

**BOARD OF COUNTY COMMISSIONERS, UTAH COUNTY, UTAH**  
**MINUTES OF PUBLIC MEETING**  
**COMMISSION CHAMBERS, ROOM 1400**  
**OF THE UTAH COUNTY ADMINISTRATION BUILDING**  
**February 5, 2013 - 9:00 A.M.**

**PRESENT:** COMMISSIONER DOUG WITNEY, CHAIR  
COMMISSIONER GARY J. ANDERSON, VICE-CHAIR  
COMMISSIONER LARRY A. ELLERTSON

**ALSO PRESENT:**

E. Kent Sundberg, Civil Division Chief Attorney  
David Shawcroft, Utah County Deputy Attorney  
Robert Moore, Utah County Deputy Attorney  
Paul Jones, Utah County Deputy Attorney  
Scott C. Hogensen, Chief Deputy Clerk/Auditor  
Burt Harvey, Clerk/Auditor - Tax Admin. Supervisor  
Julie Rollins, Utah County Purchasing Agent  
Kris Poulson, Utah County Assessor  
Jim Stevens, Utah County Assessor's Office  
Bryce Armstrong, Community Development  
Peggy Kelsey, Community Development  
Brandon Larsen, Community Development  
Dr. Joseph K. Miner, Health Department Exec. Director  
Ralph Clegg, Utah County Health Department  
S. Green, Utah County Health Department  
Pauline Hartvigsen, Utah County Health Department  
Marla Raff, Utah County Health Department  
Pat Bird, Drug & Alcohol Prevention & Treatment  
Lana Jensen, Utah County Personnel Director  
Mark Brady, Assistant Personnel Director  
Jane Ivie, Personnel Office  
Richard Nielson, Utah County Public Works Director  
Don Nay, Public Works Associate Director  
Gary Ratcliffe, Utah County Surveyor

Jeff Smith, Utah County Recorder  
Andrea Allen, Utah County Recorder's Office  
Raphael Millet, Utah County Recorder's Office  
James O. Tracy, Utah County Sheriff  
Darin Durfey, Utah County Sheriff's Office  
Mike Forshee, Utah County Sheriff's Office  
Dalene Higgins, Utah County Sheriff's Office  
Robert C. Kirk, Utah County Treasurer  
Peter Anderson, Orem Resident  
Sharon Anderson, Orem Resident  
Larry Ballard, Salem Resident  
Helina Carter-Thomas, -No further information given-  
Gary Hansen, Utah County Resident  
Nyroslav Matarzhuk, Ivano-Frankovsk Ukraine Resident  
Yura Mirzabekyan, Novogroal-Volynsky Ukraine Resident  
Tom Mower, -No further information given-  
Eldon A. Neves, Citizens for Rural Utah  
Yulia Shevchenko, Palm Harbor Florida Resident  
Sergi Shtec, Ukraine Resident  
Andriy Shuptaz, Liviv Ukraine Resident  
Artem Sovolski, Kharkiv Ukraine Resident  
Mike Stansfield, Fairways Media  
Lucy Tingey, BYU Channel 11 News  
Andriy Voloshchuk, Koromyia Ukraine Resident  
Renée Huggins-Caron, Clerk/Auditor Admin. Assist.

Commissioner Witney called the meeting to order at 9:10 A.M. and welcomed those present. The following matters were discussed:

**PRAYER/READING/THOUGHT:** Brandon Larsen, Utah County Community Development

**PLEDGE OF ALLEGIANCE:** Dr. Joseph K. Miner, Utah County Health Department Executive Director

Commissioner Ellertson took a moment of personal privilege to acknowledge local guests. He introduced Rusty Butler, Associate Vice President of International Affairs & Diplomacy at Utah Valley University. Mr. Butler came forward to note that the Library of Congress occasionally sends foreign visitors to the university, and the current group from Ukraine consists of emerging leaders. The commissioners invited the group forward for a photograph and wished them well for the remainder of their visit to America as well as all future endeavors.

**CONSENT AGENDA**

- 1. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE RELEASE LETTER REGARDING THE COMPLIANCE AGREEMENT AND BOND FOR OPEN PIT MINING OPERATIONS FOR AMES CONSTRUCTION, INC. MINING OPERATION LOCATED AT 6265 W 7200 S, WEST MOUNTAIN AREA OF UNINCORPORATED UTAH COUNTY; AMES CONSTRUCTION, INC. HAS SUCCESSFULLY BONDED WITH THE STATE OF UTAH DIVISION OF OIL, GAS AND MINING, M/049/0086 (REFERENCE AGREEMENT NO. 2011-343)**

Commissioner Witney requested that Consent Agenda Item No. 1 be moved to the Regular Agenda for discussion.  
PULLED TO REGULAR

- 2. RATIFY THE SIGNATURE OF THE COMMISSION CHAIR ON CHANGE ORDER NO. 6 TO AGREEMENT NO. 2012-389 WITH CK CONSTRUCTION FOR THE MOSQUITO ABATEMENT FACILITY PROJECT**
- 3. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE SUPPLEMENTAL LAW ENFORCEMENT CONTRACT WITH RUNTASTIC EVENTS (CONTACT: DAVID BELL) TO HAVE TWO DEPUTIES ASSIST WITH TRAFFIC SAFETY AT UTAH LAKE STATE PARK, PROVO RIVER TRAIL AND BOAT HARBOR ROAD FOR THE FRIGID 5K HELD JANUARY 19, 2013**
- 4. SET A DATE, TIME AND LOCATION FOR A PUBLIC HEARING TO DISCUSS AMENDING AND INCREASING THE 2013 UTAH COUNTY BUDGET IN THE COUNTY'S GENERAL FUND AND VARIOUS OTHER BUDGETARY FUNDS; SUGGESTED DATE: TUESDAY, FEBRUARY 19, 2013 AT 9:00 A.M. IN ROOM # 1400 OF THE COUNTY ADMINISTRATION BUILDING AT 100 EAST CENTER STREET IN PROVO, UTAH**
- 5. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MAINTENANCE AGREEMENT WITH CANON BUSINESS SOLUTIONS FOR AN IR330 COPIER, SERIAL NO. NQJ29827, LOCATED IN THE CLERK/AUDITOR'S OFFICE**

Consent Agenda Item No. 5 was stricken from the agenda.  
STRICKEN

- 6. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MAINTENANCE AGREEMENT WITH LES OLSON COMPANY FOR AN AR-M455 COPIER, SERIAL NO. 55045129, LOCATED IN THE ASSESSOR'S OFFICE**
- 7. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MAINTENANCE AGREEMENT WITH LES OLSON COMPANY FOR AN AR-M455 COPIER, SERIAL NO. 65035504, LOCATED IN THE ASSESSOR'S OFFICE**
- 8. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MAINTENANCE AGREEMENT WITH LES OLSON COMPANY FOR AN AR-M355N COPIER, SERIAL NO. 4502029X, LOCATED IN COMMUNITY DEVELOPMENT**
- 9. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MAINTENANCE AGREEMENT WITH LES OLSON COMPANY FOR AN AR-M455N COPIER, SERIAL NO. 65033027, LOCATED IN THE DEPARTMENT OF DRUG AND ALCOHOL PREVENTION AND TREATMENT**
- 10. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MAINTENANCE AGREEMENT WITH LES OLSON COMPANY FOR AN AR-M455U COPIER, SERIAL NO. 65033727, LOCATED IN THE JUDICIAL SERVICES OFFICE**

UTAH COUNTY BOARD OF COMMISSIONERS

MINUTES - February 5, 2013

Page 3

11. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MAINTENANCE AGREEMENT WITH LES OLSON COMPANY FOR AN AR-M355N COPIER, SERIAL NO. 4502090X, LOCATED IN THE PERSONNEL OFFICE
12. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MAINTENANCE AGREEMENT WITH LES OLSON COMPANY FOR AN AR-M455N COPIER, SERIAL NO. 55044499, LOCATED IN THE SHERIFF'S OFFICE - ADMINISTRATION SERVICES
13. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A MAINTENANCE AGREEMENT WITH LES OLSON COMPANY FOR AN AR-M455N COPIER, SERIAL NO. 55051499, LOCATED IN THE SHERIFF'S OFFICE - INVESTIGATIONS DEPARTMENT
14. APPROVE TAX CREDITS AND REFUNDS RECOMMENDED BY THE COUNTY ASSESSOR'S OFFICE IN CANCELLATION AND CORRECTION LETTER NO. 60284, DATED JANUARY 31, 2013
15. ABATE PERSONAL PROPERTY ACCOUNTS ATTACHED FOR THE YEARS INDICATED, HAVING BEEN IDENTIFIED AS UNCOLLECTIBLE; THERE ARE NO ASSETS AVAILABLE
16. ADOPT A RESOLUTION APPROVING VOLUNTEERS WHO WISH TO DONATE THEIR SERVICES TO THE UTAH COUNTY SHERIFF'S OFFICE AND THE UTAH COUNTY HEALTH DEPARTMENT
17. APPROVE THE MINUTES OF THE JANUARY 29, 2013 COMMISSION MEETING
18. RATIFICATION OF WARRANT REGISTER SUMMARY

Register No. 106	January 28, 2013	Direct Deposit:16198-16198	Total: \$	43.07
Register No. 107	January 28, 2013	Direct Deposit:16199-16200	Total: \$	68.99
Register No. 108	January 28, 2013	Purchasing Cards 162-163	Total: \$	119.62
Register No. 109	January 28, 2013	Purchasing Cards 164-168	Total: \$	146.56
Register No. 110	January 28, 2013	Check Nos. 175675-175684	Total: \$	10,303.94
Register No. 111	January 28, 2013	Check Nos. 175685-175703	Total: \$	23,115.69
Register No. 112	January 28, 2013	Purchasing Cards 169-170	Total: \$	159.00
Register No. 113	January 28, 2013	Direct Deposit:16201-16203	Total: \$	1,277.48
Register No. 114	January 28, 2013	Direct Deposit:16204-16208	Total: \$	10,386.56
Register No. 115	January 28, 2013	Check Nos. 175704-175736	Total: \$	78,410.09
Register No. 116	January 28, 2013	Check Nos. 175737-175768	Total: \$	19,209.02
Register No. 117	January 29, 2013	Check Nos. 175769-175771	Total: \$	3,856.53
Register No. 118	January 29, 2013	Check Nos. 175772-175785	Total: \$	83,758.78
Register No. 119	January 29, 2013	Direct Deposit:16209-16210	Total: \$	749,373.46
Register No. 120	January 30, 2013	Direct Deposit:16211-16211	Total: \$	336.00
Register No. 121	January 30, 2013	Check Nos. 175786-175791	Total: \$	3,765.70
Register No. 122	January 30, 2013	Check Nos. 175792-175799	Total: \$	249,295.72
Register No. 123	January 30, 2013	Direct Deposit:16212-16213	Total: \$	66.82
Register No. 124	January 30, 2013	Direct Deposit:16214-16216	Total: \$	643.29
Register No. 125	January 30, 2013	Check Nos. 175800-175817	Total: \$	30,967.53
Register No. 126	January 31, 2013	Check Nos. 175818-175821	Total: \$	15,897.99
Register No. 127	January 31, 2013	Direct Deposit:16217-16218	Total: \$	4,999.75
Register No. 128	January 31, 2013	Direct Deposit:16219-16224	Total: \$	305.84
Register No. 129	January 31, 2013	Check Nos. 175822-175835	Total: \$	41,653.90
Register No. 130	January 31, 2013	Check Nos. 175836-175862	Total: \$	296,553.12
Register No. 131	January 31, 2013	Check Nos. 175863-175866	Total: \$	1,471.00

UTAH COUNTY BOARD OF COMMISSIONERS

MINUTES - February 5, 2013

Page 4

Register No. 132	February 1, 2013	Check Nos. 175867-175870	Total: \$	815.00
Register No. 133	February 1, 2013	Direct Deposit:16225-16225	Total: \$	50.50
Register No. 134	February 1, 2013	Purchasing Cards 171-178	Total: \$	1,122.00
Register No. 135	February 1, 2013	Check Nos. 175871-175879	Total: \$	11,094.13
Register No. 136	February 1, 2013	Check Nos. 175880-175909	Total: \$	22,890.43
			<b>Total:</b>	<b><u>\$1,662,157.51</u></b>

Consent Agenda Item Nos. 2 through 18 were approved as written. Commissioner Witney recommended the following Regular Agenda items be moved to Consent:

2. APPROVE PERSONNEL ACTIONS ORIGINATING JANUARY 31, 2013
3. APPROVE AND ADOPT A RESOLUTION TRANSFERRING FUNDS BETWEEN DEPARTMENTS OF UTAH COUNTY
4. ACCEPT ANNUAL PAYMENT IN LIEU OF TAXES FROM THE DIVISION OF WILDLIFE RESOURCES, AND UPDATE ON FISH AND WILDLIFE ISSUES  
The commissioners requested that Regular Agenda Item No. 4 be continued to a future meeting of the Board.  
CONTINUED TO FEBRUARY 19, 2013
5. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE ADDENDUM TO SCHEDULE A OF AGREEMENT NO. 2009-343 WITH SKYMAIL INTERNATIONAL, INC.
8. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE SECOND AMENDMENT TO AGREEMENT NO. 2006-467 WITH CUSTOMDATA PROCESSING, INC. FOR THE COMPUTER SYSTEM THAT PROCESSES HEALTH DEPARTMENT MEDICAL CLAIMS
9. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH DR. RAY MERRILL TO ACQUIRE EVALUATION SERVICES AND DATA COLLECTION FOR THE SUBSTANCE ABUSE AND MISUSE REDUCTION TEAM (SMART) DRUG PREVENTION COALITION
13. ADOPT A RESOLUTION APPROVING AND AUTHORIZING THE RENEWAL OF UTAH COUNTY'S COMMITMENT TO THE MASTER LEASE AGREEMENT BETWEEN THE MUNICIPAL BUILDING AUTHORITY OF UTAH COUNTY UTAH, AS LESSOR, AND UTAH COUNTY, AS LESSEE, OF THE MOUNTAINLAND APPLIED TECHNOLOGY COLLEGE SPANISH FORK FACILITY FOR THE PERIOD FROM JANUARY 1, 2013 TO DECEMBER 31, 2013

**ACTIONS TAKEN**

Consent Agenda Item No. 1 was tabled for further discussion; Nos. 2 and 18 were ratified; Nos. 3, 6, 7, 8, 9, 10, 11, 12, and 13 were approved and authorized; No. 4 was set; No. 5 was stricken from the agenda; Nos. 14 and 17 were approved; No. 15 was abated; and No. 16 was adopted. Regular Agenda Item No. 2 was approved; No. 3 was approved and adopted; No. 4 was continued to the February 19, 2013 meeting of the Board; Nos. 5, 8, and 9 were approved and authorized; and No. 13 was adopted.

**AGREEMENT NOS.:** 2013-88, 2013-89, 2013-90, 2013-91, 2013-92, 2013-93, 2013-94, 2013-95, 2013-96, 2013-97, 2013-98, 2013-99, 2013-100, 2013-101, and 2013-102

**RESOLUTION NOS.:** 2013-12 and 2013-13

**REGULAR AGENDA**

**(PULLED FROM CONSENT)**

- 1. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE RELEASE LETTER REGARDING THE COMPLIANCE AGREEMENT AND BOND FOR OPEN PIT MINING OPERATIONS FOR AMES CONSTRUCTION, INC. MINING OPERATION LOCATED AT 6265 W 7200 S, WEST MOUNTAIN AREA OF UNINCORPORATED UTAH COUNTY; AMES CONSTRUCTION, INC. HAS SUCCESSFULLY BONDED WITH THE STATE OF UTAH DIVISION OF OIL, GAS AND MINING, M/049/0086 (REFERENCE AGREEMENT NO. 2011-343)**

Peggy Kelsey of the Utah County Community Development Office approached the bench. Commissioner Anderson asked about the changes associated with this release letter, and Ms. Kelsey confirmed that this will not open a new pit; the reclamation area bonded with the State of Utah Division of Oil, Gas and Mining will be larger. Commissioner Ellertson noted that this is different from what was originally conceived, and Ms. Kelsey clarified that Ames Construction, Inc. would be taking over the entire project. Commissioner Witney indicated concerns about the newer operation, expansion, and road impacts. Commissioner Anderson suggested continuing discussion for one week.

**Commissioner Anderson made the motion to continue Consent Agenda Item No. 1 regarding the release letter of a compliance agreement and bond for Ames Construction, Inc. to the February 12, 2013 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Ellertson and carried with the following vote:**

**AYE: Doug Witney  
Gary J. Anderson  
Larry A. Ellertson  
NAY: None**

CONTINUED TO FEBRUARY 12, 2013

**REGULAR AGENDA**

- 1. RECOGNITION OF THE UTAH COUNTY EMPLOYEE OF THE MONTH FOR FEBRUARY 2013**  
Katie Call of the Utah County Health Department was recognized as the Utah County Employee of the Month for February 2013. Ms. Call also spoke of the upcoming Children's Health Fair taking place in April, coinciding with Child Abuse Prevention Month. She thanked participating agents for their cooperation.

- 6. APPROVE OR DENY AN ORDINANCE TO AMEND:**
  - 1) THE LAND USE ELEMENT DESIGNATION, ASSOCIATED WITH THE UTAH COUNTY GENERAL PLAN 2006, OF TAX PARCEL NO. 30:074:0140 FROM "AGRICULTURAL/WATERSHED" TO "RESIDENTIAL" AND**
  - 2) THE ZONING DESIGNATION, ASSOCIATED WITH THE UTAH COUNTY ZONE MAP, OF TAX PARCEL NO. 30:074:0140, FROM THE RESIDENTIAL AGRICULTURAL (RA-5) ZONE TO THE RURAL RESIDENTIAL (RR-5) ZONE, SECTIONS 23 & 24, T9S, R2E, SALEM, ELK RIDGE, WOODLAND HILLS AREA (Continued from the January 29, 2013 Commission meeting)**

Commissioner Witney asked whether anyone in the audience was present to speak to this item, and applicant Gary Hansen made himself known. Commissioner Ellertson summarized the proposed ordinance, noting the recommendation from the Utah County Community Development Office to deny it based on annexation concerns. Brandon Larsen of Community Development clarified that the staff concedes to approval only if all other options have been exhausted. The City of Elk Ridge had originally indicated they would accept annexation of the property as is, but small issues have arisen since then. The city would now prefer the property first be developed within the county.

UTAH COUNTY BOARD OF COMMISSIONERS  
MINUTES - February 5, 2013  
Page 6

Brandon Larsen explained that applicant Gary Hansen would like to create a one-lot subdivision within the county, where the Hansen house is located. The applicants would like to separate the house to a five-acre parcel of land and have the rest of the area serve as an agricultural piece. A change to the RR-5 Zone is required for a desired minimum width of 100 feet of frontage on Loafer Canyon Road, as opposed to the current zoning requiring 250 feet of frontage.

Commissioner Witney noted that there are other properties designated as RR-5 located East of the Hansen home, and RA-5 to the South and North. He pointed out the split vote of the Utah County Planning Commission on the recommendation to deny, and Bryce Armstrong of the Community Development Office came forward. Mr. Armstrong explained that the Master Plan indicates an eventual annexation into Elk Ridge City. Policies of the city would prevent additional accesses to certain county roads, and the Planning Commission had concerns about circumventing the city's Master Plan. Commissioner Ellertson and Mr. Armstrong spoke about water requirements for the property.

Helina Carter-Thomas serves on the Utah County Planning Commission, and is one of the members who voted against the proposed ordinance. She expressed her familiarity with development in the county, and the opinion that there are indeed other options available to the applicants.

Mike Stansfield is the Utah County Planning Commission Chair and was in favor of the ordinance. Mr. Stansfield indicated that RR-5 is the better zone for city annexation, and noted that the applicants have done everything requested to achieve their goals.

Peter Anderson is an Orem resident. He added comments regarding the Hansen family getting inconclusive information from Elk Ridge City and Utah County. Mr. Anderson is in favor of the ordinance because the applicants are only trying to improve their situation and individual rights should still be a priority within the community.

Gary Hansen came forward to thank the speakers commenting in agreement with him. Mr. Hansen explained that he and his wife would like to downsize from their home, and there is an interested party from Arizona. The potential buyer is seeking a portion of the property that would require the lesser 100-foot minimum frontage to achieve results. Mr. Hansen confirmed that they have followed directions back-and-forth from the city and county. Commissioner Witney asked about greenbelt status, and Mr. Hansen stated that a rollback would not be needed. Brandon Larsen of Community Development continued to detail specifics for the commissioners, summarizing that the applicants' wishes would be met by the approval of this ordinance.

**Commissioner Anderson made the motion to approve the ordinance amending the Land Use Element designation and associated zoning connected to Tax Parcel No. 30:074:0140 as discussed in Regular Agenda Item No. 6. The motion was seconded by Commissioner Ellertson and carried with the following vote:**

**AYE: Doug Witney  
Gary J. Anderson  
Larry A. Ellertson  
NAY: None**

ORDINANCE NO. 2013-3

- 7. APPROVE OR DENY AN ORDINANCE AMENDING SECTION 4-1: ZONES ESTABLISHED, OF THE UTAH COUNTY LAND USE ORDINANCE, TO ADD THE UTAH LAKE SHORELINE PROTECTION OVERLAY ZONE; ENACTING SECTION 5-18, THE UTAH LAKE SHORELINE PROTECTION OVERLAY ZONE, AS A PART OF THE UTAH COUNTY LAND USE ORDINANCE; AND AMENDING THE OFFICIAL UTAH COUNTY ZONE MAP, A PART OF THE UTAH COUNTY LAND USE ORDINANCE, TO ADD THE UTAH LAKE SHORELINE PROTECTION OVERLAY ZONE**

## UTAH COUNTY BOARD OF COMMISSIONERS

MINUTES - February 5, 2013

Page 7

Commissioner Ellertson had previously tasked Utah County Public Works Director Richard Nielson with finding information on trails impacted by subdivision developments around the Utah Lake Shoreline. Mr. Nielson noted that there are two areas on the north side of the lake where the trail was built in conjunction with two different subdivisions, one being in Lehi City and the other in Saratoga Springs. They are within city limits. There is also a connecting section approximately 150 feet long that the county had participated in.

Commissioner Witney summarized that the proposed ordinance would establish a 660-foot overlay area around Utah Lake. Brandon Larsen of the Utah County Community Development Office explained that eighty percent of the settled property surrounding the lake would be subject to the 660-foot overlay zone, leaving the remaining unsettled twenty percent to be determined by the ordinary high-water mark. Commissioner Witney noted that this may restrict some of the landowners, but would not completely preclude further development. Mr. Larsen added that there is also a proposal for a 50-foot setback from the settlement boundary, which Commissioner Ellertson clarified would theoretically be the trail corridor.

Richard Nielson detailed the relation of the Utah Lake trail to the surrounding roadways and properties. Commissioner Ellertson spoke of the model ordinance from the Utah Lake Commission while acknowledging that the Lake Commission is not a regulatory body. He noted that the original request was for a 1,320-foot overlay area, or a quarter mile, inland from the settlement boundary. Brandon Larsen added that the setback request had been for 50 feet. The Utah County Planning Commission has retained the 50-foot setback but proposes to cut in half the 1,320-foot overlay area. Mr. Larsen explained that land included within the 50-foot setback would remain with the property owner, emphasizing that no trail dedication or requirement has been included within that setback as part of this proposal.

Commissioner Ellertson stated that it is well-known that the county is developing a trail around the perimeter of Utah Lake, and emphasized the importance of acting in accordance with those plans. He admitted that some may disagree with his opinion on the matter. Commissioner Ellertson reminded the audience that Utah Lake is a public asset, and it is not the right of private property owners to restrict access to the lake. Commissioner Anderson asked why the Utah Lake Commission requested a quarter-mile overlay area from the edge, and Commissioner Ellertson described the elevation and topography of the area with the assistance of Richard Nielson.

Commissioner Witney explained that the proposed ordinance is only for an overlay zone; there is no idea of land condemnation. The purpose is to have a plan for the area that imposes minimal infringement upon private owner rights while allowing the county to also have rights along the property. Brandon Larsen of Utah County Community Development agreed, summarizing that the main component is to have a 660-foot overlay zone with a 50-foot setback, and a more stringent site review process for permits.

Utah County Public Works Director Richard Nielson added comments regarding challenges of building on a lake bed. Commissioner Ellertson mentioned that individuals who insist on being left to their own devices also tend to look for another entity to blame when problems arise. Commissioner Ellertson has repeatedly witnessed such events, and believes that issues should be recognized and property owners should be assisted and encouraged to follow logical paths.

Brandon Larsen mentioned that the General Plan identifies a priority list in establishing ideal residential development locations. The first choice is within a city, and the second is an area that can be readily annexed. Further down the list is utilities and infrastructure. Mr. Larsen added that he is unaware of unincorporated portions around Utah Lake that meet these requirements, and dense development is not anticipated. Commissioner Ellertson noted that annexations happen, and expressed that it would make more sense to measure the setback from the progressive trail development. Utah County Deputy Attorney David Shawcroft remarked that the model ordinance included requirements of the trail being built by the property owners and subsequently dedicated, which is not a part of this proposal. They briefly discussed various responsibilities before Commissioner Witney invited members of the public with comment to come forward.

## UTAH COUNTY BOARD OF COMMISSIONERS

MINUTES - February 5, 2013

Page 8

Orem resident Sharon Anderson has concerns related to the necessity of an overlay zone for Utah Lake at all, and stated specifically that the suggested one-eighth of a mile coverage is extremely excessive. She referred to Commissioner Ellertson's earlier comment that the Utah Lake Commission is not a regulatory body and indicated that the approval of this proposed ordinance would be treating it as such. Ms. Anderson noted that the suggestion of an overlay zone has come from the Utah Lake Master Plan in order to achieve said plan, so the Master Plan should be reviewed. She added that the Master Plan impacts private property to a great extent, but much of the language is vague and subjective to the individual reader. Ms. Anderson also spoke about the casual use of the word 'sustainability' and the decline of natural conservation over the last seventy-five years, steering the discussion towards the United Nations' *Agenda 21* publication. Commissioner Witney asked her to return to the subject at hand, and Ms. Anderson reviewed related staff reports of the Utah County Community Development Office. She expressed worry that the effort to save plants and wildlife sometimes overshadows human rights. Ms. Anderson ended her comments by urging the commissioners to deny the overlay zone.

Commissioner Witney pointed out to the audience that while the recommendations of the Utah County Planning Commission are taken with high esteem, each issue brought before the Board of Commissioners is reviewed independently and the final vote does not always coincide with their proposition. He also reminded those present that they do not vote against personal rights; the goal is only to move Utah County forward in safe and effective ways.

Orem resident Peter Anderson (spouse of previous speaker Sharon Anderson) considers himself a conservationist, but has major concerns of shutting down and dramatically altering the lives of families and individuals in an effort to be more economically friendly. He also urged the commissioners to deny the overlay zone, or at least provide some sort of addendum guaranteeing the rights of the private land owners.

Tom Mower lives in Springville and is opposed to the suggested overlay zone. He has attended several planning and zoning meetings in the last three or four years related to Utah Lake, and finds the process interesting. He commended the commissioners for their vote on Regular Agenda Item No. 6 on today's calendar in favor the Hansen family wishes. Returning to the topic of discussion, Mr. Mower commented that the documentation from the Utah Lake Commission is very broad and overreaches their goals, using the adage "fixing what isn't broken" in terms of adding unnecessary regulations. He stated this is the first step to citizens losing their rights. Mr. Mower requested that the Board provide an exception for his land should this ordinance be approved, and spoke of land value related to the water's edge. His final comments were in opposition to the overlay zone and in favor of private ownership.

Salem resident Larry Ballard suggested that this item be returned to the Utah County Planning Commission for further review before action by the Board of Commissioners of Utah County. He indicated it would be wiser to reach out to the public and property owners to gain a greater potential for consensus. Mr. Ballard read from the American Planning Association's *Growing Smart Legislative Guidebook* to address conservation easements and the Transfer of Development Rights (TDR). He also went into determining factors for value, preservation restrictions, and the transition to Purchase of Development Rights.

Larry Ballard had five main points to address, including the preceding paragraph. The next was in regard to the poor general wording within the declaration of the legislative intent, and the need to specify terms. His third item addressed the confusion of the original 1,320-foot overlay area vs. the still exorbitant 660-foot proposal, followed by concerns of compliance with applicable state and federal laws. Mr. Ballard's closing statements emphasized the potential restructuring of local government as a consequence of the overlay zone. He read from Chapter 10 of the *Growing Smart Legislative Guidebook* to articulate the many new levels of administration that would be needed to maintain transparency.

Commissioner Witney asked Larry Ballard to clarify the last point, as to whether Utah County is moving toward a non-judicial individual make these decisions; Mr. Ballard responded only that it is very critical that the document be reviewed again in detail with legal staff to ensure the terms are well-defined. Mr. Ballard also added that proper notification to the public and property owners is essential in matters such as this, and requested that the Board reach out to the community for further discussion. He summarized:

## UTAH COUNTY BOARD OF COMMISSIONERS

MINUTES - February 5, 2013

Page 9

- Transfer of Development Rights (TDR) is new to Utah and requires more review.
- The overlay zone will ultimately cause administrative regulations that will transfer property ownership from the private to the public sector, without the awareness of the public to resist it.
- The disparate suggestions for the required footage of the overlay zone indicate a need for further review.

Commissioner Ellertson responded to Larry Ballard, stating that the county is not establishing Transfer of Development Rights (TDR). When Mr. Ballard questioned this, Commissioner Ellertson stated that a sending and receiving unit must agree to the terms; that is not what the county is doing. Utah County Deputy Attorney David Shawcroft clarified that the proposed ordinance is not related to any sort of TDR program.

Helina Carter-Thomas returned to provide a timeline of the events leading to this agenda item. When this was presented to the Utah County Planning Commission on November 15, 2011, it was indicated that most of the property effected would be on the Southwest and South end of the Provo Bay. Ms. Carter-Thomas quoted the minutes of that meeting: "at this point, there is no county development that extends to the shoreline of Utah Lake." Ms. Carter-Thomas expressed that this ordinance incorporates much more area than that. Now that the Utah County Planning Commission is more educated about the situation, it is obvious that some of the information presented that lead to the vote was inaccurate.

Commissioner Witney noted that the proposed 660-foot overlay area seems arbitrary because low-lying areas are treated the same as steep inclinations, which would impact any development on the West side of Utah Lake. Helina Carter-Thomas has recused herself from voting as a board member on this matter since she is a representative for one of the private landowners, but has attended the Utah County Planning Commission meetings and recalled discussing that point at the last session. She admitted that the entire process has been confusing, and was enthusiastic at the idea of further work sessions for better understanding. Ms. Carter-Thomas indicated that there has not been any public support for this, noting that not even the Utah Lake Commission has attended any of the Planning Commission meetings.

Commissioner Anderson mentioned discussion with mayors and other leaders in the community, questioning whether there is a split vote on this item. Springville resident and Utah County Planning Commission Chair Mike Stansfield approached to clarify. Mr. Stansfield noted that the request was initiated by the Utah Lake Commission. There was no response from the public then (November 2011), and there was a unanimous vote in favor of the proposal. Further consequential review of the details led to more discussion, which in turn led to increased public comment. Mr. Stansfield stated that the Planning Commission would be open to hearing more information, but there is not a consensus. He speculated that they may be more interested in a lesser area of 100 feet.

Bryce Armstrong of the Utah County Community Development Office clarified that the 100 feet referred to by Mike Stansfield would be a setback, as opposed to an overlay. That means the argument is one of two options: a 660-foot overlay zone with a 50-foot setback, or strictly a 100-foot setback with no overlay zone. Commissioner Anderson suggested the latter would be more restrictive, and Mr. Armstrong concurred.

Commissioner Ellertson pointed out that an overlay zone would not preclude development, but would outline specific considerations when developing within that area. Utah County Deputy Attorney David Shawcroft agreed, adding that there would only be somewhat of an expanded review process for building in that zone.

Bryce Armstrong contributed that all of the property under review is currently zoned; those underlying zones would remain in effect and govern action there. Commissioner Ellertson reiterated that the purpose of the overlay zone is to point out sensitive issues for the developer, repeating that the Utah Lake Commission is not a mandating body and is only providing suggestions for the related entities. Commissioner Ellertson expressed his respect for private property owners, being one himself, while simultaneously acknowledging that there are other people with other interests that could be blocked by private property and subsequently restrained against their freedoms as well. There needs to be a balance. The intent is to work toward a positive situation for all parties without trampling upon one in order to protect the other.

UTAH COUNTY BOARD OF COMMISSIONERS  
MINUTES - February 5, 2013  
Page 10

Utah County Deputy Attorney David Shawcroft notified the commissioners that one option is to approve the ordinance, and the Utah County Planning Commission could recommend additional changes as deemed appropriate. Commissioner Anderson sympathized with those asking the Board not to act too quickly, but reminded them that this is not a new issue.

Helina Carter-Thomas repeated her preference for more public input before returning to her seat, and the commissioners provided examples of community involvement on this topic.

Larry Ballard briefly commented against taking steps backward with our actions. He referred to the introduction of House Bill 77 by Representative Craig Powell - Heber City for fire suppression, and the chasm between environmentalists and politically-driven environmentalism. Mr. Ballard spoke of Global Warming and Climate Change, and the implications of federal involvement in connection with this overlay zone.

Commissioner Ellertson asked the audience whether any of those who had spoken from a private property standpoint would ever agree to an overlay zone. After several seconds of complete silence, he suggested that they each internally and personally reflect on the response.

Eldon A. Neves represents Citizens for Rural Utah, and noted that his neighbor, who has a vested interest in the proposed ordinance, was not made aware of the meetings related to this issue. Commissioner Anderson pointed out that the neighbor's name was included on the attendance sheet of the last meeting. Mr. Neves suggested that the commissioners conduct a public meeting, volunteering to serve as a contact point for the community. Commissioner Anderson took a lead from Commissioner Ellertson's earlier question, asking whether it would actually resolve the matter. Mr. Neves responded by stating, "If you're going to whip me, I'd at least like to understand why." Mr. Neves emphatically insisted that more information should be presented to the public and private land owners before moving forward.

The last person to approach with comment was Lynn Hales. He expressed his lack of understanding for the proceedings. Mr. Hales indicated that discussion of a trail is only relevant when the trail is being completed. Responsibility needs to be determined. Mr. Hales stated he would welcome any worthwhile proposition for the Utah Lake shoreline. Commissioner Ellertson explained that the ordinance does not include trails, and Mr. Hales asked him to define what is included. Commissioner Ellertson summarized that the discussion is about an area yet to be determined where special conditions will exist for developers. When Mr. Hales exclaimed at the number of those impacted around the lake, Commissioner Witney pointed out that the ordinance would only be in relation to unincorporated Utah County residents. Mr. Hales questioned why the land owners should not be solely responsible, and Commissioner Ellertson repeated his earlier points regarding safety and responsibility of the cities and governmental entities.

Lynn Hales did not express satisfaction at the commissioners' responses, stating that the property owners have a right to know exactly what is being planned for their land. Commissioner Ellertson asked whether Mr. Hales was suggesting that every single county resident should be asked for an opinion prior to any laws being created, and Mr. Hales did not have an answer. Mr. Hales stated that the commissioners would not want their land taken from them, and Commissioner Ellertson clarified that nothing is being taken from anyone.

Commissioner Witney acknowledged the majority request to conduct another meeting regarding the issue, and the commissioners decided to delay action on the ordinance until after a public work session could take place.

**Commissioner Anderson made the motion to continue Regular Agenda Item No. 7 regarding the ordinance to amend the Utah County Land Use Ordinance as related to the Utah Lake Shoreline Protection Overlay Zone to the March 12, 2013 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Ellertson and carried with the following vote:**

**AYE:** Doug Witney  
Gary J. Anderson  
Larry A. Ellertson  
**NAY:** None

CONTINUED TO MARCH 12, 2013

**10. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH MHTN ARCHITECTS TO PROVIDE ARCHITECTURAL SERVICES FOR THE CULINARY EDUCATION FACILITY PROJECT** *(Continued from the January 15 and 29, 2013 Commission meetings)*

Commissioner Ellertson summarized that the proposed agreement has been delayed by the requesting party, so there is currently no need for action by the Board. Utah County Public Works Associate Director Don Nay confirmed for Commissioner Witney that the county will not be held responsible for costs that have been incurred in the interim.

**Commissioner Anderson made the motion to strike Regular Agenda Item No. 10 from the agenda. The motion was seconded by Commissioner Ellertson and carried with the following vote:**

**AYE:** Doug Witney  
Gary J. Anderson  
Larry A. Ellertson  
**NAY:** None

STRICKEN

**11. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A REAL ESTATE PURCHASE AGREEMENT WITH KPB LLC IN THE AMOUNT OF \$11,155.00 FOR PROPERTY SERIAL NO. 14:055:0173, ADJACENT TO NORTH COUNTY BOULEVARD**

Commissioner Ellertson asked a question regarding the transfer of water within this agreement, and Utah County Public Works Director Richard Nielson clarified that no water was acquired as part of the contract. Mr. Nielson also mentioned that the area is approximately 2,400 square feet.

**Commissioner Ellertson made the motion to approve and authorize the Real Estate Purchase Agreement with KPB LLC in the amount of \$11,155.00 for Property Serial no. 14:055:0173 as specified in Regular Agenda Item No. 11. The motion was seconded by Commissioner Anderson and carried with the following vote:**

**AYE:** Doug Witney  
Gary J. Anderson  
Larry A. Ellertson  
**NAY:** None

AGREEMENT NO. 2013-103

**12. ADOPT A RESOLUTION AUTHORIZING THE COMMISSION CHAIR TO SIGN AN INTERLOCAL AGREEMENT WITH PROVO CITY FOR A SEWER LINE EXTENSION**

Utah County Public Works Director Richard Nielson explained that approximately five years ago, Provo City was interested in bringing a road and sewer line to the Public Works complex at 2855 South State Street. There were issues with septic tanks there at the time. There were various delays by Provo City which ultimately ended with Utah County completing their own repairs for the septic system after 18 months. In the time since, Provo City has installed the road and sewer line originally discussed, and is now requesting reimbursement from the county for the project. Mr. Nielson noted that while the new sewer line may eventually be convenient, the county does not have a need for it at this time.

**Commissioner Anderson made the motion to strike Regular Agenda Item No. 12 from the agenda. The motion died for lack of a second.**

UTAH COUNTY BOARD OF COMMISSIONERS  
MINUTES - February 5, 2013  
Page 12

Commissioner Anderson mentioned that there are some related underlying factors for this agreement that he would be willing to review with Provo City, after which the item could be returned to the agenda. Commissioner Ellertson and Richard Nielson discussed county and state obligations for hooking in to available sewer lines.

**Commissioner Ellertson made the motion to continue Regular Agenda Item No. 12 regarding the resolution and interlocal agreement with Provo City for a sewer line extension to the February 12, 2013 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Anderson and carried with the following vote:**

**AYE: Doug Witney  
Gary J. Anderson  
Larry A. Ellertson  
NAY: None**

CONTINUED TO FEBRUARY 12, 2013

At this point, the commissioners determined which closed meetings would be necessary to set and which could be stricken from the Regular Agenda.

**16. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS THE PURCHASE, EXCHANGE, OR LEASE OF REAL PROPERTY**  
STRICKEN

**18. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING TO DISCUSS COMMERCIAL INFORMATION AS DEFINED IN SECTION 59-1-404, U.C.A., AS AMENDED**  
STRICKEN

**Commissioner Anderson made the motion to strike Regular Agenda Item Nos. 16 and 18 to set dates, times and locations for closed meetings for a strategy session to discuss the purchase, exchange, or lease of real property; and to discuss commercial information as defined in Section 59-1-404, U.C.A., as amended. The motion was seconded by Commissioner Ellertson and carried with the following vote:**

**AYE: Doug Witney  
Gary J. Anderson  
Larry A. Ellertson  
NAY: None**

**14. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL OR INDIVIDUALS**

**Commissioner Anderson made the motion to set a date, time and location for a closed meeting to discuss the character, professional competence, or physical or mental health of an individual or individuals to immediately follow the public comment portion of the regular public meeting today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Ellertson and carried with the following vote:**

**AYE: Doug Witney  
Gary J. Anderson  
Larry A. Ellertson  
NAY: None**

SET

**15. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS PENDING OR REASONABLY IMMINENT LITIGATION**

**Commissioner Anderson made the motion to set a date, time and location for a closed meeting for a strategy session to discuss pending or reasonably imminent litigation to immediately follow the previously scheduled closed meeting today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Ellertson and carried with the following vote:**

**AYE: Doug Witney  
Gary J. Anderson  
Larry A. Ellertson  
NAY: None**

SET

**17. SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS THE SALE OF REAL PROPERTY**

**Commissioner Anderson made the motion to set a date, time and location for a closed meeting for a strategy session to discuss the sale of real property to immediately follow the previously scheduled closed meetings today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Ellertson and carried with the following vote:**

**AYE: Doug Witney  
Gary J. Anderson  
Larry A. Ellertson  
NAY: None**

SET

**WORK SESSION**

NO WORK SESSION ITEMS WERE SUBMITTED

**PUBLIC COMMENTS**

There were no public comments and the meeting recessed at 10:54 A.M. to go into closed meetings. The public meeting reconvened at 12:22 P.M.

**Commissioner Ellertson made the motion to adjourn the February 5, 2013 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Anderson and carried with the following vote:**

**AYE: Doug Witney  
Gary J. Anderson  
Larry A. Ellertson  
NAY: None**

There being no further business nor public comment, the meeting adjourned at 12:23 P.M. The minutes of the February 5, 2013 Commission Meeting were approved as transcribed on February 19, 2013.

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DOUG WITNEY, Commission Chair

UTAH COUNTY BOARD OF COMMISSIONERS  
MINUTES - February 5, 2013  
Page 14

ATTEST:

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BRYAN E. THOMPSON  
Utah County Clerk/Auditor