Whereas, the nonprofit arts industry strengthens the local economy by generating an estimate of \$14,400,000 in total economic activity annually, by supporting the full-time equivalent of an estimated 420 jobs, and by providing about \$622,000 to local governments as a result of the expenditures made by your arts organizations and/or its audiences.

NOW THEREFORE, be it resolved, that the Cache County Council and Cache County Executive, State of Utah, do hereby proclaim October as

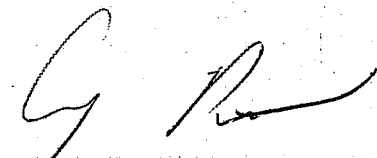
NATIONAL ARTS AND HUMANITIES MONTH

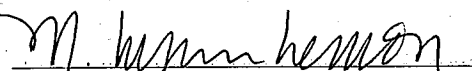
in Cache County, Utah and call upon our citizens to celebrate and promote the arts and culture in our community and nation and to specifically encourage greater participation by those said citizens in taking action for the arts and humanities in their towns, cities, and schools.

In witness thereof, as Chairman of the County Council and County Executive, we have hereunto set our hand this 13<sup>th</sup> day of October, 2009.

Attest:

  
Jill N. Zollinger, County Clerk

  
H. Craig Petersen, Council Chairman

  
M. Lynn Lemon, County Executive



**CACHE COUNTY, UTAH**  
**ORDINANCE NO. 2009-09**

**TRUANCY FOR MINORS**

*Disclaimer:*

*This is provided for informational purposes only. The formatting of this ordinance may vary from the official hard copy. In the case of any discrepancy between this ordinance and the official hard copy, the official hard copy will prevail.*

**SECTION I. A DECLARATION OF FINDINGS AND POLICY:**

**WHEREAS**, Cache County desires to enhance the safety of the community and of its youth; and,

**WHEREAS**, a significant percentage of crime committed during school hours is committed by school age youth who are truant; and,

**WHEREAS**, the Cache County Council finds that enhancing the safety of our community and youth requires the efforts of parents, businesses, schools, cities and the County; and,

**WHEREAS**, the Cache County Council finds that school administrators, law enforcement, and juvenile court probation are in favor of the Daytime Truancy Ordinance and feel that the ordinance is helpful in encouraging children to attend school; and

**WHEREAS**, the Cache County Council finds that a similar daytime truancy ordinance currently exists in the cities of Richmond, Smithfield, Logan, and Hyrum ; and,

**WHEREAS**, legitimate reasons for compulsory school age youth to be in public areas during school hours are few.

**NOW, THEREFORE**, The Cache County Council finds that it is in the best interest of the County of Cache and the citizens thereof to establish a truancy ordinance.

**SECTION II:**

**9.17.010: TRUANCY OF MINORS:**

A. Definitions: For the purposes of this chapter:

**COMPULSORY SCHOOL AGE MINOR:** A person between the ages of six (6) and eighteen (18) years of age who is not exempted, and must be attending public school or regularly established private school during the school year of the district in which the minor resides pursuant to Utah compulsory education requirements, Utah Code Annotated 53A-11-101 to 53A-

11-106.

**EMERGENCY:** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, an automobile accident or any situation requiring immediate action to prevent bodily injury or loss of life.

**ESTABLISHMENT:** Any privately owned place of business, whether nonprofit or operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

**GUARDIAN:** 1. A person who, under court order, is the guardian of the person of minor, or 2. A public or private agency with whom a minor has been placed by a court.

**MINOR:** Any person under eighteen (18) years of age.

**OPEN CAMPUS:** When a compulsory school age minor is allowed by school officials to leave school for lunch purposes.

**OPERATOR:** Any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment. The term includes members or partners of any association or partnership and the officers of a corporation.

**PARENT:** A person who is: 1. A natural parent, adoptive parent, or step-parent of another person, or 2. At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

**PUBLIC PLACE:** Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, sidewalks, the common areas of schools, hospitals, apartment houses, office buildings, stores and shops.

**SERIOUS BODILY INJURY:** Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the functions of any bodily member or organ.

**TRUANCY HOURS:** Those hours in which a compulsory school age youth should be attending school in the district or jurisdiction in which the student attends school.

**B. Offenses:**

1. A compulsory school age minor commits an offense if he or she remains in any public place or on the premises of any establishment within the county during truancy hours.
2. A parent or guardian of a minor commits an offense if he or she knowingly permits by insufficient control or allows a compulsory school age minor to remain in any public place or on the premises of any establishment within the county during truancy hours.
3. The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a compulsory school age minor to remain upon the premises of the establishment during truancy hours.

C. Defenses:

1. It is a defense to prosecution under subsection B of this section that a minor was:
  - a. Accompanied by the minor's parent, or guardian;
  - b. On an errand at the discretion of the minor's parent or guardian, without any detour or stop;
  - c. In a motor vehicle involved in interstate or intrastate travel with the permission of the minor's parent or guardian;
  - d. Engaged in an employment activity, or going to or returning home or to school from an employment activity, without any detour or stop; provided the employment activity does not violate the state's compulsory education requirements;
  - e. Involved in a legitimate emergency;
  - f. Following school policy regarding open campus for lunch;
  - g. Attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home or to school without any detour or stop, from an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor; provided attendance at such activity is with the permission of the minor's parent or guardian and/or is sponsored by the school at which the minor would otherwise be required to attend during truancy hours;
  - h. Is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right to assembly; or
  - i. Married or had been married or had disabilities of minority removed in accordance with state law.
  
2. It is a defense to prosecution under subsection B3 of this section that the owner, operator or employee of an establishment promptly notified the sheriff's office or other local law enforcement agency, that a minor was present on the premises of the establishment during truancy hours and refused to leave.

**9.17.020: ENFORCEMENT:**

Before taking any enforcement action under this chapter, the law enforcement officer shall ask the apparent offender's age and reason for not being at school. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense is present.

**9.17.030: PENALTIES:**

A person who violates a provision of this chapter is guilty of a class C misdemeanor and a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed five hundred dollars (\$500.00).

**SECTION III:**

1. Prior Ordinances, Resolutions, Policies And Actions Superseded.

This ordinance amends Chapter 9 the Cache County Code, and all prior ordinances, resolutions, policies, and actions of the Cache County Council to the extent that the provisions of such prior ordinances, resolutions, policies, or actions are in conflict with this ordinance. In all other respects, such prior ordinances, resolutions, policies, and actions shall remain in full force and effect.

2. Effective Date.

This ordinance takes effect fifteen (15) days after its passage. Following its passage but prior to the effective date, a copy of the Ordinance shall be deposited with the County Clerk and a short summary of the ordinance shall be published in a newspaper of general circulation within the County as required by law.

3. Sunset Provision.

This ordinance will be repealed two years from its effective date unless renewed by the Cache County Council.

APPROVED AND ADOPTED this 13 day of October, 2009.

	In Favor	Against	Abstained	Absent
Chambers	X			
Buttars				X
White		X		
Petersen	X			
Robison	X			
Yeates				X
Zilles	X			
Total	4	1		2

CACHE COUNTY COUNCIL



Craig Petersen, Chair

Cache County Council

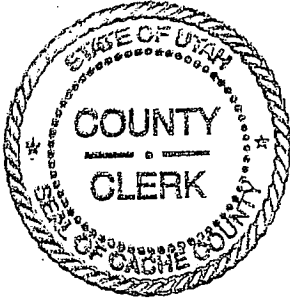
ATTEST:

Jill Zollinger

Jill Zollinger

Cache County Clerk

Publication Date: October 28, 2009





RESOLUTION NO. 2009-28

A RESOLUTION APPROVING THE CREATION OF AN AGRICULTURE PROTECTION AREA.

The Cache County Council of Cache County, Utah, in a regular meeting, lawful notice of which as been given, finds that the legal requirements for the creation of an agriculture protection area have been met; and, therefore, that the proposal filed by the Farrell D. Peterson Trust should be approved.

THEREFORE, the Cache County Council hereby adopts the following resolution:

BE IT RESOLVED that:

The proposal filed with Cache County by the Farrell D. Peterson Trust on June 23, 2009 to create an agriculture protection area on 37.67 acres of real property located at:

See "EXHIBIT A" Attached Hereto and Made a Part Hereof.

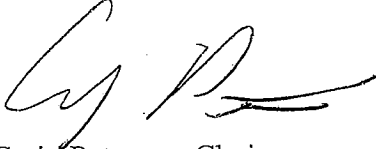
is hereby approved.

This resolution shall become effective immediately upon adoption

DATED this 13 Day of October 2009.

CACHE COUNTY COUNCIL

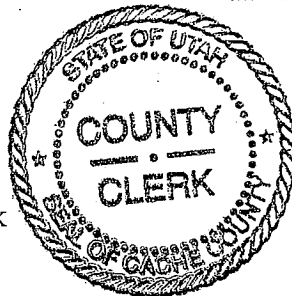
By:

  
H. Craig Petersen, Chairman

ATTEST TO:



Jill N. Zollinger, Cache County Clerk



"EXHIBIT A"

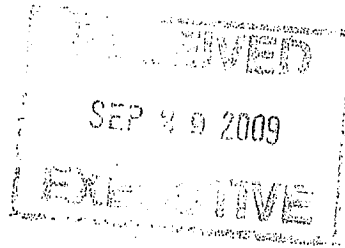
PARCEL No. 01-071-0002

BEG 110 RDS N OF SE COR SEC 9 T 10NR 1E W 120 RDS N 50 RDS E 120 RDS  
S50 RDS TO BEG 37 ½ AC A1708



Utah Association of  
Conservation Districts

1860 North 100 East  
North Logan, UT 84341-1784  
Phone: 435-753-6029  
Fax: 435-755-2117  
www.uacd.org



September 25, 2009

Cache County Council  
Attn: County Executive Lynn Lemon  
179 North Main Suite 309  
Logan, UT 84321

Re: Application for Agricultural Protection Area

The Cache County Agriculture Protection Area Advisory Board, as outlined in Utah Code 17-41-303 for Cache County, met to consider a recommendation on the Agriculture Protection Area Application for Farrell D. Petersen Trust on 37.67 acres of land located near Hyrum.

The criteria, as stated in Utah Code 17-41-305, were used to evaluate the application. After looking at each item, it is the board's recommendation that the application be approved.

Thank you for the opportunity to review this Agriculture Protection Area application and for the county's efforts in support of agriculture.

Sincerely,

Bruce Karren, Chairman  
Cache County Agriculture Protection Area Advisory Board

**CACHE COUNTY PLANNING COMMISSION**  
**CACHE COUNTY CORPORATION**

---

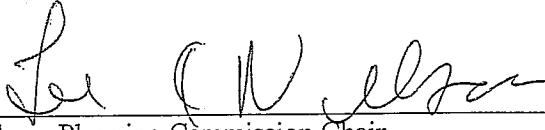
---

**Memorandum**

To: Cache County Council  
From: Cache County Planning Commission  
Date: September 3, 2009  
Subject: Petersen Agricultural Protection Area

The Cache County Planning Commission recommends that the Cache County Council approve the proposed Petersen Agricultural Protection Area for 37.67 acres of land located near Hyrum, TIN #01-071-0002. This recommendation is made based on the following findings of fact:

- 1) The land is currently under agricultural production as pasture, hay, and grains.
- 2) The land is within the Agriculture Zone.
- 3) Approximately 37.67 acres of land area is irrigated from the Hyrum Irrigation Company. The proponent maintains 18.5 shares of water to service the crops. The property is currently flood irrigated. The owner has plans to switch to a sprinkler system with a pump in the future.
- 4) The 37.67 acres is an agriculturally viable parcel.



\_\_\_\_\_  
Lee Nelson, Planning Commission Chair

**CACHE COUNTY CORPORATION**  
**DEVELOPMENT SERVICES DEPARTMENT**

---

179 North Main, Suite 305  
Logan, Utah 84321

**Memorandum**

To: Cache County Planning Commission  
From: Josh Runhaar, Director & Zoning Administrator  
Date: September 3, 2009  
Subject: Petersen Agricultural Protection Area

The County Executive Office has forwarded a request to the Planning Commission for the review and recommendation to the County Council of an Agricultural Protection Area for 37.67 acres of land located near Hyrum.

State Code §17-41-305 requires that agricultural protection areas be evaluated based on 5 criteria:

- 1) whether or not the land is currently being used for agricultural production;
- 2) whether or not the land is zoned for agricultural use;
- 3) whether or not the land is viable for agricultural production;
- 4) the extent and nature of existing or proposed farm improvements; and
- 5) anticipated trends in the agricultural and technological conditions.

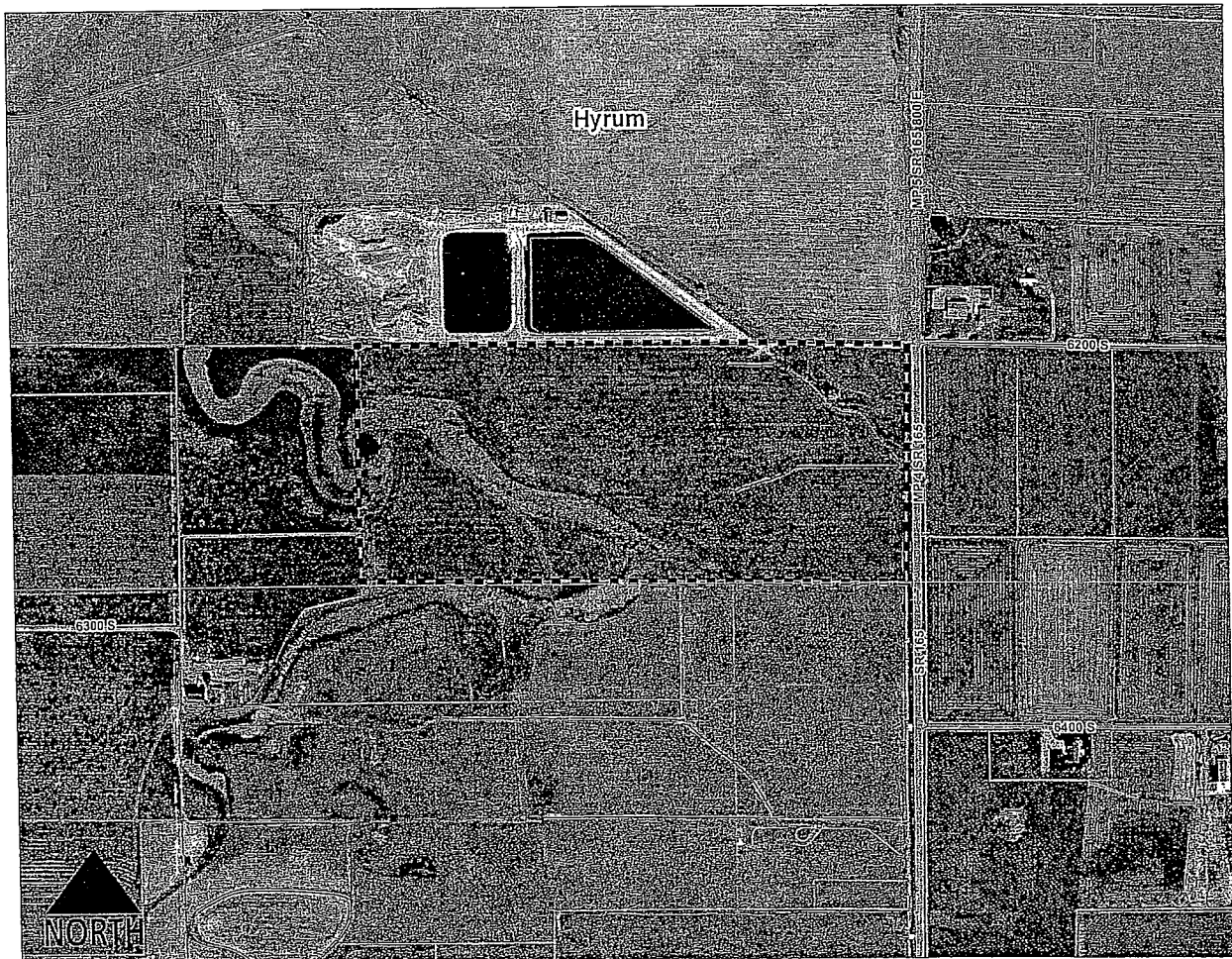
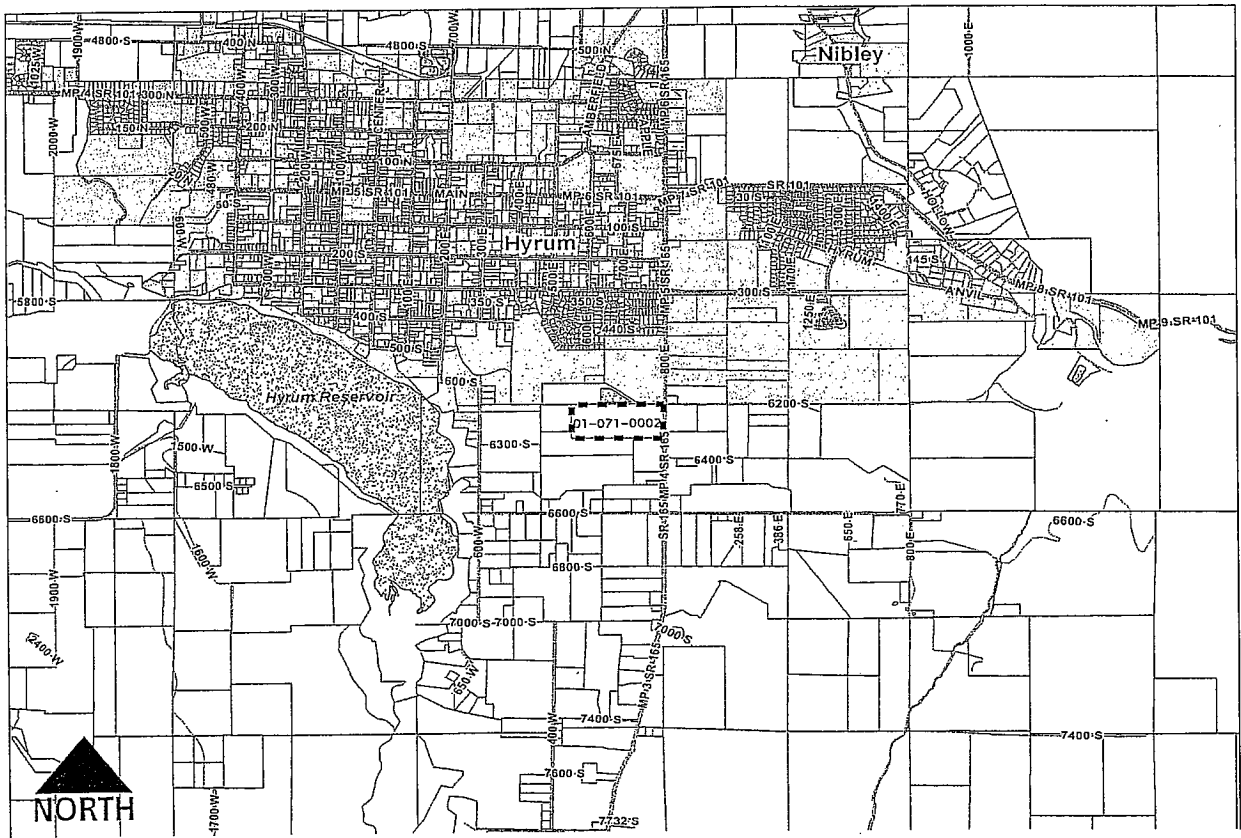
This request includes one (1) parcel with 37.67 acres (see attached map). The applicant has stated that the land being proposed for the agricultural protection is currently being used as pasture and to produce hay and grains.

- Hyrum City has submitted a letter of objection to this parcel being granted the status of an Agricultural Protection Area.
- This property is adjacent to State Highway 165 and is on the south border of Hyrum City Corporate limits. Hyrum City's annexation policy plan is to extend residential growth along Highway 165. This Agriculture Protection Area is in opposition with Hyrum City's annexation plan.
- The County Attorney has reviewed the applicants request to place said property within Agricultural Protection Area and has determined that this is in accordance to the State Code requirements.

Staff is recommending that the Planning Commission recommend approval of the Petersen Agricultural Protection Area to the County Council based on the following findings of fact:

- 1) The land is currently under agricultural production as pasture, hay, and grains.
- 2) The land is within the Agriculture Zone.
- 3) Approximately 37.67 acres of land area is irrigated from the Hyrum Irrigation Company. The proponent maintains 18.5 shares of water to flood irrigate. The owner has plans to switch to a sprinkler system with a pump in the future.
- 4) The 37.67 acres is an agriculturally viable parcel.

Attached is a proposed memorandum for the Cache County Council.



PROPOSAL TO CREATE  
AGRICULTURE PROTECTION AREA  
CACHE COUNTY ORDINANCE NO. 96-06

TO: Cache County Council  
120 North 100 West  
Logan, UT. 84321

The undersigned owners of land located in Cache County, Utah submit this proposal for creation of an Agricultural Protection Area pursuant to Utah Code Annotated Title 17, Chapter 41 (Supp. 1994). The proposal sponsors respectfully request that the following lands in agriculture production be established as an agriculture protection area:

PARCEL 1:

Owner(s): FARRELL D. PETERSEN + R.

Owner(s) Address: 654 EAST 200 SOUTH

HYRUM, UTAH 84319-1725

Cache County Tax Parcel or Account No. 01-071-0002

Legal description: BEG 110 RDS N OF SEC COR SEC 9 T 10 NR 1E  
W 120 RDS N 50 RDS E 120 RDS 350 RDS TO BEG 37 1/2 AC A1708

See legal per Tim V. Gibbons per Mike Glead.

Number of acres in parcel as shown on Cache County tax records: (see attached tax notice)

37 1/2 AC

Present and proposed agricultural production use of parcel:

ALFALFA - HAY FOR CATTLE  
OATS + GRASS

PARCEL #2

Owner(s):

Owner(s) Address:

Cache County Tax Parcel or Account No.

Legal Description:

Number of acres in parcel as shown on Cache County tax records: (see attached tax notice)

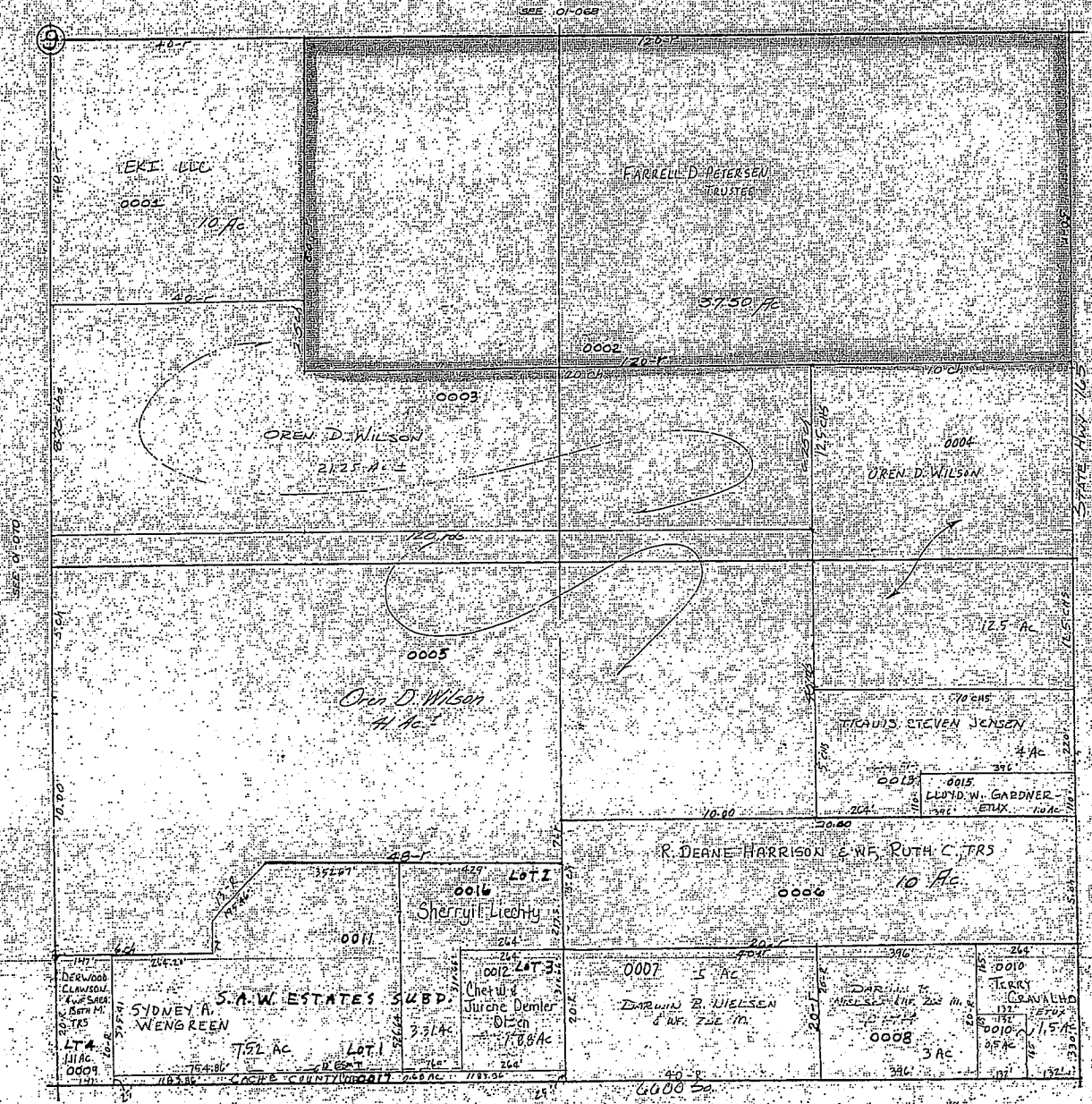
Present and proposed agricultural production use of parcel:



# SF# SECTION 9, TOWNSHIP 10, NORTH RANGE 1 EAST

SCALE 1 INCH = 3 CHAINS

TAX UNIT 28



SEE 01-020-2-



- Any expansion of this commercial business in number of employees beyond 18 approved construction of additional buildings, etc., shall be reviewed and approved by the Planning Commission prior to that expansion.

1  
2  
3  
4 *Clements moved to approve the Conditional Use Permit for Rosehill Holdings, LLC. Ellis*  
5 *seconded; passed 6, 0.*

6  
7 6:07:00

8  
9 #4 Agricultural Protection Area (Farrell D. Petersen)

10  
11 **Mascaro** reviewed Mr. Farrell D. Petersen's request for an Agricultural Protection Area on  
12 34.73 acres of property in the Agricultural Zone near Hyrum. Staff received a letter of objection  
13 from Hyrum City stating that the Agricultural Protection Area would frustrate Hyrum's  
14 annexation plans. Mr. Linton has looked at the letter and still recommends approval.

15  
16 **Craig Rasmussen** I want to state that Hyrum City does object this. I know there is little that we  
17 can do to stop it, but I also know that it basically makes it illegal to annex this due to it creating a  
18 peninsula. This prohibits property owners in this area for future development. I've also heard a  
19 rumor that action is coming before the council to decrease the size of Agricultural Protection  
20 Areas to 5 acres and I don't agree with that.

21  
22 **Mr. Farrell D. Petersen** This ground was acquired from Leland Stanford of the Union Pacific  
23 Railroad by my grandfather, my father inherited it after him, and then me. I want it to be  
24 protected for my family for agriculture. I don't think we need another Salt Lake; let's keep some  
25 of the green space in Cache County. It doesn't surprise me that Hyrum City objects this. This  
26 summer I have disputes and threats from Hyrum City. I am trying to develop the water rights  
27 there, I have 18 shares. I would like to utilize my shares more fully.

28  
29 **Ellis** an Agricultural Protection status would require the owner's approval for annexation?

30  
31 **Runhaar** yes.

32  
33 **Staff** and Planning Commission discussed the requirements for an Agricultural Protection Area  
34 and the possibility of being annexed.

35  
36 **Mr. Rasmussen** I don't believe the city is opposed to Mr. Petersen's want of an Agricultural  
37 Protection status for his land. But this does affect adjoining property owners. If the other  
38 property owners want to annex and Mr. Petersen doesn't, he holds all of the other property  
39 owners hostage. Hyrum can't designate when and where it annexes, that is dependent upon the  
40 request of the property owners.

41  
42 Findings of fact:

- 43  
44 1) The land is currently under agricultural production as pasture, hay, and grains.  
45 2) The land is within the Agriculture Zone.  
46 3) Approximately 37.67 acres of land area is irrigated from the Hyrum Irrigation Company. The proponent maintains 18.5 shares of  
47 water to flood irrigate. The owner has plans to switch to a sprinkler system with a pump in the future.  
48 4) The 37.67 acres is an agriculturally viable parcel.  
49

1 *Erickson moved to approve an Agricultural Protection Area near Hyrum. Ellis seconded;*  
2 *passed 6, 0.*

3  
4 6:21:00

5  
6 #5 & 6 Lazy 9 Ranch Subdivision Phases 1 and 2 (Garrett Mansell & Danny Macfarlane)

7  
8 **Mascaro** reviewed Mr. Mansell's and Mr. Macfarlane's request for 10-lots done in 2 phases of  
9 5-lots a piece on 39.57 acres of land in the Agricultural Zone located north of Smithfield. There  
10 is a boundary line adjustment with this subdivision. The applicants have provided a drainage  
11 plan, a letter of approval from the canal company, and an open space plan. The county engineer  
12 has reviewed the drainage plan and feels it will be sufficient. This application was first  
13 discussed at the August 4<sup>th</sup> meeting.

14  
15 **Runhaar** the last 3 conditions have been asked for by the canal company.

16  
17 **Erickson** on the drainage plan, were the canal companies approached on this? I know part  
18 drains into Logan North Canal Company and I know they were not approached.

19  
20 **Mr. Danny Macfarlane** they weren't addressed. What has been proposed is a 2-ft berm to be  
21 built along the entire west end of the property, so no run-off will leave the property.

22  
23 **Erickson** nothing will run off into Logan North Canal?

24  
25 **Mr. Macfarlane** no.

26  
27 **Nelson** in a wet year is that going to be enough?

28  
29 **Erickson** no. If there is a large storm, it will run. Does the 2 ft. berm go up along the north  
30 side?

31  
32 **Mr. Macfarlane** No, it runs along the west side and ties back in east and west. It maybe goes  
33 20 ft. east on each end. There is a constant slope from east to west. By state law the property  
34 can run storm water off the property as long as it doesn't exceed historical run-off. We can't  
35 predict or withhold all run-off on that property.

36  
37 **John Hillyard** has Union Pacific Railroad been contacted? A 2 ft berm will not hold all the  
38 water if there is a lot of rain and it will not take much to wash the railroad ties out of the ground.

39  
40 **Nelson** how does this change what has happened in the last 20 years?

41  
42 **Mr. Hillyard** when you change it and go from Agriculture where the water seeps into the soil,  
43 and you put asphalt, and driveways in, the water doesn't seep into the ground and the runoff is  
44 increased. Whenever you put asphalt, sidewalk, driveways, any of that you can create problems.

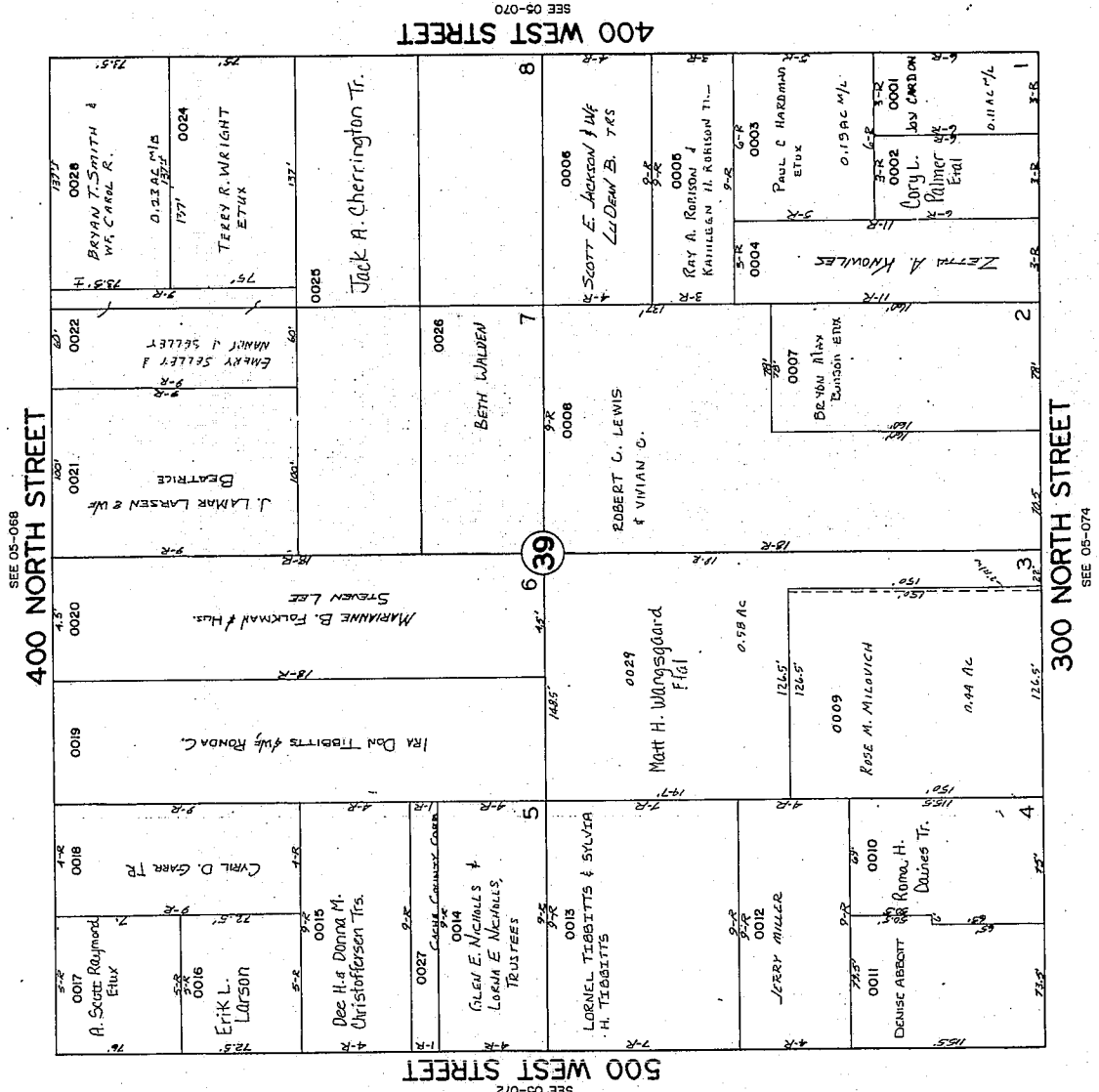
NW<sup>4</sup> Section 33 Township 12 North Range 1 East

05-071

Scale 1 Inch = 50 Feet

TAX UNIT 27

BLOCK 39, PLAT "A" LOGAN CITY SURVEY



**Cache County Corporation**  
**Tax Roll Information**

Thursday, October 08, 2009

For 05-071-0027

8:12AM

Owner Name & Address

Owners List

Parcel	05-071-0027	Entry
Name	CACHE COUNTY CORP,	
C/O Name		
Address 1	179 N MAIN	
Address 2		
City State Zip	LOGAN	UT 84321
District	027	LOGAN CITY
Year	2009	Status NT

1 CACHE COUNTY CORP,
----------------------

Property Address

Address
City
Tax Rate 0.011332

\*\*\*\*\* PROPERTY INFORMATION \*\*\*\*\*

	UNITS/ ACRES	MARKET	TAXABLE	MARKET	TAXABLE
Totals					

\*\*\*\*\* BUILDING & TAX INFORMATION \*\*\*\*\*

Square Footage: 0	Taxes for: 2008	0.00
Year Built: 0	Taxes for: 2009	0.00
Building Type:	Special Tax:	0.00
	Abatements:	0.00
	Payments: (	0.00 )
	Balance Due:	0.00

\*\*\*\*\* BACK TAX SUMMARY \*\*\*\*\*

NO BACK TAXES

CACHE COUNTY TREASURER/DEPUTY

Signature

\*\*\*\*\* LEGAL DESCRIPTION \*\*\*\*\*

Property Address:

Current Year:

BEG 13 RDS S OF NW COR LT 5 BLK 39 PLT A LOGAN CITY SVY & TH S 1 RD TH E 9 RDS TH N 1 RD TH W 9 RDS TO BEG SIT NW/4 SEC 33 T 12N R 1E CONT 0.05 AC

Next Year:

Next Year Legal Description Same as Current Year

\*\*\*\*\* End of Report \*\*\*\*\*

300 WEST



356

356

370

380

480

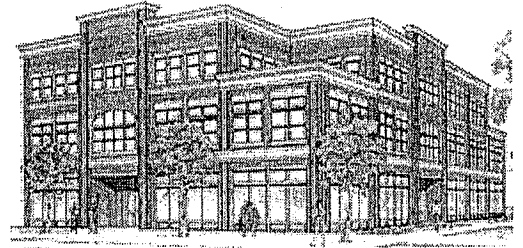
480

# CACHE COUNTY CORPORATION

## DEVELOPMENT SERVICES DEPARTMENT

**JOSH RUNHAAR, AICP**  
DIRECTOR OF DEVELOPMENT SERVICES

**PAUL BERNTSON**  
CHIEF BUILDING OFFICAL



179 NORTH MAIN, SUITE 305 LOGAN, UTAH 84321 ♦ (435)755-1630 ♦ FAX (435)755-1987

### Memorandum

To: Cache County Council  
From: Josh Runhaar, Director of Development Services  
Date: October 6<sup>th</sup>, 2009  
Subject: Changes to Comprehensive Plan

Attached are the proposed amendments to the Cache County Comprehensive Plan that are necessary to maintain consistency between that document and the recently passed density based zoning ordinance. The primary modification that was made was to include general purposes and outlines for all of the zones that Cache County utilizes within the Zoning Ordinance. While the proposed changes in the Comprehensive Plan will make the recently passed Zoning Ordinance compatible with that document, these are the minimum changes needed to implement this new zoning. Nothing else in the document has been recommended for amendment at this point, but the entire document still requires an extensive overhaul.

**CACHE COUNTY COMPREHENSIVE PLAN AMENDMENTS**  
**Implementation Section (Pages 21-26)**

**DEVELOP STANDARDS FOR RESIDENTIAL DEVELOPMENT BASED ON DENSITY**  
**(Land Use Goals & Strategies: A1, R1, R4, R7, & T2)**

Block-style zoning was originally developed and designed by communities to segregate incompatible uses (dry cleaners from residential units - San Francisco) and has been used for years throughout this country. This style of zoning lays out precise requirements for uses and quality of development. However, when this type of zoning is applied to a regional system like Cache County with its unique and different environs, it fails to meet the needs of the County. A more flexible system is needed to deal with the complex and unique issues of this region.

A primary concern expressed by Farmers and other individual property owners during the public open houses, was the increased development of residential homes and subdivisions within the unincorporated areas of Cache County. The municipalities also expressed helplessness and concern for what they perceive as uncontrolled development just outside their jurisdictional borders with little or no concern for their future development plans. With urbanization comes loss of valuable farmland and the potential loss of their right to continue to farm. Many individual property owners were concerned with the protection of their property rights to develop their land for homes for themselves and their posterity. To meet these needs and still limit urban development to those existing urban areas, a residential density-base zoning is recommended.

How does residential density-based zoning work and how will it be used to protect agricultural lands? Under the current zoning system, there is direct competition between agriculture and residential development for the same land. Residential density-based zoning recognizes the need for both uses and develops compatibility between residential development and agricultural land. The graphic below depicts a plat of land within the county and how residential density would be applied. For this example, it is assumed that these parcels are located within an area which is defined as a moderate density area (1 unit per 10 acres).

***GRAPHIC TO BE INSERTED***

The owner of the 30.79 acre parcel would like to subdivide lots for his family and sale to a friend. This parcel is located in a moderate density range which allows one residential unit per 10 acres. The property owner would be allowed to subdivide three lots from the 30.79-acre parcel. Parcels for residential homes would be 1.5 to 2 acres per parcel. Lots of this size are based on bank financing, culinary well, and septic tank limitations. For this example, the owner created three two-acre parcels or six acres for residential lots. The remaining 24.79 acres is left in agricultural use. The residential development right has been transferred to the three residential lots. This transfer of the residential development right would be recorded with the deed of the property so that future purchasers would be informed of the limitations to the property.

The plat also shows some parcels that are smaller than the ten-acre density requirement. These lots would be considered legal lots, but would be allowed one single family dwelling developed on them. This would, however, depend upon whether the lot was legally subdivided and approved by the County.

**Implementation Recommendations:**

- Develop a set of standards for residential density-based zoning

- Develop a system to transfer and record the residential development rights on deeds
- Adopt the following residential-based density ranges based on the public input from the second round of Public Open Houses

**RESIDENTIAL DENSITY RANGES**

Density	Units per Acre
<u>Urban</u>	<u>Existing Municipalities</u>
Very High	Existing Municipalities 1 Unit / 2 Acres
High	1 unit / 5 acres
Medium	1 unit / 10 acres
Low	1 unit / 20 acres
Very Low	1 unit / 40 acres

- ~~Use the developed map on the following page as the basis of density ranges for Cache County~~

**DELETE MAP CP-1**



CACHE COUNTY COMPREHENSIVE PLAN AMENDMENTS  
Implementation Section (Pages 27-28)

**DEVELOP SUBDIVISION STANDARDS TO STREAMLINE AND SIMPLIFY  
THE REVIEW AND APPROVAL PROCESS**  
(Land Use Goals & Strategies: A1, R1, R2, R3 & T2)

Subdivision regulations are one of the important tools that counties and municipalities have to regulate the orderly development of their community. Subdivision regulations are used to protect both prospective home buyers and local government units from the practices of some developers. Subdivision regulations are recognized as an important influence on development, whether it is in the unincorporated county or in a municipality. Once large tracts of land have been carved up into streets, blocks, and lots, and have been publicly recorded, the pattern is difficult, if not impossible to change, except with costly redevelopment programs.

~~Subdivision standards are regulations that govern how land is divided. Many consider only the large urban residential development as a subdivision; this is not the case. Utah State Code clearly defines what constitutes a subdivision of Land (USC 10-9-103(r)(i) & 17-27-103(r)(i). Below is the definition for a subdivision for State Code.~~

~~“Subdivision” means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.~~

~~“Subdivision” includes the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument.~~

~~“Subdivision” does not include a bona fide division or partition of agricultural land for agricultural purposes.~~

~~Based on this definition, the simple dividing of one parcel into two or more lots is considered a subdivision. State Code for Counties, however, exempts divisions of agricultural land for agricultural purposes.~~

**Implementation Recommendations:**

- All subdivisions shall be done in compliance with State and County codes.
- Limit subdivisions to no more than five (5) lots in the Agriculture Zone of Cache County when located on prime or statewide significant soils.
- Major subdivision of more than five (5) lots may be considered only on soils which are not Prime or Statewide Significant as determined by the USDA Soil Survey and after a concept review by the Planning Commission
- The County’s Subdivision and Land Use Ordinances should reduce regulatory barriers to simple subdivisions of up to 2 building lots.
- Subdivisions in the Agricultural Zone may have three lots by right from the base 1970 parcel, and an additional two lots with performance standards (clustering, combining of large agricultural parcels, etc.)
- To limit the processing and approval time and effort of the property owner, the Land Use Ordinance should provide for a simple metes and bounds or lot split subdivision

(maximum two lots) with standards

- ~~Metes and bounds or lot-split subdivisions shall include the following standards:~~
  - ~~Maximum size limited to two legal lots~~
  - ~~Lots may not be resubdivided~~
  - ~~Lots shall have direct access to a public right-of-way (private lanes and dedication of new roads by Planning Commission approval)~~
  - ~~All other divisions of land, which do not meet the above standards, will be required to go through the regular subdivision process~~

CACHE COUNTY COMPREHENSIVE PLAN AMENDMENTS  
Agriculture Section (Page 55)

**ZONING**

Cache County Land Use Ordinance provides for zones where agricultural and forest land uses may be located. Each of these zones has a purpose which defines the intent and function of the zone. The Cache County Planning Commission should always review proposals based on the purpose of the zone.

**Agricultural Zoning District (A)**

The Agricultural Zoning District is the base zoning district for the area generally defined as the 'Valley Floor' (the areas below the upper benches, or below the approximate elevation of 4500 feet). The purpose of the Agricultural Zoning District is to promote and protect opportunities for a broad range of agricultural uses and activities to maintain farming as a viable component of the local economy. The primary uses are agricultural (crop and livestock production), with limited residential uses.

**Forest Recreation Zoning District (FR-40)**

The Forest Recreation Zoning District is the base zoning district for the mountainous areas of the County (the areas above the upper benches, or above the approximate elevation of 4500 feet). The purpose of the Forest Recreation Zoning District is to promote and protect opportunities for grazing, forestry, mining, recreation, and other activities to the extent compatible with the protection of the natural and scenic resources of the forests for the benefit of present and future generations.

CACHE COUNTY COMPREHENSIVE PLAN AMENDMENTS  
Residential Development Section (Page 65)

ZONING

Cache County Land Use Ordinance provides for zones where residential land uses may be located. Each of these zones has a purpose which defines the intent and function of the zone. The Cache County Planning Commission should always review proposals based on the purpose of the zone.

**Rural Zoning Districts (RU)**

The Rural Zoning District's purpose is to allow for a variety of residential densities that allow for rural subdivisions. Densities may vary, but these zones will allow for denser development patterns than the County's Agricultural Zone. This type of development may be compatible with Agriculture, but should be limited to areas where it will not impede agricultural lands and uses. It is essential that these zones be appropriately served by suitable public roads, have access to the necessary water and utilities, and have adequate public service provision.

**CACHE COUNTY COMPREHENSIVE PLAN AMENDMENTS**  
**Commercial and Industrial Section (Pages 71-75)**

**ZONING**

Cache County Land Use Ordinance provides for zones where commercial and industrial businesses may be located. Each of these zones has a purpose which defines the intent and function of the zone. The Cache County Planning Commission should always review proposals based on the purpose of the zone. ~~Below are listed the individual purpose sections for the commercial and industrial zone from the Cache County Land Use Ordinance.~~

**Commercial Zoning District (C)**

The Commercial Zoning District's purpose is to provide compatible locations for retail, office, and business/commerce activities, to enhance employment opportunities, to encourage the efficient use of land, to enhance property values, and to strengthen the County's tax base. It is essential that this zone be appropriately served by suitable public roads, have access to the necessary water and utilities, and have adequate public service provision.

**Resort Recreation Zoning District (RR)**

The Resort Recreation Zoning District's purpose is to allow for mountain resort and recreation development within Cache County. This zone allows for multiple mountain resort and recreation uses within a master planned area and is intended to provide new regional and national recreation and resort opportunities within the County.

**Industrial/Manufacturing Zoning District (IM)**

The Industrial/Manufacturing Zoning District's purpose is to provide locations where manufacturing, processing, warehousing, and fabrication of goods and material can be carried on with minimum conflict or deleterious effect upon the surrounding properties. The purpose of this zone is also to promote the economic well-being of the citizens and to broaden the tax base. It is essential that this zone be appropriately served by suitable public roads, have access to the necessary water and utilities, and have adequate public service provision.

**Mineral Extraction and Excavation Zoning District (ME)**

The Mineral Extraction and Excavation Zoning District's purpose is to establish locations and to protect the commercial mineral extraction and excavation industry while protecting the environment and County citizens. This zone is to assure that the operations of such sites do not impact adjoining uses and are not encroached upon by surrounding non-compatible land uses within Cache County.

**Utility Corridor Overlay Zoning District (UCO)**

The Utility Corridor Overlay Zoning District's purpose is to provide areas to allow for the placement of major utility facilities that provide local and regional services and to limit the disruption of major transmission facilities on the agricultural, commercial, industrial, and recreational lands of Cache County.

These descriptions combined with the list of legal uses should determine the type and quality of development intended by the appropriate zone. The idea of a controlled and planned commercial and industrial environment is a much more recent idea than the idea of planned and protected residential setting. Many of the physical planning ideas now being applied to the commercial and industrial environment are adaptations of concepts first tried and refined in residential. If development is not consistent with these above purposes and the legal uses within the individual zone, then the zones have problems and review of each zone should be made to correct them.

The County's Land Use Ordinance has defined commercial and industrial zones, but they are very sparingly used. The Map LU-9 on the following page shows the current existing commercial and industrial zones in unincorporated areas of Cache County. The County Land Use Ordinance over time has listed a number of commercial and industrial uses within the non-commercial/industrial zones. This practice has become problematic in that it has broadened the purpose and intent of the non-commercial/industrial zones. For example, the list of allowed uses in the Agriculture (A) zone now includes so many commercial and industrial uses within the zone that the intent and purpose of the zone have become unclear. To maintain the integrity of any zone it is important that the purposes and list of uses remain consistent. This consistency of purpose and uses provides the Planning Commission with the tools and policies to make better decisions and have control over development within the zones.

CACHE COUNTY, UTAH  
ORDINANCE NO. 2009-08

**AN ORDINANCE IMPOSING A 1% TOURISM, RECREATION, CULTURAL, AND CONVENTION TAX AND PROVIDING FOR THE PERFORMANCE BY THE STATE TAX DIVISION OF ALL FUNCTIONS INCIDENT TO THE ADMINISTRATION, OPERATION, AND COLLECTION OF THE TAX AND FOR THE USE OF THE REVENUES FROM THIS TAX.**

The County Council of Cache County, Utah, in a regular meeting, lawful notice of which has been given, finds that Section 59-12-603, Utah Code Annotated, 1953 as amended, enables the County Council, as the legislative body of Cache County, to impose a tourism, recreation, cultural, and convention tax not to exceed 1% of all sales of prepared foods and beverages that are sold by restaurants and to apply the revenue there from, in whole or in part, to tourism promotion and the development, operation, and maintenance of tourist, recreation, cultural, and convention facilities as defined in Section 59-12-602, Utah Code Annotated, 1953 as amended. The County Council finds that it is in the best interest of Cache County and its citizens that a tourism, recreation, cultural and convention tax be imposed.

NOW THEREFORE BE IT ORDAINED BY THE COUNTY COUNCIL FOR CACHE COUNTY, UTAH, AS FOLLOWS:

SECTION 1: TITLE

This ordinance shall be known as the "Tourism, Recreation, Cultural, and Convention Tax Ordinance of Cache County."

SECTION 2: PURPOSE

It is the purpose of this ordinance to impose a tourism, recreation, cultural, and convention tax for the purposes of financing, in whole or in part, tourism promotion, and the development, operation, and maintenance of tourist, recreation, cultural, and convention facilities as defined in Section 59-12-602, Utah Code Annotated, 1953 as amended.

SECTION 3: DEFINITIONS

As used in this ordinance:

- (1) "CONVENTION FACILITY" means any publicly owned or operated Convention center, sports arena, or other facility at which conventions, Conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.
- (2) "CULTURAL FACILITY" means any publicly-owned or operated museum,

theater, art center, music hall, or other cultural or arts facility.

(3) "RECREATION FACILITY" or "TOURIST FACILITY" means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

(4) "RESTAURANT" includes any coffee shop, cafeteria, luncheonette, soda fountain, or fast-food service where food is prepared for immediate consumption. In accordance with the provisions of Tax Bulletin No. 8-91, effective July 1, 1991, as promulgated by the Utah State Tax Commission, a "restaurant" is any retail establishment whose primary business is the sale of foods and beverages prepared for immediate consumption. Examples include full-service restaurants, fast-food restaurants, and their drive-in windows, concession stands at malls or fairs, and employee or school cafeterias.

#### SECTION 4: IMPOSITION OF TAX

There is hereby levied for collection a tourism, recreation, cultural, and convention tax on all restaurants, as defined herein, in Cache County, Utah, at the rate of 1% on all sales of prepared foods and beverages that are sold by restaurants for the period October 1, 2009 to September 30, 2010.

#### SECTION 5: USE OF REVENUES

The revenues received from the tourism, recreation, cultural, and convention tax shall be used solely for the purposes of financing, in whole or in part, tourism promotion, and the development, operation, and maintenance of tourist, recreation, cultural, and convention facilities as defined herein.

#### SECTION 6: COLLECTION

All taxes collected hereunder shall be collected by the Utah State Tax Commission pursuant to Chapter 12, Title 59, Utah Code Annotated, 1953 as amended, as and in the manner for other state and local sales and use taxes. The County Executive is authorized and directed to negotiate with the Utah State Tax Commission for and to execute the necessary contracts for the provision of such services by the Utah State Tax Commission. Taxes imposed under this ordinance shall be levied at the same time and collected in the same manner as provided for other state and local sales and use taxes in Chapter 12, Title 59, Utah Code Annotated, 1953 as amended.

#### SECTION 7: LICENSURE

All persons, companies, corporations or other similar persons, groups, or organizations engaged in or doing business as a restaurant or restaurants shall obtain from the Utah State Tax Commission a tourism, recreation, cultural or convention tax license; provided however, that no such additional license shall be required if the person, company, corporation, group, or organization has



already obtained and maintains a license pursuant to Section 59-12-106, Utah Code Annotated, 1953 as amended.

SECTION 8: ADVISORY BOARD

The Cache County Executive may establish an advisory board for the purposes of making recommendations for the allocation and application of revenues derived from the tourism, recreation, cultural, and convention tax. The board shall be advisory in nature only. The County Executive shall determine the composition of the advisory board; provided, however, that all appointments to that board shall be upon and with the advice and consent of the Cache County Council.

SECTION 9: ALLOCATION AND APPLICATION OF REVENUES

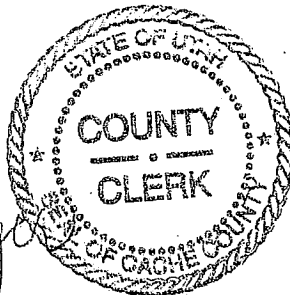
The Cache County Executive shall submit recommendations to the Cache County Council for the allocation and application of the revenues derived from the tourism, recreation, cultural, and convention tax. Acting upon such recommendations, the Cache County Council then, by resolution, shall approve the allocation and application of such revenues.

SECTION 10: EFFECTIVE DATE

This ordinance shall become effective upon approval and publication in the manner provided by law.

This ordinance was adopted by the Cache County Council on the 13 day of October 2009, upon the following vote:

	IN FAVOR	AGAINST	ABSTAINED	ABSENT
<u>BUTTARS</u>				X
<u>CHAMBERS</u>	X			
<u>PETERSEN</u>	X			
<u>ROBISON</u>	X			
<u>WHITE</u>	X			
<u>YEATES</u>				X
<u>ZILLES</u>	X			
<u>TOTAL</u>	5	0	0	2



ATTESTED BY  
*Jill N. Zollinger*  
 Jill N. Zollinger  
 Cache County Clerk

CACHE COUNTY COUNCIL

By: *H. Craig Petersen*  
 H. Craig Petersen, Chairman

Publication Date: **October 28, 2009**

CACHE COUNTY  
RESOLUTION NO. 2009-29

A RESOLUTION APPROVING THE ALLOCATION OF REVENUES FROM THE TOURISM, RECREATION, CULTURAL AND CONVENTION TAX TO LOGAN CITY FOR APPLICATION TO THE ELLEN ECCLES THEATER AND BULLEN CENTER.

The County Council of Cache County, Utah, in a regular meeting, lawful notice of which has been given, finds that Section 9 of Ordinance No. 96-01 authorizes the County Council, acting upon the recommendation of the Cache County Executive, to approve the allocation and application of revenues derived from the 1% tourism, recreation, and cultural and convention tax; that the Cache County Executive has recommended the allocation to Logan City of an amount not exceeding \$76,495.00 for application thereof to the Ellen Eccles Theater and Bullen Center, a public facility as defined by state law and Ordinance No. 96-01, and that this is an acceptable and appropriate allocation and application of revenues derived from that Tax.

THEREFORE, the Cache County Council hereby adopts the following resolution:

BE IT RESOLVED that:

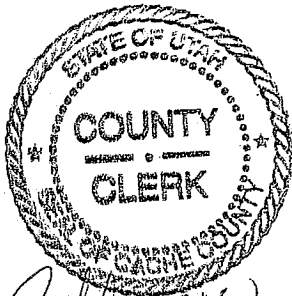
Section 1: Allocation of Tax to Logan City

The allocation of an amount equal to the principal and interest accruing on the P.C.I.B. loan as of July 2009, not to exceed \$76,495.00 from the 1% tourism, recreation, cultural and convention tax collected for the period October 1, 2010 to September 30, 2011, to Logan City for its exclusive application thereof to the Ellen Eccles Theater and Bullen Center which are under the management of the Capitol Arts Alliance (aka Cache Valley Center for the Arts) is hereby approved.

Section 2: Effective Date:

This resolution shall become effective immediately upon adoption.

This resolution was adopted by the Cache County Council on the 13th day of October, 2009.



ATTEST TO:

By: *Jill N. Zollinger*  
Jill N. Zollinger, County Clerk

CACHE COUNTY COUNCIL

By

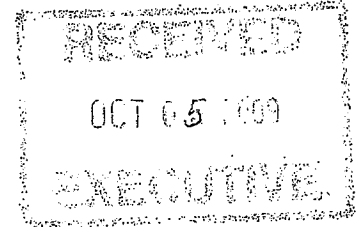
*H. Craig Petersen*  
H. Craig Petersen, Chairman

Mayor  
Gerald Knight



Council Members  
Shaun Dustin  
Bryan Hansen  
Larry Jacobsen  
Scott Larsen  
Thayne Mickelson

September 29, 2009



Mr. Lynn Lemon, County Executive  
Cache County  
199 North Main  
Logan, Utah 84321

Dear Lynn:

We have talked in the past about the new water line that Nibley City is installing from our reservoirs to the city. It will pass by the gravel pit owned by the County east of Hyrum. We have talked to Darrell Erickson and his crews are in the process of lowering the grade to a new elevation to match Johnson's grade and be a permanent grade through the gravel pit areas. We have agreed with Darrell to install a water line to the County property at no charge to the County. (There will be a meter charge when one is requested by the County).

Attached with this letter is an easement deed from the County to Nibley City to allow the water line installation. We are requesting approval and signature by the county at an early convenient date.

If there are question please do not hesitate to call.

Thank you.

  
Larry Anhaer  
City Manager

Nibley City  
625 W. 3200 S., Nibley, UT 84321  
Phone: (435) 752-0431 Fax: (435) 753-1510  
[www.nibleycity.com](http://www.nibleycity.com)

When recorded return to:  
NIBLEY CITY CORPORATION  
625 West 3200 South  
Nibley, UT 84321

## EASEMENT DEED

KNOW ALL MEN BY THESE PRESENTS:

That in consideration of \_\_\_\_\_ and other good and valuable consideration paid to:

### CACHE COUNTY CORPORATION

hereinafter referred to as GRANTOR, by NIBLEY CITY CORPORATION, hereinafter referred to as GRANTEE, the receipt of which is hereby acknowledged, the GRANTOR does hereby grant, bargain, sell, transfer and convey unto the GRANTEE, its successor and assigns, a temporary non-exclusive construction easement ("Construction Easement") and a perpetual non-exclusive easement ("Perpetual Easement") as hereinafter described over, across, under and through land of GRANTOR situated in Cache County, State of Utah, subject to all of the terms and conditions of this agreement. The Construction Easement and the Perpetual Easement are collectively referred to herein as the "Easements".

The Construction Easement shall be twenty (20) feet in width granted for the time of original installation of the facilities as hereinafter described, and shall terminate upon the completion of the installation of the facilities (as hereinafter described). The Perpetual Easement shall be ten (10) feet in width, five (5) feet on each side of the as-constructed centerline of said facilities. The Easements are more particularly described as follows:

#### **Construction Easement:**

PART OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 11 NORTH, RANGE 1 EAST OF THE SALT LAKE MERIDIAN, LOCATED IN THE COUNTY OF CACHE, STATE OF UTAH.

A 15-FT WIDE CONSTRUCTION EASEMENT, 7.5-FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 34 AS MONUMENTED BY A CACHE COUNTY ALUMINUM CAP;  
THENCE NORTH 1,329.31 FEET; THENCE WEST 1,115.50 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE EAST PROPERTY LINE OF THE CACHE COUNTY CORPORATION PARCEL 03-066-0022;

THENCE ALONG THE CENTERLINE OF SAID EASEMENT THE FOLLOWING COURSE:

(1) N89°46'33"W 650.82 FEET TO A POINT IN THE WEST PROPERTY LINE OF SAID PARCEL 03-066-0022, SAID POINT BEING N52°58'57"W 2,212.17 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 34;

THE SIDELINES OF SAID EASEMENT ARE CONTINUOUS AND EXTEND OR SHORTEN TO MEET THE GRANTOR'S PROPERTY LINE.

THIS EASEMENT WILL BECOME NULL AND VOID UPON COMPLETION OF THE WATER LINE

**Perpetual Easement**

PART OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 11 NORTH, RANGE 1 EAST OF THE SALT LAKE MERIDIAN, LOCATED IN THE COUNTY OF CACHE, STATE OF UTAH.

A 10-FT WIDE PERMANENT EASEMENT, 5-FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 34 AS MONUMENTED BY A CACHE COUNTY ALUMINUM CAP;  
THENCE NORTH 1,316.81 FEET; THENCE WEST 1,115.70 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE EAST PROPERTY LINE OF THE CACHE COUNTY CORPORATION PARCEL 03-066-0022;

THENCE ALONG THE CENTERLINE OF SAID EASEMENT THE FOLLOWING COURSE:

(1) N89°46'33"W 650.91 FEET TO A POINT IN THE WEST PROPERTY LINE OF SAID PARCEL 03-066-0022, SAID POINT BEING N53°14'47"W 2,204.91 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 34;

THE SIDELINES OF SAID EASEMENT ARE CONTINUOUS AND EXTEND OR SHORTEN TO MEET THE GRANTOR'S PROPERTY LINE.

Description of Easement

The Easements shall be for pipelines, manholes and appurtenances to be constructed as part of the Water Distribution Project to be constructed beginning Summer 2008. The alignment of the pipe is shown as part of the plans for construction of the said facilities.

Purpose and Conditions

TO HAVE AND TO HOLD the same unto the GRANTEE, the easements as follows:

Construction Easement, as described above, with the right to install and inspect pipelines, valves and other associated structures and appurtenances (herein collectively called "facilities") over, across, under and through the Construction Easement; and

Perpetual Easement with the right to inspect, maintain, operate, repair, protect, remove and replace pipelines, valves and other associated structures and appurtenances (herein collectively called "facilities") over, across, under and through the easements.

All the facilities granted within the Easements shall be installed and maintained below the ground level or surface of GRANTOR'S property, and GRANTEE shall maintain the facilities in good and safe condition. So long as such facilities shall be maintained, with the right of ingress and egress to and from said right-of-way for the purpose described in the Easements. During temporary periods, the GRANTEE may use such portion of said right-of-way as may be reasonably necessary in connection with the construction, maintenance, repair, removal, or replacement of the facilities. The GRANTEE shall notify GRANTOR prior to entering the easements for purposes of construction, maintenance, repair, removal or replacement of the facilities.

GRANTEE shall exercise its rights hereunder in a manner which does not materially interfere with GRANTOR'S operations on the adjacent property. GRANTEE as a condition to the granting of the easements, shall pay damages, restore or place in kind, at the GRANTOR'S discretion and at GRANTEE'S expense, fences, crops, underground pipes, landscaping, and other improvements in the event such are damaged by the construction, maintenance, repair, replacement or removal of the facilities.

GRANTEE shall indemnify, defend and hold harmless GRANTOR from and against any and all losses, claims, actions, damages, liabilities, penalties, fines, or expenses of any nature whatsoever (collectively, "Claims") arising from the use by GRANTEE of the Easements, except to the extent any such Claims are caused by the gross negligence or willful misconduct of GRANTOR.

GRANTOR shall have the right to use the Easement areas, provided such use does not unreasonably interfere with the facilities. Notwithstanding the foregoing, GRANTOR shall not build or construct, nor permit to be built or constructed, any building or other similar improvement, over, across, or under the said right-of-way, nor change the contour thereof without written consent of the GRANTEE. This right-of-way shall be binding upon GRANTOR, his successors and assigns, and shall inure to the benefit of GRANTEE, its successors and assigns, and may be assigned, in whole or in part, by the GRANTEE.

It is hereby understood that any party securing this grant on behalf of GRANTEE is without authority to make any representations, covenants or agreements not herein expressed.

IN WITNESS WHEREOF, the GRANTOR has executed this instrument this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_

GRANTOR

STATE OF UTAH )

COUNTY OF CACHE )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2008, personally appeared before me \_\_\_\_\_, the signer(s) of the foregoing instrument, who duly acknowledged to me that they executed the same.

Notary Public