

2009

L.C. Canyon Partners, L.L.C., a Utah Limited Liability Company v. Salt Lake County, a Municipal Corporation and Subdivision of the State of Utah :
Brief of Appellant

Utah Supreme Court

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IN THE UTAH SUPREME COURT

L.C. CANYON PARTNERS, L.L.C., a	:	
Utah Limited Liability Company,	:	
Appellant,	:	Case No.20090569-SC
vs.	:	District Court Case No. 070903479
	:	
SALT LAKE COUNTY, a Municipal	:	
Corporation and Subdivision of the State of	:	
Utah,	:	
Appellee.	:	

APPELLANT’S SUPPLEMENTAL BRIEF

**APPEAL FROM THE THIRD JUDICIAL DISTRICT COURT IN AND
FOR**

SALT LAKE COUNTY, STATE OF UTAH, HONORABLE DENISE LINDBERG

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INTRODUCTORY STATEMENT

This matter involves the actions taken by Salt Lake County Council (“Council”) in response to L.C. Canyon Partners, L.L.C.’s (“L.C. Canyon”) application to have its property rezoned so as to allow the development of one dwelling. In successive regular weekly meetings, the Council: (1) passed an ordinance making the requested rezone; (2) voted to reconsider its passage of this ordinance; and (3) voted to rescind its passage of this ordinance, thereby leaving L.C. Canyon without the ability to develop its property.

This lawsuit challenges these actions of the Council claiming an unconstitutional taking without just compensation, as well as a violation of L.C. Canyon’s substantive due process rights. On appeal to this Court from the lower court’s dismissal of L.C. Canyon’s claims, this matter has been fully briefed, and was argued to the Court on December 3, 2010. At the conclusion of argument, the matter was taken under advisement.

On June 2, 2011, the Court entered the Order attached hereto as Attachment 1 requesting that the parties provide supplemental briefing on the following issue (“Issue”):

“[W]hether rule 37 of Robert’s Rules of Order (dealing with rescission) provides a procedural mechanism for rescinding an ordinance that has not yet taken effect, and whether the Salt Lake County Council appropriately followed the procedures outlined in rule 37.”

For the reasons herein set forth, Rule 37 of Robert’s Rules of Order¹ either does not apply in this situation or, if it does, it was not followed by the Council. Rescission, repeal or amendment of the subject ordinance is the subject of state statute and county ordinance which require a formal process not followed by the Council.

PERTINENT FACTS

The following facts have bearing upon the Issue:²

1. At the time that L.C. Canyon acquired the subject parcel, it was aware that the property was zoned FR-20 and that it was subject to the provisions of FCOZ, (Eastham Depo. P. 22); (R. 570-572), but had been advised by Salt Lake County (“County”) Planning staff that zoning relief was available. (*Id.*).

2. Shortly after entering into the Agreement to Purchase the subject parcel, L.C. Canyon actively commenced its efforts to develop this property into a parcel for one dwelling. On June 17, 2005, L.C. Canyon, through Irv Eastham, filed an application to rezone the subject parcel from FR-20 to FR-2.5, thereby allowing one dwelling to be developed. (R. 573-576).

¹It should be noted that the 10th Edition of Robert’s Rules of Order Newly Revised and published in 2000 shows the “Rescission” rule as § 35; the online version shows this rule as § 37. The 10th Edition rule is entitled Rescind; Amend Something Previously Adopted, whereas the online rule shows as Rescind, Repeal or Annul. Both versions are substantively the same.

²These facts are generally taken from L.C. Canyon’s opening brief and renumbered for purposes of this Supplemental Brief.

3. L.C. Canyon first went to the Granite Community Council to seek the approval of the project. This approval was given. (Kesler Depo. Pp. 22, 23); (R. 578-581).

4. L.C. Canyon next went to the County, and on August 3, 2005, the staff of the County Planning Commission submitted its recommendations to the Planning Commission recommending approval of the zone change. (R. 582).

5. Following approval of the proposed rezone by the Planning Commission, a recommendation for approval of the zone change was sent to the County Council on October 12, 2005, and a hearing before the Council was scheduled for October 18, 2005. (R. 584).

6. At its meeting on October 18, 2005, the Council voted to approve and enact an ordinance (“subject ordinance”) changing the zoning of the subject Parcel from FR-20 to FR-2.5; (see minutes attached as Attachment 2); (R. 586-594). Following this approval, the subject ordinance was signed by Council Chair, Michael Jensen, and was attested to by the County Clerk, Sherrie Swensen (See Attachment 3). The subject ordinance was to become “effective” after 15 days. As required by law, the subject ordinance reflected the Council members’ votes on the ordinance. (R. 596-597). The subject ordinance was then sent to the newspapers and published. (*Id.*).

7. On October 25, 2005, and at the urging of Save Our Canyons and site visits by members of the Council, the Council voted to reconsider its October 18 enactment of

the zone change. (See minutes attached as Attachment 4). (R. 599-603); (Eastham Depo. Pp. 79, 82); (R. 604-613). L.C. Canyon was given no notice of the October 25, 2005 meeting and, therefore, did not attend. (Kesler Depo. P. 58); (R. 615-617).

8. At its meeting held on November 1, 2005, the Council voted to “rescind” the subject ordinance that was enacted on October 18, 2005. (See minutes attached as Attachment 5.) No written ordinance repealing or amending the subject ordinance was presented.

ARGUMENT

I. THE DELAY IN THE EFFECTIVE DATE DOES NOT ABROGATE THE COUNCIL’S STATUTORY SUBSTANTIVE AND PROCEDURAL DICTATES

Much has been made by the County regarding the fifteen-day delay in the effective date of the subject ordinance. This delay, however, did not confer upon the Council any opportunity to reconsider, rescind, repeal or amend the ordinance outside of the governing framework of statute, ordinance or Robert’s Rules, if applicable.³ While the Council

³As noted in L.C. Canyon’s opening brief, this 15-day delay is required by state statute. L.C. Canyon asserts that the purpose of the delay is to give the public notice of the impending change in the law, not to give the Council additional powers. This interpretation is fully supported by the statute dictating the delay. Utah Code Ann. § 17-53-208(3) provides:

(a) No ordinance passed by the county legislative body may take effect within less than 15 days after its passage.

(b) The legislative body of each county adopting an ordinance shall, before the ordinance may take effect:

(i) deposit a copy of the ordinance in the office of the county clerk; and

(ii) (A) publish a short summary of the ordinance, together with a statement that a complete copy of the ordinance is available at the

does, as always, have the power to rescind, repeal or amend during the 15-day period between passage and effectiveness, such power must be exercised within the substantive and procedural dictates of applicable state statute and County ordinance. For instance, as was discussed in L.C. Canyon's opening brief, a motion to reconsider is time-limited.⁴ There is, in fact, no contention that the delay in the effective date somehow suspends the substantive and procedural strictures upon the manner or procedure in which the Council must conduct its business.

II. THE RESCISSION RULE OF ROBERT'S RULES IS NOT AN APPROPRIATE PROCEDURAL MECHANISM FOR THE ACTION TAKEN.

county clerk's office and with the name of the members voting for and against the ordinance, for at least one publication in:

- (I) a newspaper published in and having general circulation in the county, if there is one; or
- (II) if there is none published in the county, in a newspaper of general circulation within the county; or
- (B) post a complete copy of the ordinance in nine public places within the county.

⁴Rule 37, Robert's Rules of Order, RECONSIDER, provides: "a motion of American origin - enables a majority in an assembly, within a limited time and without notice, to bring back for further consideration a motion which has already been voted on. *The purpose of reconsidering a vote is to permit correction of hasty, ill-advised, or erroneous action, or to take into account added information or a changed situation that has developed since the taking of the vote.*" (Emphasis added.) See also pp. 26-30 of L.C. Canyon's opening brief.

Salt Lake County Ordinance § 2.04.180A⁵ makes abundantly clear that Robert’s Rules of Order apply to govern action by the County Council only in the event of “[p]rocedural rules not specifically provided...” That is, in the event County ordinance does not provide the mechanism for the procedure to be undertaken, only then will governing procedure default to application of Robert’s Rules.

Robert’s Rules provide for a motion to “Rescind.” This rule, however, equates rescission and amendment. The 10th Edition version of the Robert’s Rules rescission rule (“§ 35. RESCIND; AMEND SOMETHING PREVIOUSLY ADOPTED”) reads:

By means of the motions to *Rescind* and to *Amend Something Previously Adopted* - which are two forms of one incidental main motion governed by identical rules - the assembly can change an action previously taken or ordered. *Rescind* - also known as *Repeal* or *Annul* - is the motion by which a previous action or order can be canceled or countermanded. The effect of *Rescind* is to strike out an entire main motion, resolution, rule, bylaw, section, or paragraph that has been adopted at some previous time. *Amend Something Previously Adopted* is the motion that can be used if it is desired to change only a part of the text, or to substitute a different version.

(Italics in original; underline emphasis added). More explicitly, the online version of the rule (“§ 37. Rescind, Repeal, or Annul”) states:

To rescind is identical with the motion to amend something previously adopted, by striking out the entire by-law, rule, resolution, section or

⁵This section provides: “Procedural rules not specifically provided herein or by state law, county ordinance or the plan, may be regulated, interpreted and construed in accordance with Robert’s Rules of Order.” A motion to reconsider made within the time limit would allow future consideration of an ordinance without its enactment amendment or repeal. The County’s motion to reconsider the subject ordinance was made after the time limit.

paragraph, and is subject to all the limitations as to notice and vote that may be placed by the rules on similar amendments.

(Emphasis added).

The plain reading of either version of the rescission rule demonstrates that a motion to rescind under Robert's Rules is identical to a motion to amend. Both Utah statute and Salt Lake County ordinance, however, already provide a specific procedural mechanism by which this same act must be accomplished.⁶

Utah's County Land Use, Development, and Management Act, Utah Code Ann. 17-27a-101, et seq. (1953) governs county zoning administration and provides, in part:

- (1) The legislative body may amend:
 - (a) the number, shape, boundaries, or area of any zoning district;
 - (b) any regulation of or within the zoning district; or
 - (c) any other provision of a land use ordinance.
- (2) The legislative body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or is first submitted to the planning commission for its recommendation.

Utah Code Ann, § 17-27a-503 (1953.) Similarly, Salt Lake County Ordinance § 19.90.010 - Amendment procedure provides:

The county council may amend the number, shape, boundaries or area of any zone or any regulation within any zone. Any such amendment shall not be made or become effective unless the same shall have been proposed by

⁶See also pp. 18-26 of L.C. Canyon's opening brief.

or be first submitted for the recommendation of the relevant planning commission.

The effect of the County's actions in this case constituted a change to the zoning of the subject property. This is plainly within the ambit of both statute and ordinance. Thus, given the existence of a specified procedural mechanism governing the action taken, Robert's Rules of Order's rescission rule has no application.

III. EVEN IF ROBERT'S RULES' RESCISSION RULE HAS APPLICATION, IT DOES NOT ALLEVIATE COMPLIANCE WITH ORDINANCE AND STATUTE.

County Ordinance provides that Robert's Rules are to be applied only in the event of an absence of a procedure otherwise provided. Robert's Rules serve as an adjunct to ordinance and statute, and not in place of such procedure. However, if Robert's Rules "Rescission" rule were to apply, it would require that the aforementioned "amendment" statute and ordinance govern the procedure. As noted, Robert's Rules "**Rescind, Repeal or Annul**" rule provides:

To rescind is identical with the motion to amend something previously adopted, by striking out the entire by-law, rule, resolution, section or paragraph, and is subject to all the limitations as to notice and vote that may be placed by the rules on similar amendments.

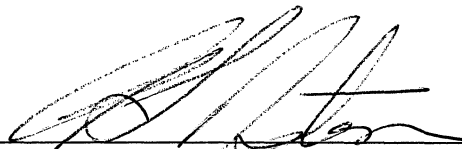
Accordingly, whether or not the procedure outlined by Robert's Rules was followed, the Council remained obligated to comply with the amendment statute and ordinance, something it did not do.

CONCLUSION

The short answer to the issue raised by the Court is that the “Rescission” provisions of Robert’s Rules do not govern the actions taken by the Council on November 1, 2005. The procedural answer is that to rescind, repeal, annul or amend the subject ordinance, the Council was required to adhere to the procedure established by statute and County ordinance. Its failure to do so makes its rescission of the subject ordinance null, void and of no effect.

Respectfully submitted this 22nd day of June, 2011.

JONES WALDO HOLBROOK & McDONOUGH PC

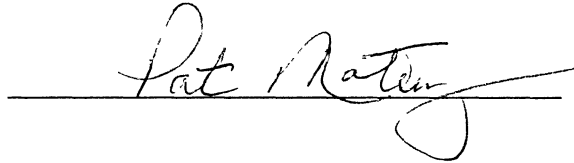
By: 

Anthony L. Rampton
Attorneys for Plaintiff/Appellant

CERTIFICATE OF SERVICE

I hereby certify that on the 22 day of June, 2011, I caused a true and correct copy of the foregoing to be mailed, postage prepaid, by U.S. Mail to the following:

Donald H. Hansen
Deputy District Attorney
2001 South State Street, #S3700
Salt Lake City, UT 84190

A handwritten signature in cursive script, reading "Pat Mattern", is written over a horizontal line. The signature is fluid and extends slightly beyond the line on both sides.

Tab 1

Exhibit 5
Wit: Eastham
12-4-07
Jennifer A. Russell

DATE TUESDAY OCTOBER 18TH, 2005

THE SALT LAKE COUNTY COUNCIL, STATE OF UTAH, MET ON TUESDAY, OCTOBER 18TH, 2005, PURSUANT TO ADJOURNMENT ON TUESDAY, OCTOBER 11TH, 2005, AT THE HOUR OF 4:06 P.M., AT THE SALT LAKE COUNTY GOVERNMENT CENTER, 2001 SO. STATE STREET, ROOM N1100, SALT LAKE CITY, UTAH.

COUNCIL MEMBERS
PRESENT:

RANDY HORIUCHI
JENNIFER WILSON
JIM BRADLEY
JOE HATCH
DAVID WILDE
CORTLUND ASHTON
MARVIN L. HENDRICKSON
MICHAEL JENSEN, Chair

COUNCIL MEMBERS
ABSENT:

MARK CROCKETT

OTHERS IN ATTENDANCE:

PETER CORROON, MAYOR
DAVID YOCOM, DISTRICT ATTORNEY
COUNCIL MEETING
By: JERRY CAMPBELL & MARY ELLEN SLOANE, DEPUTY
DISTRICT ATTORNEYS
PLANNING & ZONING MEETING
By: TOM CHRISTENSEN, DEPUTY DISTRICT ATTORNEY
SEAN THOMAS, COUNTY AUDITOR
By: DAVID BECK, DEPUTY COUNTY AUDITOR
SHERRIE SWENSEN, COUNTY CLERK
By: LINDA HIATT & KIM STANGER, DEPUTY CLERKS

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Ms. Jan Johnson, Utah Alliance of Government Employees (UAGE), led the Pledge of Allegiance to the Flag of the United States of America.

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Council Member Bradley, seconded by Council Member Hatch, moved to approve the minutes of the Salt Lake County Council meeting held on Tuesday, October 4, 2005, and Tuesday, October 11, 2005. The motion passed unanimously, showed that all Council Members present voted "Aye."

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Council Member Jensen spoke under "Council Member Reports," stating he attended the Wasatch Front Regional Council Transportation Committee meeting on October, 13, 2005, where members received a list of Salt Lake County road projects that were approved under the State Transportation Improvement Program (TIP).

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Council Member Hendrickson spoke under "Council Member Reports," stating he observed Judge Peggy Acomb presiding at her first Drug Court graduation today. Graduates included two young people who had met all of the Drug Court goals. There are about 30 individuals involved in the Drug Court program.

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Mayor Peter Corroon read the following Proclamation, declaring October 2005, as Susan G. Komen Foundation Breast Cancer Awareness Month:

A PROCLAMATION OF THE SALT LAKE COUNTY MAYOR AND

DATE TUESDAY OCTOBER 18TH, 2005

THE SALT LAKE COUNTY COUNCIL DECLARING OCTOBER AS
SUSAN G. KOMEN FOUNDATION BREAST CANCER
AWARENESS MONTH

WHEREAS, an estimated 269,730 new cases of breast cancer are expected to occur among women in the United States and between 75 to 100 in Salt Lake County alone, in 2005; and

WHEREAS, excluding skin cancers, breast cancer is the most common cancer among women, accounting for nearly 1 in 3 cancers diagnosed in United States women; and

WHEREAS, one woman is diagnosed with breast cancer every three minutes and of those diagnosed, one woman will die every thirteen minutes in the United States; and

WHEREAS, in the United States, a woman has a thirteen percent, or 1 in 8, lifetime risk of developing breast cancer; and

WHEREAS, the five year survival rate of women with localized breast cancer has increased from 72 percent in the 1940's to over 95 percent in 2005; and

WHEREAS, breast cancer is the leading cancer cause of death among women and any woman in the United States has a 1 in 33 chance of dying of breast cancer; and

WHEREAS, breast cancer deaths are second only to lung cancer an estimated 40,410 women nationally will die from breast cancer in 2005 with approximately 50 being from Salt Lake County; and

WHEREAS, an estimated 1,690 new cases of breast cancer will be diagnosed in men in 2005; and

WHEREAS, between 1972 and 2005 the incidence rate among men has increased by approximately thirty percent; and

WHEREAS, an estimate 460 men will die from breast cancer in 2005; and

WHEREAS, in the United States today, there are more than two million breast cancer survivors; and

WHEREAS, Salt Lake County recognizes, based on national averages, there would be between 200 and 250 Salt Lake County employees and employee family members who have faced this insidious disease over the past decade; and

WHEREAS, Salt Lake County recognizes the significance of the life saving message of awareness, the importance, and methods of early detection and treatment through this proclamation and would encourage each of us to become aware and share that knowledge with family and friends; and

WHEREAS, we commend the efforts of the Utah members of the Susan G. Komen Foundation, for having raised over \$400,000 locally to assist and fund local grants for the research of a cure for breast cancer.

NOW, THEREFORE, BE IT RESOLVED by the Salt Lake County Mayor and Salt Lake County Council, that the month of October 2005, be declared Breast Cancer Awareness Month. We applaud those Salt Lake County employees who have fought and beat this disease and those who are still fighting. We all need to "Race for the Cure."

APPROVED AND ADOPTED this 18th day of October, 2005.

DATE TUESDAY OCTOBER 18TH, 2005

SALT LAKE COUNTY MAYOR

SALT LAKE COUNTY COUNCIL

By /s/ PETER CORROON
Salt Lake County Mayor

By /s/ MICHAEL JENSEN
Chair, Salt Lake County Council

Mayor Corroon presented Gail Thorpe, Representative, Susan G. Komen Breast Cancer Foundation, Salt Lake City Affiliate, with the proclamation. Ms. Thorpe accepted the proclamation, stating more than 20 years ago, Nancy Brinker made a vow to her sister, Susie Komen who lay dying of breast cancer, that she would dedicate her life to doing everything possible to prevent other people from suffering the same way. It was a promise kept. The mission of the Susan G. Komen Breast Cancer Foundation is to eradicate breast cancer as a life-threatening disease. It is also to raise funds to support research, education, screening and testing for under served and under insured people. This year, the Susan G. Komen Breast Cancer Foundation's "Race for the Cure" raised almost \$400,000. (Of funds raised, 25 percent goes to the National effort for research, and 75 percent to the Salt Lake City community to provide education, screening, and testing.) On May 13, 2006, the Susan G. Komen Breast Cancer Foundation will celebrate its 10th anniversary of the "Race for the Cure."

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Mr. Larry Richardson, County Treasurer, submitted a letter advising that in connection with preparation of 2005 tax notices, he allowed exemption and abatement of real property taxes and garbage collection fees as follows:

<u>Relief Granted</u>	<u>Number of Parcels</u>	<u>Tax Amount</u>
Veteran's exemption (1)	2,196	\$2,228,716 (est)
Blind exemption (2)	648	\$ 109,318 (est)
Local ("20 percent") circuit breaker	3,536	\$1,416,813
Indigent	898	\$ 137,941
Disability	329	\$ 133,011
Hardship	97	\$ 27,178
Garbage fees	549	\$ 29,595
Local Total		\$4,082,572
State circuit breaker	3,659	\$1,392,499
Total Relief	6,792	\$5,475,071

(1) Based on exempted value of \$153,941,296

(2) Based on exempted value of \$7,550,791

Mr. Lee Gardner, County Assessor, submitted letters recommending that refunds in the amounts indicated be issued to the following taxpayers for overpayment of vehicle taxes:

<u>Taxpayer</u>	<u>Year</u>	<u>Refund</u>
James R. Buckley	2004	\$148.04
Matthew T. Stanley	2005	\$113.00
Barbara Rizzardì	2005	\$113.00
Jeanine V. Poole	2005	\$113.00
Carl or Michele James	2005	\$153.00
Shelley Bodrero	2005	\$ 53.00
Billy K. Lee	2005	\$113.00
Kent W. Bishop	2005	\$ 83.00

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Access Motorsport	2005	\$ 71.99
Menlove Dodge	2005	\$153.00
Kwik Vending	2005	\$153.00
Randall Adams	2005	\$ 21.08
	2005	\$ 10.00
	2005	\$ 10.00
Lloyd Byers	2005	\$110.00
Andrea Evans	2005	\$110.00
	2005	\$110.00
Franics Merrill	2005	\$ 10.00
Brent Newren	2005	\$ 10.00
	2005	\$ 7.50
Lloyd Turnbow	2005	\$110.00

Mr. Lee Gardner, County Assessor, submitted letter recommending reduction of taxes on the following properties which were acquired by tax-exempt agencies. He also recommended abatement of the remaining taxes, or issuance of refunds, plus the appropriate penalty and interest, to the taxpayers if the taxes have already been paid:

<u>Tax-exempt Agency</u>	<u>Parcel No.</u>	<u>Year</u>	<u>Reduction</u>
Riverton City		27-26-181-002	2003 \$ 4,195.26 to \$ 4,192.67
		2004	\$ 4,331.65 to \$ 4,273.13
United States of America	15-02-227-004	2002	\$ 369.22 to \$ 344.67
		2003	\$ 547.57 to \$ -0-
Draper City	28-30-326-007	2004	\$115,294.34 to \$107,951.65

Mr. Lee Gardner, County Assessor, submitted a letter recommending that a refund in the amount of \$4,716.66 be issued to **Trebor International** for overpayment of 2005 personal property taxes on Tax Roll #37 080349. He also recommended refund of the appropriate interest.

Mr. Lee Gardner, County Assessor, submitted a letter recommending that refunds in the amounts indicated be issued to the following taxpayers for overpayment of 2005 manufactured home property taxes:

<u>Taxpayer</u>	<u>Refund</u>
Edward Anderson	\$ 92.68
Margaret Birkeland	\$141.09
Gladys Cook	\$ 62.69
Alpha J. Davis	\$ 74.81
Donna M. Dickinson	\$206.87
Leon A. & Ruth Hamblen	\$267.54
Tyrone Hertzog	\$ 22.59
Roy N. & Dorothy S. Holton	\$ 41.39

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Frances P. Hurskainen	\$ 39.39
Janet Jensen	\$ 25.93
Bill Linnell	\$ 22.33
Dick Robison	\$140.82
Heber N. Rodriguez	\$ 55.22
Lovella Turner	\$ 44.43

Ms. JodiAnn Martin, Chair, Property Tax Committee, submitted a letter recommending approval of the request by the Salt Lake County Assessor to abate 2000 delinquent privilege taxes on property identified as Parcel No. 08-33-251-001-6105. Airport Authority records show that the hangar was vacant for the entire duration of 2000.

Ms. JodiAnn Martin, Chair, Property Tax Committee, submitted a letter recommending approval of the requests of the following taxpayers for 2005 property tax relief:

<u>Taxpayer</u>	<u>Parcel No.</u>	<u>Type of Relief</u>
Utu Atuatasi	21-09-205-005	Blind/Hardship/Garbage
Emajo Bascom	21-06-128-014	Hardship
Richard D. Bevihymer	21-20-380-017	Hardship
Scott Brown	27-12-104-061	Indigent/Hardship
Scott Bryce	21-03-406-010	Indigent/Hardship/Garbage
Paul Burggraaf	20-12-451-027	Indigent/Hardship/Garbage
Susan Butcher	29B 202620	Indigent/Hardship
Karen P. Clark	22-33-102-011	Indigent/Hardship
Norman C. Davies	14-28-452-013	Hardship/Garbage
Clarence Davis	20-13-355-006	Hardship/Garbage
Suzanne Despain	22-22-407-004	Poor/CB/Indigent/Hardship/Garbage
Peggy Doyle	28-17-153-020	Indigent/Hardship/Garbage
Lisa DuPray	26-36-230-033	Hardship
Mirisol Flores	14-34-377-006	Hardship
Marsha T. Hampton	21-18-279-039	Hardship/Garbage
Janet S. Haslam	27-07-103-010	Hardship/Garbage
Janet R. Henderickson	15-30-402-023	Hardship
Shelley Hoffman	21-27-302-022	Indigent/Hardship
Margaret E. Hokanson	21-27-177-003	Indigent/Hardship
Susan Kunz	22-28-177-049	Indigent/Hardship/Garbage
Wade, R. Lambert	24-18-133-008	Indigent/Hardship/Garbage
Karen Larsen	16-08-381-015	Indigent/Hardship
Michael J. Lelis	16-17-230-022	Hardship
Elaine Lewis	21-28-327-012	Hardship
Elaine J. Lewis	21-02-151-030	Hardship
Finau Maka	08-34-103-009	Hardship
Jennifer McAffree	28-17-404-012	Indigent/Hardship
Larry J. McCleery	28-08-332-011	Indigent/Hardship/Garbage
Melanie Menlove	36D 201693	Indigent/Hardship
Dennis J. Nicholl	16-17-379-011	Hardship
Scott A. Packer	15-11-106-016	Hardship
Debby A. Paff	15-31-426-022	Hardship
Coleen M. Pate	14-30-202-010	Indigent/Hardship/Garbage
Cecelia A. Paz	20-01-229-015	Hardship
Cindee L. Peterson	20-12-154-029	Indigent/Hardship/Garbage
Douglas J. Pieper	22-33-153-008	Hardship
Marcia Pinch	21-04-215-049	Hardship/Garbage

e

DATE TUESDAY OCTOBER 18TH, 2005

Lori Phillips	14-26-102-020	Hardship
George T. Rawitscher	16-20-304-015	Indigent/Hardship
Ralph B. Reese	16-22-380-003	Hardship/Garbage
Becky-Lee Reynolds	16-05-402-054	Indigent/Hardship
Terry K. Rydman	22-21-479-012	Hardship/Garbage
Richard Schmuhl	21-15-477-003	Hardship/Garbage
Cheri R. Smith	15-32-257-015	Hardship
Marlene Velarde	27-06-352-010	Hardship
Shirley Allen	15-11-480-020	Indigent/Hardshi
		P
Jose A. Burgos	14-34-426-034	Indigent/Hardship
Alan B. Colton	27-07-304-016	Indigent/Hardship/Garbage
Dennis W. Correla	16-20-437-013	Hardship
Jonathan Davis	28-06-256-001	Indigent/Hardship
Tanya Draper	14-36-353-021	Hardship
Myrna E. Ellis	16-18-476-004	Indigent/Hardship
Sheryl A. Garcia	15-02-153-013	Indigent/Hardship
Mark W. Gardner	15-31-402-003	Hardship
Tammy L. Gayler	21-03-431-016	Indigent/Hardship/Garbage
Mohsen Golafshani	21-22-127-020	Indigent/Hardship/Garbage
Nancy F. Heckenliable	21-10-405-001	Hardship/Garbage
Elsie Higginson	16-27-352-022	Hardship/Garbage
Tayne R. Johnson	14-32-279-018	Indigent/Hardship/Garbage
Stephanie Larue	15-31-281-027	Indigent/Hardship
Michael E. Linner	27-09-155-019	Hardship
Candice L. Loisselle	21-16-101-068	Hardship/Garbage
Michaelene McClauskey	21-22-487-009	Indigent/Hardshi
		P
Terri Neihart	22-33-429-034	Indigent/Hardshi
		P
Jackie H. Salerno	08-27-279-012	Indigent/Hardship
Valeria A. Swinehart	15-28-151-021	Indigent/Hardship
Michael W. Terry	10-33-327-021	Hardship/Garbage
Lynda V. Thomas	27-04-451-025	Indigent/Hardship
Jane Ward	27-28-426-011	Indigent/Hardship
Judy K. Whipple	21-12-401-015	Indigent/Hardship
John H. Bigelow	21-06-328-008	Indigent/Hardship
Calvin G. Carlson	21-07-137-003	Vet.
Rachel Featherstone	21-32-378-001	Indigent/Hardship
Edward P. Hansen	22-31-355-016	Poor/CB
Sharon A. Hatch	16-18-454-022	Vet
Karla A. Lamph	28-06-118-002	Indigent/Hardship
Estelle W. McPhie	16-27-354-025	Poor/CB/Indigent/Hardship
Penny Murphy	22-05-355-025	Hardship/Garbage
David Niumeitolu	28-08-177-010	Hardship/Garbage
David W. Pitsch	34-04-302-004	Hardship
Robert A. Taylor	21-06-451-017	Vet
Dana M. Terrill	21-13-157-018	Poor/CB/Indigent/Hardship
LaJuana Watson	28-08-307-016	Hardship/Garbage
Thomas B. Vigil	15-30-180-009	Vet

Ms. Martin, Chair, Property Tax Committee, submitted a letter recommending denial of the requests of the following taxpayers for 2005 tax relief:

<u>Taxpayer</u>	<u>Parcel No.</u>
Marvin L. Bennett	21-24-403-025
Elaine J. Lewis	21-02-151-030
Val Patterson	22-08-205-017

DATE TUESDAY OCTOBER 18TH, 2005

Merna J. Peterson	27-35-351-033	
Roene Wood		21-15-451-039
Michelle W. Bills	16-26-126-013	
Roger D. Folkersen	21-27-354-017	
Richard L. Johnson	21-05-253-011	
Lilly M. Lucero	16-08-406-009	
Gagaifo T. Tufuga	21-21-302-003	
Edna L. Jarrard	16-28-405-059	
Sang Heon Kim	22-28-376-031	
Kim I. Miller		28-04-154-003
Wayne r. Morrison	14-20-351-015	
Theodora E. Rubi	21-07-109-018	
Amy Schanfield	20-02-276-009	

Ms. JodiAnn Martin, Chair, Property Tax Committee, submitted a letter recommending approval of the request of **Douglas H. Goddard** for a hardship abatement in the amount of \$657.85 for the 2004 taxes on property identified as Parcel No. 16-22-379-009. This abatement is conditioned upon payment of the remaining taxes owing (\$763.63) by November 18, 2005.

Mr. Lee Gardner, County Assessor, submitted a letter recommending abatement of the 2005 personal property taxes for a submitted list of businesses. These businesses have a refund because of incorrect calculations, have a credit due, or are no longer in business. The total amount being refunded is \$24,770.81. (List on file in the Council Clerk’s Office.)

Council Member Bradley, seconded by Council Member Hatch, moved to approve the recommendations. The motion passed unanimously, authorizing the County Treasurer to effect the same, showed that all Council Members present voted “Aye.”

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Mr. Tom Schafer, Planning & Development Services Division, explained the following rezoning applications to be heard and presented maps of the area:

Application #22546 - Soravut Laoongjit to reclassify property located at 4586 South 900 East from R-1-10 to R-M zone.

Mr. Schafer stated the applicant requested to rezone this .53 acres from R-1-10 (residential single-family dwelling on 10,000 square foot minimum lot) to R-M (residential multi-family - business and/or professional office uses) to accommodate the existing use, which is a three-family dwelling and be more compatible with the existing residential development in the area. Mr. and Mrs. Laoongjit purchased this property in good faith, believing it was zoned to accommodate the three residential units. The dwelling was built in 1965 as a two-family dwelling. At that time the property was zoned R3A, which allowed two-family dwellings. After the building was converted to a three-family dwelling (one unit on the upper floor and two units on the lower floor), the subject property and several others were rezoned to R-1-10. Property to the immediate south is zoned C-2/zc and property to the southwest and west are zoned R-M (three-family buildings). Properties to the immediate north are zoned R-1-10 and further north are zoned R-M (three-family buildings). Properties on the east side of 900 East are zoned R-1-8 and R-M. The Millcreek General Plan designates the area as “Community Commercial.” This land use designation supports strip shopping centers, convenience stores, restaurants, grocery stores and other retail uses. The proposed rezone does not comply with the land use designation specified in the general plan. The Planning & Development Services Division staff recommended approval of the application. The Millcreek Community Council recommended approval of this application subject to a zoning condition (zc) limiting the density to three dwelling units. On August 18, 2005 and Millcreek Township Planning Commission recommended approval of the application without the zoning condition, believing that the size of the property would limit more development.

DATE TUESDAY OCTOBER 18TH, 2005

Application #22474 - Irv Eastman to reclassify property located at 9361 South North Little Cottonwood Road from FR-20 to FR-2.5.

Mr. Schafer stated the applicant requested to rezone 3.543 acres of a 15.36 acre parcel from FR-20 (forestry and recreation - 20 acres minimum lots) to FR-2.5 (forestry and recreation - 2.5 acre minimum lots) to accommodate development of a single residential lot on the subject property. Access to the property could potentially be from North Little Cottonwood Canyon Road; however, such access must be approved by the Utah Department of Transportation (UDOT). The property to the north, east and southeast is zoned FR-20. The property to the west and southwest, west of Little Cottonwood Canyon Road is zoned R-1-15/zc. The subject property is located within the Foothills and Canyons Overlay zone (FCOZ). The Granite Community Master Plan designates the area as low density residential. This land use designation refers to a density of less than two dwelling units per acre. The master plan and the Bonneville Shoreline Trail Master Plan shows a portion of the Bonneville Shoreline Trail running through this property. The Planning & Development Services staff and the Granite Community Council recommended approval. On August 9, 2005, the County Planning Commission recommended approval of the application.

Council Member Horiuchi asked if the staff will have the opportunity to review the site plan.

Mr. Schafer stated since this property is subject to FCOZ, part of the analysis will be to look at the physical constraints of the property and identify buildable areas.

Council Member Wilde, seconded by Council Member Horiuchi, moved to open the public hearing. The motion passed unanimously, showed that all Council Members present voted "Aye" with the exception of Council Member Ashton who was absent for the vote.

Mr. Irv Eastham, 7561 Brighton Point Drive, stated the 3.543 acres requested to be rezoned is part of a larger subdivision with two-thirds acre lots. This parcel would have one residential dwelling and be the largest lot in the subdivision. The portion of property located in the FCOZ and where the Bonneville Shoreline Trail runs through the property will be donated to the County to be used as open space.

Council Member Bradley, seconded by Council Member Horiuchi, moved to close the public hearing. The motion passed unanimously, showed that all Council Members present voted "Aye" with the exception of Council Member Ashton who was absent for the vote.

Council Member Bradley asked why UDOT would have to give approval to access this property from North Little Cottonwood Canyon Road.

Mr. Daugherty stated Little Cottonwood Canyon Road is a state road maintained by UDOT. Every point of entry has to be approved according to their specifications. After reviewing the proposal, UDOT will advise the County of its requirements to make sure the access is located properly.

Mr. Eastham stated UDOT has already given approval for the access.

Council Member Bradley asked if there was any other development on the north side of Little Cottonwood Canyon Road.

Mr. Eastham stated there were no homes on the north side of the road.

Council Member Hendrickson, seconded by Council Member Wilde, moved to approve Application #22474 and the following Ordinance.

ORDINANCE

AN ORDINANCE, AMENDING TITLE 19, ENTITLED "ZONING" OF THE SALT LAKE COUNTY CODE OF ORDINANCES, 1986, BY RECLASSIFYING CERTAIN PROPERTY LOCATED IN SALT LAKE COUNTY FROM FR-20 to FR-2.5 ZONE

The Salt Lake County Council of Salt Lake County, State of Utah, ordains as follows:

DATE TUESDAY OCTOBER 18TH, 2005

Section 1: Section 19.06.020, The Zoning Map of Salt Lake County, Code of Ordinances 1986, is hereby amended, as follows:

The property described in Application #22474, filed by Irv Eastham, and located at 9361 South North Little Cottonwood within Salt Lake County, is hereby reclassified from an FR-20 zone to an FR-2.5 zone, said property being described as follows:

BEG S 89_53'04" W 220 FT FR N 1/4 COR OF SEC 12, T 3S, R 1E, SL M; S 1_27'58" E 198 FT; N 89_53'04" E 220 FT TO 1/4 SEC LINE; S 1_27'58" E 492 FT; W 591.13 FT; N 38_07'42" W 4 1.33 FT; S 51_52' 18" W 250 FT TO E LINE OF NORTH LITTLE COTTONWOOD ROAD; N 38_07'42" W 373.64 FT ALG E LINE OF SD ROAD; N Y'LY 216.02 FT ALG CURVE TO R; N 89_53'04" E 1176.98 FT TO BEG.

Section 2: The map showing such change shall be filed with the Salt Lake County Planning Commission in accordance with Section 19.06.020 of the Salt Lake County, Code of Ordinances, 1986.

Section 3: This ordinance shall take effect fifteen (15) days after its passage and upon at least one publication in a newspaper published in and having general circulation in Salt Lake County, and if not so published within fifteen (15) days then it shall take effect immediately upon its first publication.

IN WITNESS WHEREOF, the Salt Lake County Council has approved, passed and adopted this ordinance this 18th day of October, 2005.

SALT LAKE COUNTY COUNCIL

ATTEST (SEAL)

By /s/ MICHAEL JENSEN
Chair

By /s/ SHERRIE SWENSEN
County Clerk

The motion passed 5 to 2, authorizing the Chair to sign the ordinance, and directing the County Clerk to attest his signature and to publish it in a newspaper of general circulation, showed that all Council Members present voted "Aye" with the exception of Council Members Bradley and Hatch who voted "Nay" and Council Member Ashton who was absent for the vote.

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THERE BEING NO FURTHER BUSINESS to come before the Council at this time, the meeting was adjourned at 5:17 p.m., until Tuesday, October 25, 2005, at 4:00 p.m.

SHERRIE SWENSEN, COUNTY CLERK

By
Deputy Clerk

CHAIR, SALT LAKE COUNTY COUNCIL

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Tab 2

**SALT LAKE COUNTY
ORDINANCE**

PARCEL # 28-12-126-003-0000

AN ORDINANCE, AMENDING TITLE 19, ENTITLED "ZONING" OF THE SALT LAKE COUNTY CODE OF ORDINANCES, 1986, BY RECLASSIFYING CERTAIN PROPERTY LOCATED IN SALT LAKE COUNTY FROM ~~R-2-10 TO R-M ZONE.~~

FR-20 TO FR-2.5

The Salt Lake County Council of Salt Lake County, State of Utah, ordains as

follows:

Section 1: Section, 19.06.020, The Zoning Map of Salt Lake County, Code of Ordinances 1986, is hereby amended, as follows:

The property described in Application #22474, filed by Irv Eastham, and located at 9361 South North Little Cottonwood within Salt Lake County, is hereby reclassified from an FR-20 zone to an FR-2.5 zone, said property being described as follows:

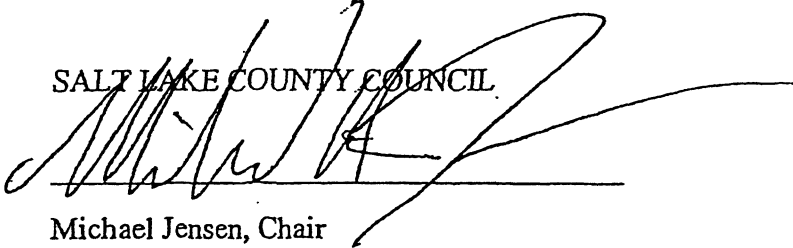
BEG S 89°53'04" W 220 FT FR N 1/4 COR OF SEC 12, T 3S, R 1E, S L M; S 1°27'58" E 198 FT; N 89°53'04' E 220 FT TO 1/4 SEC LINE; S 1°27'58" E 492 FT; W 591.13 FT; N 38°07'42' W 4 1.33 FT; S 51°52'18" W 250 FT TO E LINE OF NORTH LITTLE COTTONWOOD ROAD; N 38°07'42' W 373.64 FT ALG E LINE OF SD ROAD; NWLY 216.02 FT ALG CURVE TO R; N 89°53'04" E 1176.98 FT TO BEG.

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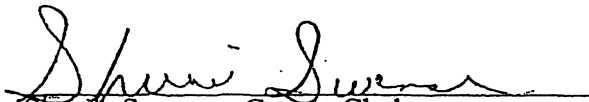
IN WITNESS WHEREOF, the Salt Lake County Council has approved, passed
and adopted this ordinance this 18th day of October, 2005.

SALT LAKE COUNTY COUNCIL



Michael Jensen, Chair

ATTESTED:



Sherrie Swensen, County Clerk

• Council Member Horiuchi	<u>"Aye"</u>
• Council Member Wilson	<u>"Aye"</u>
• Council Member Bradley	<u>"Nay"</u>
• Council Member Hatch	<u>"Nay"</u>
• Council Member Jensen	<u>"Aye"</u>
• Council Member Crockett	<u>Absent</u>
• Council Member Ashton	<u>Absent</u>
• Council Member Hendrickson	<u>"Aye"</u>
• Council Member Wilde	<u>"Aye"</u>

Tab 3

Discussion of Reconsideration of Zone Change – Council Member Randy Horiuchi

22474 – Irv Eastham - 9361 S. North Little Cottonwood Canyon Road

Chairman: Item 17 is discussion of a reconsideration of a zone change, council member Horiuchi.

Randy: Chairman, having voted on the prevailing side of this issue last week, there's been enough significant public policy discussion for me to ask us to reconsider it – not necessarily for the reason of voting it down, but there seems to be some public policy implication that I felt after talking to some of my colleagues, that we probably owe ourselves a little bit of time to think about this some more – to go up there as we did on the previous zoning as you know, on 45th – to take a little bit of look/see at this thing. And I – here again, my intent is not to unwind this thing, but it really is to take some look at it, to talk about the public policy implications that my colleagues have brought up and think about it more. I think last week we debated it some. A lot of people were confused about the location of the site. That's probably the thing that concerned me is people thought it was a different piece of ground that we were looking at; and so I think in all fairness – and here again it maybe that I may totally vote for this again, but I do think it does merit some public policy reconsiderations. That would be my motion, Mr. Chairman.

Woman: Second.

Chairman: Motion and second. Just to bring it back up for reconsideration.

_____ : _____ motion is. I mean . . .

Randy[?]: Does that delay, I mean, I apologize.

Chairman: No, no, no.

Randy[?]: Does that delay the effective date or . . . ?

Chairman[?]: We ought, we ought, and I'm glad Tom is here _____ the discussion. Where were we?

Randy[?]: I want to get questions on that as well because I gotta admit thinking about this. It seems to be we handle zoning ordinances different in a lot of different ways than we do other ordinances. First of all, and maybe it's right. First of all, we only notice them up once. We don't hear them a second time like we do everything else. Now that may be a requirement of state law that we only do it once and not do it twice. Second thing is I raised – it says while maybe if I was – I got – the

more I thought about this and I guess those of you – the two of you who weren't here, there was a map and some were talking about it – this is to subdivide a hunk of land that's on the east side of Wasatch Boulevard as it turns to go up Big Cottonwood. There are no homes there. They couldn't get a building permit to do it, but when they carve away a little bit of land and we change the zoning for it, all of a sudden they're able to build a mega home right there where there are no homes on the east side of the road. And this is what was on the agenda. This is what was on the agenda last time. I saw in the paper that we're publishing it. We saw in the paper that they were publishing it. It's not effective for 15 days so I'm just asking. I'm not speaking for the mayor here, but I asked attorneys. I said well maybe we should have – I should go to the mayor and ask the mayor if he'd be kind enough to veto this and so that we'd have it come back and the reaction of council was well that's never happened. No one vetoes zoning ordinance, but I think probably legally they'd consider. But, I – since we do a reconsideration on ordinances all the time, why can't we do it in some organized method on a serious zoning _____.

Chairman: Tom, do you want to take a shot at that?

Tom: As far as the veto question, I haven't seen a veto done on a zoning matter; but, county ordinance does give the mayor authority to veto legislative acts which a rezoning is. So, it's possible it could be submitted to the mayor.

Chairman: So Tom, do we have the opportunity to reconsider before it's effective?

Tom: I looked at the statutes and ordinances and I couldn't see anything that prohibits reconsideration from a procedural standpoint. You're not barred from reconsidering. There may be some, some substantive due process issues . . .

Chairman: I mean if people acted now on our decision perhaps in securing . . . yeh . . . but a court . . . well according to the . . .

Tom: At this point in time it hasn't been implemented, so they're can't be any reliance.

Chairman: It's not effective for 15 days after. So, it's got another eight days before it's effective.

Randy[?]: So, reconsideration is not an option?

Chair: It is.

Tom: I'm saying procedurally you could reconsider.

Randy: I'd like to make a motion.

Tom: You may want to consider.

_____: _____.

_____: Randy made a motion to reconsider.

Chairman: Got it.

_____: What are the prevailing sign I am allowed to make a motion?

Chairman: So in that reconsideration though, what does that mean?

_____: Just brings it back . . . just like any other motion.

_____: Well, the idea is for us to probably _____. Councilman Ashton would be for us to maybe notice this up again – readvertise it, bring it back under reconsideration. Today's vote would be to reconsider it and we'd have to vote whether we want to reconsider or not. In the past we've done reconsideration. We've actually held them both at the same time but we have to do this because of the 15-day deadline. Notice it up for another hearing. Readvertise everybody and have another discussion on it and if we choose to vote, we can. We can choose to tape or whatever. So . . .

Chairman: So, procedurally my question is does the motion reconsider if we all approve that, does that stop _____ additional action?.

_____. _____ 15 days. I agree.

Tom: It doesn't suspend it, no.

Chairman: So the 15 days still continues. So if we didn't take any other action to change the outcome of last week's vote, then at the end of 15 days that zoning goes into force the way that we voted.

Randy: Could we vote to table it? We reconsider it and then, and then vote to table it until we have a hearing?

_____: What can you table? You already _____.

_____: Well we voted down. The problem is he can't, he can't reapply for a year – and I don't think that's right either.

Tom: I think the vote has been taken and so it's a motion to reconsider, but it's in the nature of a separate action. So you can reconsider it and . . .

_____: [INAUDIBLE].

_____: It would.

Tom: They've already got vested rights at this point in time; but in reconsidering if – you have the authority to down zone. The council has the authority to down zone.

Randy: Now wait a minute, Tom. You just said they have vested rights today even though the 15 days haven't expired? That doesn't make sense. Then why have the 15-day period of time.

Tom: They have rights at the end of the 15 days but it's – there's been a vesting that occurs even prior to the effective date because they've gone through the steps.

Randy: What – could we – you don't think we could table it? We could take a vote to reverse our position, reconsider for public policy purposes, why is there a 15-day delay from our vote before the ordinance is effective?

Tom: You can if you can deny _____. I don't know what the policy is.

Randy: Let me ask this question. If we were to vote to reconsider it, and then voted to table our action, could we do that?

Tom: During the 15-day period?

Randy: Well like, like right now. If I made a double motion that said – well I've made motion to reconsider. We vote that up. It's back before us. Then I make a motion – since it's under reconsideration, you've reconsidered it, then I can make a motion to table couldn't I? And it would null and void the up or down vote because the vote to reconsideration in its own right, Thomas, is an act of saying we've, we're reconsidering this. We're not going to – you know, we're not granting it. We want to reconsider it. And then I could make a motion to table and then we would be able to set a time frame but then they've lost their vested right. Because the whole motion of reconsideration is an act to basically say, we've made – we want – we don't like the decision we made. We want to reconsider hearing it again. And I always had a couple of reconsiderations before. And that's how we've dealt with them.

Tom: We're plowing new ground here, so I can't give you definitive . . .

_____ : Let me ask Tom, do you know which . . .

Chairman: Hold on, let him answer Randy's question if he can.

Tom: I'd suggest Randy rather than tabling it that you schedule it within the 15-day time period. Recognizing seven days has already lapsed, but, would you guys be happy with this.

Randy: Okay. I'll do that. I'm going to vote that we reconsider the motion.

Chairman: Let's do two separate motions then. One to reconsider.

Randy: Well, actually you probably ought to do the same thing. You got to do reconsideration and then set the time that would be heard if we're going to do it that way.

Tom: I'd set it for next week.

Randy: We'll obviously that still keeps it within 15 days. And I would also in the motion. So here's my motion, I'm going to vote to reconsider, having voted on the prevailing side, reschedule for next Tuesday for a – either a hearing. Would it be a public hearing, would it be a decision only?

Tom: It would be public hearing.

Randy: Public hearing and then I think we ought to obviously call right away after – if this passes, we ought to call the applicant to let him know.

Tom: Absolutely.

Chairman: Now Tom, do we need another public hearing cause we've already taken public comment and closed the public hearing?

Tom: Yes.

Chairman: We still would need a public hearing?

Tom: Yes.

Chairman: Okay. Are we okay, Randy?

Randy: Yes. _____ my motion, Mr. Chairman.

Chairman: Is there a second?

Crockett: I second.

Chairman: Motion and second by Councilman Crockett.

Randy: Question for Tom.

Chairman: Okay.

Randy: Are we concerned about any kind of takings. I'm a little worried when you say vested rights. And are we worried about any kind of takings?

Tom: We're very concerned in our office about the takings issue. I'd suggest we meet in closed meeting to discuss the implications.

Randy: Now is this prior to this vote or prior to next week?

Tom: Prior to next week. So we can discuss any potential liability. But, procedurally you can do this.

Chairman: Any other questions or comments? I just – I don't know. Something – I understand everybody's feelings about this, but – I don't know. I just feel a little uneasy because they're not here and they left last week thinking they had a decision. I know we can reconsider. We got the 15 days. It just – something about it just doesn't feel right to me, so . . . Any other comments? Marvelous?

Marv[?]: Let me just ask on things that the question was asked last week, but we didn't know from that parcel of property. That was the 3.5 acre parcel that shown which was a part of a 15 acre whole. But now going to the north, up the top of this map, we see the little v and that's developed area. I'd like to know in that little valley there – (1) how much of that is developable property that's not in the F cause, and (2) how much of that is private property that could be developed that's not in the forest service?

Woman: There good questions.

_____: Joe has a good point.

Marv: In looking at Randy says the private property rights, I think, you know, we have to address that going north to that next intersection.

Chairman: Do you want that for your next . . . ?

Marv: If it takes a next meeting, it would be fine.

Chairman: If it passes. Any other comments or questions?

_____:

Joe[?]: I would like to . . . part of that in next week just from you guys– why is zoning once and all other ordinance we hear twice?

Chairman: Okay, councilman Hatch.

Joe: Well, that, I don't agree with you on that at all, Joe, because it is different. I mean it's a governor state law, but, I do. I don't see a attorney at law behind your name.

_____:

Joe: I want the legal reason why there's a difference.

_____:

Joe: It's our ordinance to do it, it's in our, we've, in our ordinance have decided . . . , you know, many other jurisdictions don't do it the way do. We do it twice . . . some just vote an ordinance up and it's done.

_____:

_____:

_____:

_____:

Tom: I suspect the 15-day period is just what we do for all legislative acts, and we do it for zoning as well as everything else.

Chairman: Okay. We have a motion and a second. All those in favor of the reconsideration and to hold a public hearing next week say "aye."

"Aye."

Chairman: All those opposed. I'm a "nay." Two "nays." The motion carries, so we will schedule that if we can call the applicant, let him know for next week then. Any other business before the council? Is there a motion? Motion in second to adjourn, oh, no, we do have one issue. Sorry. Yes. We need to make a motion, we need to have a motion to waive the two-week provision in the ordinance for the campaign finance. Motion and second. Jerry, does that meet the technical . . .?

Jerry: Yes, and we should have the language presented to you that, of the amendments that we made today, this is second reading and, yes, _____.

Chairman: Okay, so motion maker in second, we need to make sure that it is as the amended version that we are waiving the two weeks. Okay?

Jerry: Okay.

_____: Both copesetic with that. All those in favor say "aye." "Aye."

"Aye."

Chairman: Any opposed. That motion carries. Was there anything else that we missed? A motion to adjourn. Councilman Hatch second by council member Wilson. All those in favor say "aye."

"Aye."

Chairman: "Aye." Any opposed?

Tab 4

DATE TUESDAY OCTOBER 25TH, 2005

THE SALT LAKE COUNTY COUNCIL, STATE OF UTAH, MET ON TUESDAY, OCTOBER 25TH, 2005, PURSUANT TO ADJOURNMENT ON TUESDAY, OCTOBER 18TH, 2005, AT THE HOUR OF 4:22 P.M., AT THE SALT LAKE COUNTY GOVERNMENT CENTER, 2001 SO. STATE STREET, ROOM N1100, SALT LAKE CITY, UTAH.

COUNCIL MEMBERS
PRESENT:

- RANDY HORIUCHI
- JENNIFER WILSON
- JIM BRADLEY
- JOE HATCH
- MARK CROCKETT
- CORTLUND ASHTON
- MARVIN HENDRICKSON
- MICHAEL JENSEN, Chair

COUNCIL MEMBERS
ABSENT:

- DAVID WILDE

OTHERS IN ATTENDANCE:

- PETER CORROON, MAYOR
- DAVID YOCOM, DISTRICT ATTORNEY
- COUNCIL MEETING:
- By: JERRY CAMPBELL, DEPUTY DISTRICT ATTORNEY
- PLANNING & ZONING MEETING:
- By: THOMAS CHRISTENSEN, DEPUTY DISTRICT ATTORNEY
- SEAN THOMAS, COUNTY AUDITOR
- By: DAVID BECK, DEPUTY COUNTY AUDITOR
- SHERRIE SWENSEN, COUNTY CLERK
- By: LINDA HIATT & GAYELENE GUDMUNDSON, DEPUTY CLERKS

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Council Member Jensen, Chair, presided.

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Ms. Paulina Flint, White City Community Council, led the Pledge of Allegiance to the Flag of the United States of America.

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Mr. Jeff Salt, Great Salt Lakekeeper, spoke under "Citizen's Public Input" inviting the Council to participate in a cleanup of the Jordan River. The cleanup is scheduled for 10:00 a.m. on Saturday, October 29, 2005, at 1700 North Redwood Road. He indicated that the Jordan River gets most of its pollution from storm drain pipeline discharges which can accumulate garbage masses of 40 to 50 feet long and 15 to 20 feet wide.

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Mr. Gayle Dick, representing Save our Canyons and the Sierra Club, spoke under "Citizen's Public Input" regarding the reclassification of the Irv Eastham property, located at 9361 South North Little Cottonwood Road, from FR-20 to FR-2.5. (The Council approved rezoning this property on October 18, 2005.) He urged the Council to reconsider their decision because of the precedent this change in zoning would set. Zoning should be used to protect the foothills, not as a way to get around the Foothills and Canyons Overlay Zone.

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The Council meeting was continued at this point in order to hold a special meeting with Utah County Commissioners to consider a possible boundary adjustment between Salt Lake and Utah County in the Suncrest Subdivision. The meeting was reconvened at 4:52 p.m.

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Mr. Don Patocka, Chairman, White City Community Council, spoke under "Citizens Public Input," regarding the proposal to create the Township of White City. He introduced the following citizens who addressed this issue:

Mr. Arthur Kimball, 1020 Violet Drive, spoke under "Citizens Public Input," regarding the creation of the Township in White City. He gave a brief history of the White City area.

Ms. Paulina Flint, 10467 South Carnation Drive, spoke under "Citizens Public Input," regarding the creation of the Township of White City. She read the following letter submitted by the White City Community Council:

The June 1, 2005, letter presented to the County Council, established that White City meets the "Township" definition as stated within Utah State Code 17-27-200.51(1)(a)(b) i.e. "A contiguous, geographical defined portion of the unincorporated area of a county." The attached map (Attachment A) of White City boundaries is a duplicate copy for your review. Please refer to the previous letter for legal descriptions.

Based upon new information as well as a more thorough analysis of population, the Community of White City, located in the unincorporated portion of Salt Lake County, requests that the Salt Lake County Council (a recognized legislative body), on their own motion, enact an ordinance establishing the Township of White City by resolution.

This new information is as follows: Attached hereto is a map delineating both by bold line and color, the boundaries of Incorporated Cities, County Townships and Unincorporated Salt Lake County (Attachment B). This map is compliments of Salt Lake County Surveyor's Office. For easier reading, Attachment C is an enlargement of the map legend. The notation at the bottom of the legend indicates that "All Population Values were supplied by the U. S. Census Bureau, 2000 Census." It further annotates that "All Population Values were extrapolated by utilizing the Feb. 4, 2005 municipal boundaries," indicating the most up-to-date population available. Note :Townships are correctly noted and recorded as separate political subdivisions, resulting in the accurate unincorporated Salt Lake County population of 21,247 persons. Even applying the exceptionally conservative estimates of the White City population suggested by the County Recorder's Office of 4,717, the result is a 10.6 percent of the unincorporated area. This far exceeds the "at least 5 percent of the total population of the unincorporated county," listed as a pre-requisite in Utah Code 17-27-200.5(2)(b). This surpasses the qualifications necessary for White City to become a township.

As stated in previous letters, the White City has initiated testimony and legislation, research committees, surveys, community council meetings, neighborhood meetings, which indicate overwhelming support and a desire for, the establishment of a township within this community.

In light of this new information, we request that the Salt Lake County Council meet as soon as is lawfully possible to initiate an ordinance establishing the White City Township.

Ms. Flint requested the Council recognize the maps submitted as official maps of Salt Lake County. An official map is a very significant point in the process of creating a township.

Council Member Hatch stated there is a strong consensus with the Council to create a township within White City, but the District Attorney's Office and the Clerk's Office have submitted a letter saying there was not enough population in the area to meet the requirements for a township.

Council Member Horiuchi requested the District Attorney's Office and Clerk's Office to look at the population in this area and present the information to the Council as soon as possible.

Mr. Vaughn Butler, County Surveyor, spoke under "Report of the Elected Officials" stating that every map that is created in his office is considered an official map of Salt Lake County. The map submitted by the White City Community Council included historical information without the benefit of an actual survey on the ground. He suggested the Council use a more accurate up-to-date map that reflects the current survey, rather than historical information, when considering the creation of a township within White City.

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Mayor Peter Corroon submitted a letter requesting the Council's advice and consent to the reappointment of **Kay Dickerson** as a member of the Dimple Dell Advisory Board to serve an one-year term. Her term will begin January 1, 2006, and end December 31, 2007.

Mayor Peter Corroon submitted a letter requesting the Council's advice and consent to the appointment of **J. Michael Hansen** as a member of the Dimple Dell Advisory Board to serve a three-year term. His term will begin December 1, 2005, and end November 30, 2008.

Mayor Peter Corroon submitted a letter requesting the Council's advice and consent to the reappointment of **Sherrie Robertson** as a member of the Dimple Dell Advisory Board to serve a two-year term. Her term will begin November 1, 2005, and end October 31, 2007.

Mayor Peter Corroon submitted a letter requesting the Council's advice and consent to the appointment of **Bradford Carroll** as a member of the Dimple Dell Advisory Board to serve a three-year term. His term will begin November 1, 2005, and end October 31, 2008.

Mayor Peter Corroon submitted a letter requesting the Council's advice and consent to the appointment of **Craig M. Watson** as a member of the Dimple Dell Advisory Board to serve a three-year term. His term will begin October 1, 2005, and end September 30, 2008.

Mayor Peter Corroon submitted a letter requesting the Council's advice and consent to the appointment of **Syed K. Khaderi** as a member of the Dimple Dell Advisory Board to serve a three-year term. His term will begin October 1, 2005, and end September 30, 2008.

Mayor Peter Corroon submitted a letter requesting the Council's advice and consent to the appointment of **Linnae Jolley** as a member of the Equestrian Park Advisory Board to serve a three-year term. Her term will begin May 1, 2005, and end April 30, 2008.

Mayor Peter Corroon submitted a letter requesting the Council's advice and consent to the reappointment of **Corl Coleman** as a member of the Alcohol & Drug Planning Allocation Council to serve a two-year term. His term will begin November 3, 2005, and end November 2, 2007.

Council Member Horiuchi, seconded by Council Member Ashton, moved to consent to the appointments. The motion passed unanimously, showed that all Council Members present voted "Aye."

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Mayor Peter Corroon spoke under "Report of the Elected Officials" recognizing two prominent people who recently passed away: Robert H. Hinckley Jr., of the Hinckley Institute of Politics; and Rosa Lee Parks, who was instrumental in the civil rights movement. These two individuals contributed greatly to Salt Lake County and to the United States.

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Council Member Bradley requested the Council grant a fee waiver for the use of Abranvel Hall for the Holy Trinity Greek Orthodox Church's 100th anniversary service. This service is scheduled to take place on Sunday, October 30, 2005. This approval would be conditioned upon a public hearing to be held on November 1, 2005.

Council Member Bradley, seconded by Council Member Horiuchi, moved to allow this item as an exigent item, due to time constraints. The motion passed unanimously, showed that all Council Members present voted "Aye."

Council Member Bradley, seconded by Council Member Horiuchi, moved to waive the fee for the use of Abranvel Hall for the Holy Trinity Greek Orthodox Church's 100th anniversary service, subject to a public hearing to be held on November 1, 2005. The motion passed 7 to 1, showed that all Council Members present voted "Aye" with the exception of Council Member Crockett who voted "Nay."

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Mr. Larry W. Richardson, County Treasurer, submitted letters requesting removal of property tax relief erroneously applied to the following parcels. Ownership changed on these parcels and the new owners were not eligible for relief:

<u>Taxpayer</u>	<u>Parcel No.</u>	<u>Adjustment</u>
Daysi M. Tellez	20-12-286-004-0000	\$ 738.98
Stuart B. & Elaine S. Cannon	09-31-376-016-0000	\$ 298.48
Elizabeth Sollis & Miquel Estrada	16-08-256-014-0000	\$1,580.90
James M. Dodge	22-05-103-018	\$ 759.34

Mr. Richardson also requested that personal property tax relief in the amount of \$56.37 be removed from the **Kathryn Sorensen** account (#21-201582). This taxpayer was eligible for relief in the amount of \$112.74, but received relief in the amount of \$169.11.

Mr. Larry Richardson, County Treasurer, submitted a letter advising that the Treasurer's Office has prepared and mailed 2005 tax notices for real property located in Salt Lake County as follows:

	<u>2005</u>	<u>2004</u>	<u>% Change</u>
Total taxes levied	\$ 728,450,000	\$ 696,862,241	4.5%
Parcels billed	320,943	315,093	1.9%
Average tax rate	0.014478	0.014800	(2.2%)
Assessed value:			
Residential property	\$56,400,000,000	\$51,700,000,000	9.2%
Commercial property	\$25,000,000,000	\$23,400,000,000	6.9%
Agricultural property	\$ 51,200,000	\$ 42,700,000	20.2%
Centrally assessed	<u>\$ 4,400,000,000</u>	<u>\$ 4,300,000,000</u>	<u>3.8%</u>
Total	\$85,900,000,000	\$79,400,000,000	8.2%
Net taxable value	\$50,300,000,000	\$47,100,000,000	6.9%

Mr. Lee Gardner, County Assessor, submitted letters recommending that refunds in the amounts indicated be issued to the following taxpayers for overpayment of vehicle taxes:

<u>Taxpayer</u>	<u>Year</u>	<u>Refund</u>
Stephanie Robinson	2005	\$153.00
Julle A. Nielsen	2005	\$153.00
Steven L. Harward	2005	\$ 53.00
Mark J. Hall	2005	\$113.00
Kerri Neuroth	2005	\$153.00
Steven J. Hansen	2005	\$113.00

Mr. Lee Gardner, County Assessor, submitted a letter requesting that the 2005 personal property taxes be refunded to a submitted list of businesses. These businesses have a refund due because of incorrect calculations, have a credit owed, or are no longer in business. The total amount being refunded is \$30,308.54. (List of businesses and refund amounts on file in the Council Clerk's Office.)

Mr. Sean Thomas, County Auditor, submitted letters recommending adjustment of the taxes on the following properties, pursuant to an order of the Utah State Tax Commission. He also recommended that refunds in the amounts indicated, plus the appropriate interest, be issued to the taxpayers:

<u>Taxpayer</u>	<u>Parcel No.</u>	<u>Year</u>	<u>Reduction</u>	<u>Refund</u>
Jason Boe	15-12-280-055	2004	\$ 3,448.14 to \$ 2,482.33	\$ 965.81
	15-12-280-058	2004	\$ 2,513.39 to \$ 1,219.58	\$1,293.81
	15-12-280-060	2004	\$ 2,560.35 to \$ 1,132.46	\$1,427.89
Duncan & Linda Champney	24-27-227-020	2004	\$11,216.49 to \$ 9,640.09	\$1,599.73
Redman, LLC	16-20-229-003	2004	\$14,647.02 to \$12,651.77	\$2,035.15
M W Colleton	22-21-129-052	2004	\$ 3,340.56 to \$ 2,939.91	\$ 400.65
Gerald & Clo Ann Towers	22-07-455-009	2004	\$ 2,525.44 to \$ 2,139.23	\$ 386.21
Penelope U. Green	16-16-109-032	2004	\$ 4,150.42 to \$ 3,916.28	\$ 234.14
Kim J. Childs	16-09-251-007	2004	\$ 1,971.47 to \$ 1,741.49	\$ 229.98
Donald E. Jones	09-31-376-109	2004	\$ 1,624.84 to \$ 1,578.18	\$ 46.66

DATE TUESDAY OCTOBER 25TH, 2005

Walnut Wood	20-14-481-012	2003	\$ 1,259.46 to \$ 1,200.73	\$ 58.73
Osi Industries	26-12-201-002	2004	\$33,474.00 to \$30,168.20	\$3,305.80
Artspace Affordable Housing	15-01-181-003	2004	\$33,038.24 to \$30,486.33	\$2,551.91
Terrance & Brenda O'Hara	22-11-204-042	2004	\$ 3,900.39 to \$ 3,357.79	\$ 542.60
David B. & Gayle Jack	28-27-202-037	2004	\$10,395.27 to \$10,150.80	\$ 244.47
Intermountain Holding Co.	15-24-280-001	2004	\$ 3,243.47 to \$ 3,060.79	\$ 182.68
	15-24-280-006	2004	\$ 2,922.88 to \$ 2,752.30	\$ 170.58
Vernon & Marilyn Watkins	09-31-376-154	2004	\$ 1,708.16 to \$ 1,615.67	\$ 92.49
Barbara Miller & Debra Clinard	16-05-231-049	2004	\$ 779.09 to \$ 691.60	\$ 87.49
	16-05-231-057	2004	\$ 822.42 to \$ 779.92	\$ 42.50
Solitude Partners	24-27-227-019	2004	\$11,174.55 to \$ 9,640.09	\$1,584.19

Ms. JodiAnn Martin, Chair, Property Tax Committee, submitted a letter recommending denial of the request of **John Perry Barlow** to adjust the value and reduce 2004 taxes on property identified as Parcel No. 16-11-255-021 due to erroneous or illegal assessment.

Council Member Bradley, seconded by Council Member Wilson, moved to approve the recommendations. The motion passed unanimously, authorizing the County Treasurer to effect the same, showed that all Council Members present voted "Aye."

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Ms. JodiAnn Martin, Chair, Property Tax Committee, submitted a letter recommending denial of the request of **Taylor Investment** to adjust the value and reduce 2001-2002 taxes on property identified as Parcel No. 22-29-427-009 due to erroneous or illegal assessment. She also recommended denial for waiver of the penalty and interest charged for delinquent payment of 2001-2003 taxes.

Council Member Bradley, seconded by Council Member Wilson, moved to approve the recommendations. The motion passed unanimously, authorizing the County Treasurer and County Assessor to effect the same, showed that all Council Members present voted "Aye."

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THIS BEING THE TIME heretofore set for a public hearing to consider declaring property, located at 7221 South Milne Lane (Parcel No. 22-29-229-019), as surplus and conveying it to Cottonwood Heights City for no fee.

Council Member Bradley, seconded by Council Member Horiuchi, moved to open the public hearing. The motion passed unanimously, showed that all Council Members present voted "Aye."

No one appeared in favor of or in opposition to the proposal.

Council Member Bradley, seconded by Council Member Horiuchi, moved to close the public hearing, surplus the property, convey the property to Cottonwood Heights City for no fee and approve the following resolution:

RESOLUTION NO. 3798

DATE: OCTOBER 25, 2005

DATE TUESDAY OCTOBER 25TH, 2005

A RESOLUTION OF THE SALT LAKE COUNTY COUNCIL
APPROVING CONVEYANCE OF SURPLUS TAX DEED PARCELS
TO COTTONWOOD HEIGHTS CITY

RECITALS

A. Salt Lake County is the owner of a parcel of real property consisting of .18 acre located at 7221 South Milne lane (1355 East) in Cottonwood Heights Cit (the "City"), which the County obtained by tax deed in 1992 (the "tax parcel"), which is more particularly described in the attached quit claim deed. The majority of the tax parcel is now in the improved right of way for Milne Lane.

B. The City incorporated in 2005, and Milne lane is now a city street. Pursuant to Section 59-2-1351.5, Utah Code Ann. (2005), property acquired by the County by tax deed may be sold or disposed of for a price and terms determined by the County Council. The County has determined that it is in the best interests of the County and the public to declare surplus and convey the tax parcel for no fee to the City.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Salt Lake County Council that the conveyance of the surplus tax parcel to Cottonwood Heights City be, and the same is hereby approved. The Mayor and the County Clerk are authorized to execute and deliver the attached quit claim deed to the County Real Estate Section for delivery to Cottonwood Heights City.

IT IS FURTHER RESOLVED by the Salt Lake County Council that the conveyance of the surplus tax parcel to Cottonwood Heights City be, and the same is, hereby approved. The Mayor and the County Clerk are authorized to execute and deliver the attached quit claim deed to the County Real Estate Section for delivery to Cottonwood Heights City.

APPROVED and ADOPTED this 25th day of October, 2005.

SALT LAKE COUNTY COUNCIL

ATTEST (SEAL)

By /s/ MICHAEL JENSEN
Chair

By /s/ SHERRIE SWENSEN
County Clerk

Council Member Bradley, seconded by Council Member Wilson, moved to approve the resolution. The motion passed unanimously, authorizing the Chair to execute the resolution and directing the County Clerk to attest his signature, showed that all Council Members present voted "Aye."

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Mr. Gavin Anderson, Deputy District Attorney, introduced an ordinance entitled Campaign Financing Disclosure which defines the term "contractor," sets dollar amounts for political contributions by contractors, establishes application to various County contracts, establishes penalties, lowers contribution threshold for reporting occupation and employer and makes other related changes.

Council Member Bradley, seconded by Council Member Wilson, moved to waive the reading of the Ordinance and to consider the ordinance today. The motion passed unanimously, showed that all Council Members present voted "Aye."

Council Member Bradley, seconded by Council Member Wilson, moved to approve the following ordinance:

ORDINANCE NO. 1575

DATE OCTOBER 25, 2005

AN ORDINANCE AMENDING SECTION 2.72A.104 OF THE SALT LAKE COUNTY CODE OF ORDINANCES, 2001. DEFINING THE TERM "CONTRACTOR," SETTING DOLLAR AMOUNTS FOR POLITICAL CONTRIBUTIONS BY CONTRACTORS, ESTABLISHING APPLICATION TO VARIOUS COUNTY CONTRACTS, ESTABLISHING PENALTIES, LOWERING THE CONTRIBUTION THRESHOLD FOR REPORTING OCCUPATION AND EMPLOYER, AND MAKING OTHER RELATED CHANGES.

The County Legislative Body of Salt Lake County ordains as follows:

SECTION I. Amendments made herein are designated by underling the new substituted words. Words being deleted are designated by brackets and interlineations.

SECTION II. Chapter 2.72A, entitled "Campaign Financing Disclosure," is amended to read as follows:

SECTION III. Section 2.27A.101 of the Salt Lake County Code of Ordinances, 2001, is amended to add the definition of "Contractor" as follows:

"Contractor" means, for purposes of this chapter, any person, business, corporation, or other entity that executes a written agreement with the County for the acquisition or management of goods, services, or property, or the disposal of surplus goods, whether personal, real, or intangible, including all amendments, extensions, or addendums to the existing contract.

SECTION IV. Section 2.72A.104 of the Salt Lake County Code of Ordinances, 2001, is amended to read as follows:

2.72A.104 Limitations on contributions

A. Cash Contributions. No person shall make total cash contributions exceeding one hundred dollars during any calendar year to a filing entity, unless that contribution is made in the form of a personal or certified check, bank draft or money order identifying the donor.

B. Anonymous Contributions. The acceptance of anonymous contributions is prohibited. Any anonymous contributions received by a filing entity shall be transmitted to the county treasurer for deposit in the county general fund.

C. Proxy Contributions. No person shall make a contribution in the name of another person or make a contribution with another person's funds in their own name, and no filing entity shall knowingly accept such contributions. No person shall solicit another person to make a contribution with another person's or funds other than in their own name. Contributions made by registered political parties or reporting entities may be made and received so long as the name of the party or filing entity is imprinted on any check or other means of contribution and is listed in applicable financial statements made pursuant to this chapter.

D. Contributions by Contractors. ~~[no person, business, corporation, or other entity that does business with the county shall make contributions to county candidates. For the purposes of this section, a person or entity shall be considered doing business with the county if it is engaged in any contract with the county on the date of the contribution. It shall also be a violation of this ordinance if a person or entity enters into any contractual relationship with the county within six months following a contributions.]~~ A person, business, corporation or other entity that is a contractor with the County is prohibited from make a total of contributions that exceed \$100.00 to any candidate for county office during the term of the contract and during a single election cycle as herein defined. For purposes of this ordinance, a person or entity shall be considered a contractor and doing business with the county if it is engaged in any contract with the county on the date of the contribution or it has contracted with the county at any time during a one-year period prior to the date of the contribution. Any person, business, corporation or other entity making contributions of \$100.00 or more to any county candidate shall be prohibited from entering into a contract for at least one year after the date the contribution was made. This provision shall only apply to contracts in excess of ten thousand dollars and shall not apply to contracts entered into

by the county pursuant to existing statewide contracts, small cost purchases, and expedited contracts when the county council waives the requirements of this section as to the expedited contract.

E. Contribution Caps. No donor shall make contributions to a county candidate in excess of two thousands dollars per election cycle.

F. Penalties.

1. If a contribution or contributions are received without a candidate's knowledge of a violation of this section, the candidate may return the contribution without penalty if the contribution is returned within ten (10) days after the candidate knows of the violation, by way of notification from the County Clerk.

2. If any contribution is made in violation of the prohibition on contributions by contractors, any existing county contract with the contractor may be voided, at the discretion of the county mayor or council. Any contractor who knowingly makes a contribution or contributions in violation of this provision shall be guilty of a class B misdemeanor.

3. If any contribution is made in violation of the prohibition on contributions by contractors, the official to whom that contribution is made must return the contribution. Any elected official who knowingly takes a contribution or contributions which not returned under subsection 1 above is in violation of this provision may and is guilty of a class B misdemeanor.

SECTION V. Section 2.72A.203 of the Salt Lake County Code of Ordinances, 2001, is amended to read as follows:

2.72A.203 County office candidate and officeholder - Financial reporting requirements - Year-end summary report.

A. Each county office candidate or officeholder shall file a summary report by January 31st of each year.

B. 1. Each summary report shall include the following information as of December 31st of the previous year:

- a. The net balance of the last summary report, if any;
- b. A single figure equal to the total amount of receipts reported on all interim reports, if any;
- c. A single figure equal to the total amount of expenditures reported on all interim reports, if any, filed during the election year;
- d. A detailed listing of each contribution received since the last summary report that has not been reported in detail on an interim report;
- e. For each nonmonetary contribution, the fair market value of the contribution;
- f. A detailed listing of each expenditure made since the last summary report that has not been reported in detail on an interim report;
- g. For each nonmonetary expenditure, the fair market value of the expenditure; and
- h. a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts minus all expenditures.

2. a. For all single contributions of fifty dollars or less, a single aggregate figure may be reported without separate detailed listings.

b. Two or more contributions from the same source that have an aggregate total of more than fifty dollars may not be reported in the aggregate, but shall be reported separately.

c. Individual donors who contribute an aggregate of [~~five~~] two hundred dollars or more over the duration of all three election cycles to a single candidate shall disclose, and candidates shall report, with the contribution, their occupation and employer. Donors shall continue to disclose their occupation and employer with every subsequent contribution made to a single candidate upon reaching the \$~~5~~200 aggregate, and candidates shall continue to report same.

3. In preparing the report, all receipts and expenditures shall be reported as of December 31st of the previous year.

C. The summary report shall contain a paragraph signed by an authorized member of the county office candidate's or officeholder's personal campaign committee or by the county office candidate or officeholder certifying that, to the best of the signer's knowledge, all receipts and all expenditures have been reported as of December 31st of previous year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

SECTION VI. Section 2.72A.204 of the Salt Lake County Code of Ordinances, 2001, is amended to read as follows:

2.72A.204 County office candidate and officeholder - Financial reporting requirements - Interim reports.

A. Each county office candidate or officeholder shall file an interim report before five p.m. on the following days in any year in which the candidate or officeholder has filed a declaration of candidacy for a public office for that year.

1. For the period ending march 31, the report shall be due April 5th;
 2. For the period ending eight days before the primary election, the report shall be due seven days before the primary election date;
 3. For the period ending September 10th, the report shall due September 15th;
- and
4. For the period ending eight days before the regular general election, the report shall be due seven days before the regular general election date.

B. Each interim report shall include the following information:

1. The net balance of the last summary report, if any;
2. A single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;
3. A single figure equal tot he total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;
4. A detailed listing of each contribution received since the last summary report that has not been reported in detail on a prior interim report;
5. For each nonmonetary contribution, the fair market value of the contribution;
6. A detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;
7. For each nonmonetary expenditure, the fair market value of the expenditure; and

8. A net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and

9. A summary page in the form required by the county clerk that identifies;
- a. Beginning balance;
 - b. Total contributions during the period since the last statement;
 - c. Total contributions to date;
 - d. total expenditures during the period since the last statement;
 - e. Total expenditures to date.

C. 1. For all individual contribution of fifty dollars or less, a single aggregate figure may be reported without separate detailed listings.

2. Two or more contributions from the same source that have an aggregate total of more than fifty dollars may not be reported in the aggregate, but shall be reported separately.

3. Individual donors who contribute an aggregate of ~~five~~ two hundred dollars or more over the duration of all three election cycles to a single candidate shall disclose, and candidates shall report, with the contribution, their occupation and employer. Donors shall continue to disclose their operation and employer with every subsequent contribution made to a single candidate upon reaching the ~~\$5~~200 aggregate, and candidates shall continue to report same.

SECTION VII. Section 2.72A.206 of the Salt Lake County Code of Ordinances, 2001, is amended to read as follows:

2.72A.206 County office candidate and officeholder - Failure to file reports - Notice by county clerk - Penalties - Limitation of action.

A. Within five days after a deadline for the filing of an interim report and within thirty days after the deadline for filing a summary report, the county clerk shall review each filed report to ensure that:

1. Each county office candidate and officeholder that is required to file an interim report or summary report has filed one; and
2. Each interim report or summary report contains the information required by this part.

B. 1. If a county office candidate fails to timely file an interim report due immediately before the regular primary election, September 15th, or immediately before the regular general election, the county clerk shall, after making a reasonable attempt to discover if the report was timely mailed, inform the appropriate election officials who:

- a. Shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or
- b. Shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and
- c. May not count any votes for that candidate.

2. Any county office candidate who fails to file timely a financial statement required by this part is disqualified.

3. Notwithstanding subsection (B)(1) and (B)(2), a county office candidate is not disqualified if:

- a. The candidate timely files the reports required by this section;
- b. Those reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and
- c. Those omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

C. 1. Upon review of the county clerk, if it appears that any county office candidate or officeholder has failed to file an interim report or the summary report required by law, if it appears that a filed interim report or summary report does not conform to the law, or if the county clerk has received a written complaint alleging a violation of the law or the falsity of any summary report, the county clerk shall, within five days of discovery of a violation or receipt of a written complaint, notify by registered mail or personal service, the county office candidate or officeholder to file an interim report or summary report correcting the problem.

2. It is unlawful for any county office candidate or officeholder to fail to file or amend an interim report or summary report within fourteen days after receiving notice from the county clerk under this section.

a. If a candidate or officeholder's failure to file a report results from inadvertence or neglect the candidate or officeholder is guilty of an infraction.

b. If a candidate or officeholder files a report later than 14 days after receiving notice from the County Clerk or if a candidate or officeholder files a report that includes inadvertent omissions or insignificant errors or inaccuracies, and those errors or inaccuracies are not corrected in the candidate or officeholders next report, the candidate or officeholder is guilty of an infraction.

c. If a candidate or officeholder knowingly and intentionally violates any reporting requirement by failure to file a report or knowingly and intentionally filing a false report, the candidate or officeholder is guilty of a class B misdemeanor.

~~D. [Each county office candidate or officeholder who violates subsection(c)(2) is guilty of an infraction, with the following exceptions:~~

~~1. A candidate or officeholder does not violate subsection (c)(2) if;~~

~~a. The candidate or officeholder files the reports required by this section prior to the expiration of the fourteen days notice set forth in subsection (c)(2);~~

~~b. Those reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and~~

~~c. Those omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report; or~~

~~2. The failure to comply with subsection (c)(2) results from inadvertence or negligence or is otherwise not an intentional violation.~~

~~E. The county clerk shall report all violations of subsection(c)(2) to the district attorney;~~

~~F.] Any officeholder convicted of a misdemeanor under section (c)(2) of this section shall be subject to removal from office by judicial proceedings, as provided in Section 77-61, et seq., Utah Code Annotated ([1080] as amended).~~

~~[G.] E.~~ If a fourteen-day notice has been given by the clerk, any prosecution must be initiated within one year after expiration of that notice. ~~[in no event shall any action under either subsection be initiated later than four years after the interim report or summary report was due under this chapter.]~~

SECTION VIII. This ordinance shall become effective fifteen days after passage and at least one publication of the ordinance or summary thereof in a newspaper published and having general circulation in Salt Lake County.

APPROVED and ADOPTED this 25th day of October, 2005.

SALT LAKE COUNTY COUNCIL

ATTEST (SEAL)

By /s/ MICHAEL JENSEN
Chair

By /s/ SHERRIE SWENSEN
County Clerk

The motion passed unanimously, authorizing the Chair to sign the same, directing the County Clerk to attest his signature, and to publish it in a newspaper of general circulation, showed that all Council Members present voted "Aye."

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Mr. Gavin Anderson, Deputy District Attorney, introduced an ordinance amending the Open Space Trust Fund - Open Space Trust Fund Advisory Committee, changing the length of board member terms. (Final adoption of this ordinance will be considered at the Tuesday, November 1, 2005, Council meeting.)

Council Member Bradley, seconded by Council Member Wilson, moved to forward the ordinance to the November 1, 2005, Council meeting for formal consideration. The motion passed unanimously, showed that all Council Members present voted "Aye."

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Ms. Arlene Johnson, Director, Facilities Management Division, submitted a letter requesting an interim budget adjustment of \$35,000 to build an enclosure for the Emergency Operations Center dumpster for security purposes.

Council Member Bradley, seconded by Council Member Wilson, moved to approve the request. The motion passed unanimously, authorizing the County Auditor to transfer \$35,000 from Revenue Projection Account Number 450-500-5050-3810-81FR to Expense Appropriation Account No. 450-500-5050-2120-81FR, showed that all Council Members present voted "Aye."

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Mr. Chris Crowley, Director, Community Services Department, submitted a letter requesting an interim budget adjustment of \$800,000 to pay for the actual bid for the Children's Museum build out, which was higher than was budgeted. This will entail increasing the Children's Museum's Contributed Revenue amount and the Construction in Progress expenditure.

Council Member Bradley, seconded by Council Member Wilson, moved to approve the request. The motion passed unanimously, authorizing the County Auditor to increase Revenue Projection Account Number 465-500-5070-3888 by \$800,000, and Expense Appropriation Account Number 465-500-5070-7310 by \$800,000, showed that all Council Members present voted "Aye."

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Mr. Dale Carpenter, Director, Business and Economic Development, submitted a letter requesting an interim budget adjustment of \$5,000, due to a grant from Utah Power to help offset one-third of the cost of a survey to determine why companies make the decision to locate or not locate to the Salt Lake County region. This will entail increasing the Operating Contributions - Restricted revenue and the Professional Fees expenditure.

Council Member Bradley, seconded by Council Member Wilson, moved to approve the request. The motion passed unanimously, authorizing the County Auditor in increase Revenue Projection Account Number 110-200-2050-3859 by \$5,000, and Expense Appropriation Account Number 110-200-2050-2930-HD10 by \$5000, showed that all Council Members present voted "Aye."

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Mr. David Yocom, District Attorney, submitted a letter requesting an interim budget adjustment of \$125,000 to purchase Risk Management Software to replace the current outdated claims management software. Funds were approved for this project in the June 2005 mid-year budget opening. This will entail transferring funds from operating expenses to capital expense.

Council Member Bradley, seconded by Council Member Wilson, moved to approve the request. The motion passed unanimously, authorizing the County Auditor to transfer \$125,000 from Expense Appropriation Account No. 110-100-1210-2930 to Expense Appropriation Account No. 110-100-1210-7410-FE04, showed that all Council Members present voted "Aye."

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Mr. Roger P. HILLAM, Manager, Real Estate Section, submitted a letter recommending that property located at 6250 West 14300 South be declared as surplus and authorizing its conveyance to **Buckskin Land and Livestock, LLC** for no fee. He also recommended approval of the following Resolution authorizing execution of a QUIT CLAIM DEED to convey this property to Buckskin Land and Livestock, LLC:

RESOLUTION NO. 3797

DATE: OCTOBER 25, 2005

A RESOLUTION OF THE SALT LAKE COUNTY COUNCIL
APPROVING GRANT OF A QUIT CLAIM DEED FROM SALT LAKE
COUNTY TO BUCKSKIN LAND AND LIVESTOCK, LLC

RECITALS

A. In 1989, Harold Bearden conveyed to the County for no fee real property consisting of 8,250 square feet of land located at approximately 6250 West 14300 South specifically for "Road Dedication" (the "Parcel").

B. The Parcel was never dedicated or used as a public road and the area has been subsequently incorporated into Herriman City. The County has not utilized the Parcel for the purpose specifically set out in the 1989 deed. Additionally, due to the limiting language in the 1989 deed, the County does not have the legal right to use the Parcel for any other purpose.

C. Herriman City is ready to approve a subdivision plat which includes the Parcel. In the subdivision plat, property in the proximity of the Parcel will be dedicated as a public road by Buckskin Land and Livestock, LLC ("Buckskin"), Harold Bearden's successor in interest.

D. It has been determined to be in the best interest of the County and public to declare the Parcel surplus property and quit claim it to Buckskin for no fee since the original public purpose for which the Parcel was conveyed, dedication of a public road, will be satisfied by Buckskin's dedication in the subdivision plat of a public road in the vicinity, which constitutes fair and adequate consideration, and because the county does not have the legal right to use the Parcel for another purpose.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Salt Lake County Council that the Parcel is hereby declared surplus property and the Mayor and County Clerk are authorized to execute the attached quit claim deed and deliver it to the Real Estate section for recording.

APPROVED and ADOPTED this 25th day of October, 2005.

ATTEST (SEAL) SALT LAKE COUNTY COUNCIL
By /s/ MICHAEL JENSEN
Chair
By /s/ SHERRIE SWENSEN
County Clerk

Council Member Bradley, seconded by Council Member Wilson, moved to approve the resolution, authorizing the Chair to sign the same and directing the County Clerk to attest his signature, showed that all Council Members present voted "Aye."



On October 18, 2005, the Council approved Application #22474 filed by Irv Eastham to rezone 3.543 acres of a 15.36-acre parcel, located at 9361 South North Little Cottonwood Road, from FR-20 (forestry and recreation - 20 acres minimum lots) to FR-2.5 (forestry and recreation - 2.5-acre minimum lots). This property is located within the Foothills and Canyons Overlay Zone (FCOZ).

Council Member Horiuchi stated having voted on the prevailing side of this issue last week, he would like to ask for reconsideration of the decision to look at the public policy implications raised by some of his colleagues. Also, some of the Council Members were confused about the location of the site. He would like to advertise another public hearing and have another discussion about the issues.

Council Member Hatch stated the Council has another eight days before the ordinance approving the zoning change becomes effective (ordinances become effective 15 days from date of approval).

Mr. Tom Christensen, Deputy District Attorney, stated the Council can procedurally reconsider their decision on this matter during the 15-day period, but expressed concern about the takings issue. He suggested the Council schedule a closed meeting prior to the public hearing to discuss any potential liability. At this point, the applicant has vested rights.

Council Member Horiuchi, seconded by Council Member Crockett, moved to reconsider the decision and schedule the public hearing for Tuesday, November 1, 2005, at 4:00 p.m., authorizing the County Clerk to place a Notice of Public Hearing in a newspaper of general circulation, and requesting the Planning & Development Services Division to notify the applicant by telephone. The motion passed 6 to 2, showed that all Council Members present voted "Aye" with the exception of Council Members Jensen and Hendrickson who voted "Nay." (Council Member Wilde was absent.)

Council Member Hatch stated he would like an opinion from the District Attorney's Office as to why zoning ordinances are handled differently than other ordinances. Other ordinances are first introduced at a Council meeting, then approved at the next meeting. Zoning ordinances only appear on the agenda one time. He would also like an opinion as to whether or not the Mayor can veto zoning ordinances.

Mr. Christensen stated he has never seen a zoning ordinance vetoed; however, the Mayor has the authority to veto legislative actions, so it would be possible for the Mayor to veto a zoning ordinance.

Council Member Jensen stated it didn't make sense that the applicant would have vested rights before the 15-day period expired.

DATE TUESDAY OCTOBER 25TH, 2005

Mr. Christensen stated the applicant has rights at the end of the 15-day period, but vesting occurs prior to the effective date because he has gone through the rezoning process.

Council Member Jensen stated he felt uneasy about reconsidering the decision because the application was not present and left last week thinking he had a decision.

Council Member Hendrickson stated he would like information as to how much developable property there is in the area.

Council Member Bradley stated he would like to be advised as to what can legally happen within the 15-day period, and if the Council had the right to extend that 15-day period.

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THERE BEING NO FURTHER BUSINESS to come before the Council at this time, the meeting was adjourned at 5:30 p.m., until Tuesday, October 25, 2005, at 4:30 p.m.

SHERRIE SWENSEN, COUNTY CLERK

By _____
Deputy Clerk

CHAIR, SALT LAKE COUNTY COUNCIL

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Tab 5

COUNTY COUNCIL

DATE TUESDAY NOVEMBER 1ST, 2005

Department of Transportation (UDOT) to grade and construct sidewalks and appurtenances (incident to the improvements and grading of Redwood Road in connection with their road widening project) over parcels of land located at 3053 and 3060 South Lester Street, West Valley City, and setting its value for \$9,450.00.

Council Member ^(b)Bradley, seconded by Council Member ^(b)Horiuchi, moved to set the public hearing for Tuesday, November 22, 2005, at 4:00 p.m. The motion passed unanimously, authorizing the County Clerk to place a Notice of Public Hearing in a newspaper of general circulation, showed that all Council Members present voted "Aye."

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On October 18, 2005, the Council approved Application #22474 filed by Irv Eastham to rezone 3.543 acres of a 15.36-acre parcel, located at 9361 South North Little Cottonwood Road, from FR-20 (forestry and recreation - 20 acre minimum lots) to FR-2.5 (forestry and recreation - 2.5-acre minimum lots). On November 25, 2005, the Council voted to reconsider the decision to approve this rezoning application and scheduled another hearing for today. The previously approved rezoning ordinance will not become effective until tomorrow (ordinances become effective 15 days from date of approval).

TYPO
"OCTOBER"

Mr. Tom Schafer, Planning & Development Services Division, presented maps of the area and stated the applicant requested to rezone 3.543 acres of a 15.36 acre parcel from FR-20 (forestry and recreation - 20 acre minimum lots) to FR-2.5 (forestry and recreation - 2.5 acre minimum lots) to create a one-lot subdivision. The subject property is located on the east side of North Little Cottonwood Road. The property to the north, east and southeast is zoned FR-20. The property to the west and southwest, west of North Little Cottonwood Road, is zoned R-1-15/zc (single-family residential). The property is located within the foothills and canyons overlay zone and is consistent with the Granite Community Master Plan which designates this area as lot-density residential (FCOZ). The Granite Community Council recommended approval of the application. On August 9, 2005, the Salt Lake County Planning Commission recommended approval of the application.

Council Member ^(b)Hatch asked Mr. Schafer to point out the parcels on the east side of the road that are owned by public entities and those that are privately owned.

Mr. Schafer stated he did not have an ownership map. Without such a map he would be unable to point out which are publically and privately owned.

Council Member Ashton stated North Little Cottonwood Road seemed to divide the zoning. There is residential on one side of the west side of the road and a forestry zone on the east.

Council Member Horiuchi asked if there was a major difference between the process for rezoning regular property and the process for rezoning property located within the foothills and canyons overlay zone.

Mr. Schafer stated there are more stringent development and design standards associated with the foothills and canyons overlay zone.

Council Member Hendrickson, seconded by Council Member Ashton, moved to open the public hearing. The motion passed unanimously, showed that all Council Members present voted "Aye."

Mr. Grant Kesler, a partner of LC Canyon Partners, 3739 Brighton Point Drive, stated he was confused. The statutes and ordinances he read distinguishes between hearings and

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meetings. A public hearing must give 30 days notice in a newspaper, be posted, and the applicant notified at least 10 days in advance of the hearing.

Council Member Hatch asked Mr. Kesler if he was notified of this hearing.

Mr. Kesler stated he was advised by his partner, Irv Eastham, on Friday or Saturday. Mr. Eastham was called by one of the County's planners.

Mr. Schafer stated he called the applicant, Irv Eastham, after the Council decided to reconsider its prior approval of the application on October 25, 2005, and notified him of the new hearing date.

Mr. Jeff Daugherty, Director, Planning & Development Services Division, stated he had a conversation with Mr. Eastham as well.

Council Member Bradley stated he was fairly certain that Mr. Kessler called his office no later than Thursday. A message was forwarded to him and he returned his call.

Mr. Kesler stated the rezoning application was initiated six months ago. It was first presented to the Granite Community Council at two or three public meetings. The community council unanimously recommended that the zoning be changed from FR-20 to FR-2.5. The application then went before the Salt Lake County Planning Commission, who also unanimously recommended approval of the application. There was never any dissenters and no member of the public ever spoke in opposition at any of the meetings. When the application came before the Council two weeks ago, the Council approved it. He was confused as to why this issue is back before the Council. They took the Council's approval on October 18, 2005, as a final order. He reiterated that the Council did not have the right to place the application back on the agenda without going through due process. The rules apply to the Council the same as they apply to everyone else.

Council Member Hatch asked Mr. Kesler if he felt the Council should just rubberstamp the recommendations of the community council and planning commission, or if it should exercise its own independent judgement.

Mr. Kesler stated he didn't expect the Council to rubberstamp the recommendations, but if the process was being started over again, it should be fair and adequate notice given to the applicant and the community.

Council Member Hatch stated ordinances become effective 15 days from the date of approval. That was a relevant factor as to when this hearing had to be held.

Mr. Kesler stated there was nothing in the statutes or ordinances that give the Council the right to do what it is doing; there is also nothing that precludes it. The statutes are silent. It came down to a matter of fairness and due process.

Council Member Horiuchi stated if the Council were to give a 30-day notice, it would run beyond the 15-day period and the ordinance would get de facto approval regardless of how the Council votes.

Mr. Irv Eastham, a partner of LC Canyon Partners, 7561 Brighton Point Drive, stated as Mr. Kesler mentioned, they have gone through many hearings. They spent a lot of time talking with people. If they heard there was any opposition, they would visit people in their homes, address their concerns and explain what they were doing. Their fears were allayed and that is why no one objected to the application. The adjacent property to the north is owned by Salt Lake City. Salt Lake City knows what they are doing and has given its approval to provide water for this lot. The property to the east of Salt Lake City's property is owned by the Bureau of Land Management (BLM). Salt Lake City leases a portion of this property for its Telford water tank. LC Canyon Partners also has permission to build a water tank on BLM's property, just above Salt Lake City's water tank. The tank will be buried in such a way that most of it can't be seen and they will build an improved, but not paved, road to the tank. They have also obtained permission from the BLM to do testing on the property. Next to BLM's property is a piece of privately-owned property zoned FR-20, which is a mining lease. The property to the southeast is owned by the Robert DeSpain family and zoned FR-20. LC Canyon Partners had an option to purchase part of that property. Had they

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exercised that option, they would have had 27 acres and could have just gone ahead and developed the one-lot subdivision. However, this would have precluded them from helping out with the Bonneville Shoreline Trail and making more open space for the community. (The Granite Community Master Plan and the Bonneville Shoreline Trail Master Plan shows a portion of the Bonneville Shoreline Trail running through this property.) They decided to take the route of having the property rezoned because it would be a socially responsible action.

Council Member Horiuchi stated the portion of the property that would be contributed to the Bonneville Shoreline Trail is unbuildable property. Even if LC Canyon Partners purchased more property from the DeSpains, it would still be in their best interest to donate land for the Bonneville Shoreline Trail. They could put it in a conservation easement with Utah Open Lands. LC Canyons would still own the property, but the development rights would be gone.

Mr. Eastham stated once the lot is developed, it will be sold to someone else who will build a home. LC Canyon Partners will no longer have control over what happens with the property.

Council Member Hendrickson asked how much of the property to the north is buildable.

Mr. Eastham stated the property to the north is owned by Salt Lake City. It has a flat buildable area, but they are not likely to sell this property for development. They actually acquired this property through a trade with the Robert DeSpain family so they could have access to their water tank. The DeSpain property to the southeast doesn't have any buildable area unless someone wanted to invest money to move a 48-inch pipe out of the middle of the buildable area. Most of the area has over 30 percent slopes.

Mr. Mark Clemmons, 131 1st Avenue, SLC, stated he is a lobbyist for the Utah Chapter of the Sierra Club. He commended the Council for its willingness to take a second look at this zoning application and consider the disadvantages of rezoning this property. The Sierra Club has 3,500 members in Salt Lake County. They are concerned about open space, recreation, and protection of property values. As he understood the rezoning proposal, the landowner will receive a building lot in exchange for ceding a right-of-way for the Bonneville Shoreline Trail. The Sierra Club is a big proponent of the Bonneville Shoreline Trail; however, the rezoning would give the landowner a profit of perhaps several hundred thousand dollars in exchange for a disproportionate consideration the public will receive for the trail easement of only several thousand dollars. He felt this rezoning would establish an insidious precedent. The North Little Cottonwood Road provides a logical boundary between the property designated as FR-20 and the area designated for other zoning. He urged the Council to preserve the integrity of the FR-20 zone.

Mr. Mike Tuckett, 1774 Hubbard Avenue, SLC, a member of LC Canyon Partners, asked how Mr. Clemmons was notified of this meeting.

Council Member Crockett stated a notice was placed in Sunday's newspaper.

Council Member Wilson, seconded by Council Member Bradley, moved to close the hearing, showed that all Council Members present voted "Aye."

Council Member Horiuchi asked if the Council could have a full-blown hearing process like Mr. Kessler suggested.

Mr. Christensen stated the only reason the Council is allowed to reconsider its prior decision is because the rezoning ordinance adopted provides for a 15-day period before it becomes effective. If the Council acts outside of that 15-day period, the effective date will automatically occur.

Council Member Hatch stated the applicants have said if their property is rezoned they will deed approximately 12 acres to the County for the Bonneville Shoreline Trail. He asked if the County had any written agreement.

Mr. Christensen stated there was no written agreement. There have been some offers and assurances, but they are not enforceable at this point. Deeding the 12 acres could be made a condition to the issuance of a building or subdivision permit. If the landowners sold the property before the 12 acres were deeded, the County could not enforce that condition against a

DATE TUESDAY NOVEMBER 1ST, 2005

subsequent purchaser.

Council Member Horiuchi asked how many parcels along the east side of North Cottonwood Road would be buildable in a FR-2.5 zone.

Mr. Tom Roach, Planning & Development Services Division, stated he couldn't answer the question without some research, but there could be some development potential if different combining issues came together.

Council Member Hendrickson stated the property to the north would be the only possibility of development.

Council Member Bradley stated his long-term agenda has been protection of the foothills. If higher density zoning crossed North Little Cottonwood Road, it could potentially open up that area for more development, which would be unacceptable. He could not support a development avenue so close to the canyon entrance.

Council Member Hendrickson stated that there is privately-owned property on the east side of Wasatch Boulevard. If zoning requirements are met, sometime in the future there will be additional development take place.

Council Member Hatch stated he initially voted against this rezoning proposal. He realized if the landowner acquired additional acreage to meet the 20-acre minimum, he would be entitled to a building permit; however, his concern was all of the other parcels that could potentially be built upon if the zoning were changed to FR-2.5. If the zoning were changed, there are four or five locations that could be developed and there could be a dozen mega mansions on the wrong side of the North Little Cottonwood Road. He believed the road was sacrosanct and there should be no development on the east side of it. Even though there is some potential for development, having one or two homes on a minimum of 20-acre lots is a far superior outcome than having a dozen or more homes.

Council Member Wilson stated she initially supported the rezoning proposal, but has since changed her mind. Even though the staff provided the Council with a lot of information, questions remain unanswered until the site is visited and it is clear exactly where the subject property is located. It was a rather rushed scenario two weeks ago when the rezoning was approved. Based on the map presented, she knew the property was on the east side of the road, but assumed it was farther north. Before this meeting she visited the site. There are multiple homes on the west side of the road and she realized that the east side could end up looking much the same if higher density zoning were approved. She had a great love of the canyons and wanted to protect them by creating aesthetic buffer zones.

Council Member Ashton stated he was absent for the original vote. The applicants followed a process to the best of their ability. They have a lot that can be built upon; the only question is lot size. The rezoning would be consistent with the master plan; the staff, community council and planning commission all recommended approval; and there is an absence of public outcry. He found it hard not to support the rezoning.

Council Member Horiuchi stated he voted on the prevailing side, then offered a reconsideration because of an inquest of his colleagues. He also visited the site since the original vote. He realized that if the subject property is developed, it will be a pricey situation and there will probably be only this one lot on the east side of the road. However, warning bells went off, and the rezoning just didn't feel right to him.

Council Member Crockett stated he has driven by the subject property for years and it never occurred to him that anyone would build on the east side of the road. There are occasions that he would advocate granting a higher density zoning, such as at transit developments, but he can't see it for this property.

Council Member Ashton, seconded by Council Member Hendrickson, moved to reapprove Application #22474. The motion failed 2 to 5 with Council Members Ashton and Hendrickson voting "Aye" and Council Members Horiuchi, Wilson, Bradley, Hatch, and Crockett voting "Nay."

DATE TUESDAY NOVEMBER 1ST, 2005

MOTION →

Council Member Wilson, seconded by Council Member Hatch, moved to rescind the previous rezoning ordinance approved on October 18, 2005. The motion passed 5 to 2 with Council Members Horiuchi, Wilson, Bradley, Hatch, and Crockett voting "Aye" and Council Members Ashton and Hendrickson voting "Nay."

Council Member Crockett stated when a rezoning application has been denied, by law a reapplication cannot be filed for one year. The vote today, however, will not preclude one of the Council Members from adding it to the agenda without waiting a year if the applicant can come up with a reason why it would have a different outcome.

Council Member Hatch echoed Council Member Crockett's comments. As public elected officials their doors are always open.

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THERE BEING NO FURTHER BUSINESS to come before the Council at this time, the meeting was adjourned at 5:22 p.m., until Tuesday, November 8, 2005, at 4:00 p.m.

SHERRIE SWENSEN, COUNTY CLERK

By

Deputy Clerk

CHAIR, SALT LAKE COUNTY COUNCIL

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