

BOARD OF COUNTY COMMISSIONERS, UTAH COUNTY, UTAH
MINUTES OF PUBLIC MEETING
COMMISSION CHAMBERS, ROOM 1400
OF THE UTAH COUNTY ADMINISTRATION BUILDING, PROVO, UTAH
December 31, 2002 - 9:00 a.m.

PRESENT: COMMISSIONER DAVID J. GARDNER, ACTING CHAIR
 COMMISSIONER JERRY D. GROVER, CHAIR
 COMMISSIONER GARY R. HERBERT

ALSO PRESENT:

Kent Sundberg, Deputy Attorney	Joseph Miner, MD., Health Department
Arlin Kuhni, Clerk-Auditor	Randall Covington, County Recorder
Kim Jackson, Clerk-Auditor Elect	Charlene Christense, CVB
Bruce Hymas, Finance Officer	Bryce Armstrong, Community Development
Brenda Allen, Equalization	Richard Nance, Human Services
Susan Shepherd, Purchasing Agent	Dane Spencer, Appraiser's Office
Jeff Mendenhall, Community Development	Harley Gillman, Applicant
Clyde Naylor, Public Works	Janiece Jacobson, Applicant
Mel Hudman, Treasurer	Gordon Lowe, The Appraisers, Inc.
Susan Miller, Personnel Director	Sharon Haddock, <u>Deseret News</u>
Jim Tracy, Utah County Sheriff Elect	Linda Strickland, Deputy/Commission Clerk

Commissioner Grover called the meeting to order at 9:05 AM. The following matters were discussed:

Prior to beginning the agenda items Commissioner Grover noted that after 2,922 days, 70,128 hours, 4,207,680 minutes, 252,000,000,000 seconds of service to the county, they are giving a formal farewell tribute to Commissioner David J. Gardner. This is his last commission meeting and in lieu of a formal retirement party, they are recognizing his two full terms of service to Utah County. He expressed the opinion that the county is in much better shape after 8 years in office and much of that is due to the efforts of Commissioner Gardner. Commissioner Grover said he calculated that over 10,000 decisions were made which were always well prepared, well thought out and well performed. He presented Commissioner Gardner with a plaque of collectible guitar picks from various famous deceased performers. He expressed the feeling that Commissioner Gardner has been not only a colleague, but a good friend. Commissioner Herbert noted politics is a tough business and it is difficult to be in an elected official's position and make decisions that cannot please everybody. Unfortunately, in politics, the public doesn't really get to understand and know the elected official and they only get to see and hear what is in the news media. He mentioned some things about Commissioner Gardner of which the public is unaware: 1) One of the things for which the Commission is responsible, is to be involved in health and human services on advisory and accountable boards. Commissioner Gardner has been the most qualified commissioner in the State of Utah to address those health and human service issue. He has testified before the legislature in many capacities; has chaired many UAC committees on health and human service issue; and has been the designated expert in the State of Utah in that area. It will be very difficult to replace Commissioner Gardner's expertise in this arena alone. 2) Only a few individuals know of Commissioner Gardner's musical talent and he could have made his living in that arena if he had so chosen. 3) Many know what a great speaker Commissioner Gardner is. He is able to articulate issues and make presentations that are interesting and get to the heart of the matter. He is very learned and intelligent and most agree he is a very smart man. He has many degrees and has not only book learning, but also learning from experience and travels. 4) Commissioner Gardner is a very kind, generous and compassionate man. There have been times when people have come before the Board of Commissioners who have been down on their luck and Commissioner Gardner has paid these peoples' taxes out of his own pocket. You don't see many elected officials who are willing to do that. Commissioner Gardner has sent notes and letters to people who he has been concerned about. He is sensitive and concerned about his fellow man and has spent time listening to the troubles of others when he has had many troubles of his own. Commissioner Herbert concluded that Commissioner Gardner has been and will continue to be a good friend. He presented Commissioner Gardner with a Swiss Army Knife and a credit card clock. Commissioner Gardner expressed his appreciation for the comments. He said it seems like a very short time since his first commission meeting and he feels very honored to have served Utah County. He said he had made some very good friends during his term. While he agreed he had made some unfortunate personal decisions; he can truthfully say his personal life never affected his job with Utah County. The Board recognized other outgoing elected

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- ROWLEY, AND BRENDA ROWLEY, FOR THE 6250 WEST BRIDGE REPLACEMENT PROJECT, FOR THE AMOUNT OF \$2500**
6. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH IRONMAN NORTH AMERICA, INC., FOR THE HALF IRONMAN TRIATHLON TO BE HELD IN 2003**
 7. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE APPLICATION FOR ELIGIBILITY TO PARTICIPATE IN THE FEDERAL SURPLUS PROPERTY PROGRAM**
 8. **SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL OR INDIVIDUALS**
 9. **SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING TO DISCUSS PENDING OR REASONABLY IMMINENT LITIGATION**

Consent Agenda Item Nos. 1-9; and Regular Agenda Item Nos. 1, 4, 5, 6, 7, 8 and 9 were unanimously approved, authorized, adopted, continued and set.

AGREEMENT NOS. 2002-646, 2002-647, 2002-648, 2002-649, 2002-650 and 2002-651
RESOLUTION NOS. 2002-97 and 2002-98
ORDINANCE NO. 2002-41
POLICY NO. 2002-15

REGULAR AGENDA

2. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH ANTHONY FERNLUND AS A UTAH COUNTY CONSTABLE** *(Continued from the December 17 and 24, 2002 meetings)*

Commissioner Gardner noted this matter has been before the Board on several occasions and legal counsel indicates Mr. Fernlund has now provided all required information. Commissioner Herbert said Mr. Fernlund had indicated that the insurance requirement had created a tremendous hardship for him. Kent Sundberg stated the contract had been revised to decrease the amount of insurance requirement, but expressed concern that Mr. Fernlund had apparently been operating during his last term without any insurance at all, which should have been required.

Commissioner Herbert made the motion to approve the agreement with Anthony Fernlund as a Utah County Constable with the finding that the required insurance and other information has been provided.

The motion died due to a lack of a second. Commissioner Grover said he could not support this candidate based on a number of issues.

Commissioner Herbert made the motion to continue a decision on appointing Anthony Fernlund to the January 7, 2003 meeting.

Commissioner Grover replied he would not support this motion either as the present term expires at midnight and he did not want to forward this problem to a new commissioner who does not know the background. He suggested the matter could be brought back before the Board by a new nominating committee. Commissioner Herbert agreed there have been issues; however, he has received a number of calls from individuals who have stated they have no complaints about his work and who support his reappointment. Commissioner Grover stated this process began in April and all candidates received early notification about the requirements. Mr. Fernlund was unwilling to undergo a background check, a psychological check, or to provide the required insurance. Not only did he hold up the nominating committee for at least two months, he has also been involved in a great deal of unprofessional behavior. Commissioner Grover continued; stating Mr. Fernlund can continue to serve papers after his term with the county has expired; however, he will not support him to carry a weapon and serve certain types of papers for the county. Commissioner Grover added, Mr. Fernlund never did undergo psychological testing which is a standard test for all

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peace officers in the state, as well as the county. This was not completed due to Mr. Fernlund's failure to meet deadlines and there has never been any attempt on his part to be responsive to the requirements. He added, Mr. Erickson could appoint Mr. Fernlund as a deputy constable if approved by the Board of Commissioners. Commissioner Herbert agreed Commissioner Grover's points are well taken, but he is unwilling to close the door on the matter and any problem that may arise by the contract expiring tonight would be the result of Mr. Fernlund's own actions. Mr. Fernlund will be notified that his contract will expire at midnight and he will not have the authority to serve papers for the county unless or until he is reappointed.

Commissioner Gardner seconded the motion to continue the decision to the January 7, 2003 meeting. The motion carried with the following vote:

**AYE: David J. Gardner
Gary R. Herbert
NAY: Jerry D. Grover**

3. ADOPT RESOLUTION APPROVING RECOMMENDATIONS OF COUNTY NOMINATING COMMISSION AND APPOINTING COUNTY CONSTABLE - ANTHONY FERNLUND (Continued from the December 24, 2002 meetings)

Commissioner Herbert made the motion to continue Agenda Item No. 3 regarding adopting of a resolution appointing Anthony Fernlund as a county constable to the January 7, 2003 meeting. The motion was seconded by Commissioner Gardner and carried with the following vote:

**AYE: David J. Gardner
Gary R. Herbert
NAY: Jerry D. Grover**

WORK SESSION

1. DISCUSS APPLICATIONS FOR REFUND OR REDUCTION OF PROPERTY TAXES ERRONEOUSLY OR ILLEGALLY ASSESSED OR PAID MORE THAN ONCE; OR FOR SETTLEMENT OR DEFERRAL OF PROPERTY TAXES FOR GREGG AND DeANNE JACOBSON ON PARCEL NOS. 33:305:0001 AND 33:305:0002 (Represented by Harley Gillman)

Harley Gillman explained he has power of attorney for his daughter and son-in-law while they were on a mission, as does his granddaughter. He said they had put a building up for sale in Lehi and during discussion with the realtor, it was learned that taxes had not been paid on part of the building since 1999. Apparently, the building with two offices was located on two separate parcels and the Jacobsons had only been receiving a tax notice for one parcel. The notice for the other parcel had been mailed to Salt Lake City and returned undeliverable. The valuation on the building was so high they believed they were paying for both offices. He talked with Brenda Allen regarding re-opening the Board of Equalization from 1999 up to and including 2002, and she provided him with the paperwork and information for appealing to the State Tax Commission. They did not pay the taxes because they were waiting to hearing from the State. They did receive a letter from the state which denied the appeal but indicated the applicants could approach the Commission for reprieve. Commissioner Gardner stated that the department review indicated the warranty deed for the second parcel did not list the city where the tax notice should be delivered, so it was mailed to the street address listed and mailed to Salt Lake City because that was apparently where the transaction had taken place. This appeared to be an error on the part of the title company and not the county. Mr. Gillman agreed the county did not make the initial error, but expressed the opinion there had been ample opportunity to correct the error. The Board agreed the 2002 evaluation should have been appealed separately and Janicee Jacobson said she had followed the instructions given and included the 2002 evaluation with the previous years. By the time they heard back from the State Tax Commission, it was too late to appeal the 2002 taxes. After further discussion, the Board determined Mr. Gillman should make a separate appeal to the State Tax Commission for 2002, informing them of the misunderstanding. If the state approves the appeal, it will then be heard by the Utah County Board of Equalization. Brenda Allen will assist Mr. Gillman and the Jacobsons in filing their appeal. There was no further action.

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2. **DISCUSS APPLICATIONS FOR REFUND OR REDUCTION OF PROPERTY TAXES ERRONEOUSLY OR ILLEGALLY ASSESSED OR PAID MORE THAN ONCE; OR FOR SETTLEMENT OR DEFERRAL OF PROPERTY TAXES FOR JOHN AND EDNA ANDERSON ON PARCEL NO. 53:138:0004**

Commissioner Gardner stated that department review did not find a county error and this matter was referred to the January 7, 2003 Consent Agenda for denial.

3. **PLACE ON REGULAR AGENDA TO APPROVE OR DENY THE SPERRY SUBDIVISION, PLAT "B"; ACCEPT IMPROVEMENT BOND OF \$885, OR VERIFICATION THAT REQUIRED IMPROVEMENTS HAVE BEEN COMPLETED; AND DETERMINE IF GREENBELT ROLLBACK TAXES ARE TO BE PAID BY THE DEVELOPER PRIOR TO RECORDING THE PLAT**

It was noted this matter was to have been discussed at the January 7, 2003 meeting and Work Session Item No. 3 was referred to the January 7, 2003 Regular Agenda for approval or denial.

PUBLIC COMMENTS

There being no further business nor public comments, the meeting adjourned at 10:10 AM. The minutes of the December 31, 2002 meeting were read and approved as transcribed.

Jerry D. Grover
Commission Chair

ATTEST:

Kim Jackson
Utah County Clerk-Auditor

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REPORTED BY: Linda Strickland