BOX ELDER COUNTY
May 21, 1992

The Board of Planning Commissioners of Box Elder County, Utah, met in public session in the Commission Chambers of the Box ELder County Courthouse, 01 South Main Street, in Brigham City, Utah at 7:30 p.m. on May 21, 1992.

The meeting was called to order by Chairman Kimber with the following members present, constituting a quorum:

Richard Kimber	Chairman
DeVon Breitenbeker	Member
Steve Grover	Member
Deanne Halling	Member
Allen Jensen	Commissioner, Member
Jon Thompson	Member
Denton Beecher	Ex-Officio Member
Marie Korth	Ex-Officio Member

Absent:

Junior Okada	Member

APPROVAL OF MINUTES:
Chairman Kimber presented the Minutes of April 16, 1992, for approval. Mr. Thompson made a motion to approve the Minutes as prepared. Mr. Breitenbeker seconded. None opposed. The motion carried.

AGENDA: (Attachment No. 1)
Hardy Subdivision Preliminary Approval:
Mr. Beecher presented the Hardy Subdivision Plat for preliminary approval. He stated that all intersections must be 90 degrees unless approved by the Planning Commission. He then recommended the entrance on 2400 North be adjusted to meet the requirements.

Mr. Beecher stated everything is complete except the letters from the utility companies and the profile of the road. Mr. Hardy is requesting he be allowed to construct a gravel road; this variance would have to be granted by the County Commission. Mr. Beecher said the Ordinance requires all improvements be completed in subdivisions. A lengthy discussion was held concerning major and minor subdivisions and the requirements for each.

Mr. Beecher stated there are three phases of the Subdivision Ordinance: 1) The Concept Plan, 2) The Preliminary Plan, 3) The Final Plan Approval. At this time Mr. Hardy is requesting approval

of the Preliminary Plan and is in the process of proving that everything is complete. Mr. Breitenbeker made a motion to approve the Preliminary Plan. Mr. Thompson seconded. None opposed. The motion carried.

Letter from Jeff Thorne: (Attachment No. 2)
Re: Darrell Nielsen Conditional Use Permit.

Chairman Kimber requested the records show the letter has been received and recorded as part of the Planning Commission Minutes. He stated an opinion had been requested from the County Attorney relative to the transfer of a conditional use permit.

Mr. Beecher stated County Attorney Jon Bunderson wrote a letter **(Attachment No. 3)** to Chairman Kimber regarding the transfer of a conditional use permit. He then read the letter along with an additional letter dated October 4, 1985 discussing Mr. Bunderson's opinion on the transfer of a conditional use permit on the Wells gravl pit. In the letter Mr. Bunderson stated it is his opinion that the permit allows the ground to be used in a particular manner. The permit applies more to the ground itself than to the person to whom the permit is issued. Mr. Bunderson's letter further stated it was his opinion that upon an application being made, the Planning commission has the authority to change the name under which the permit is held. Chairman Kimber requested that the records show that the letter has been received from Attorney Bunderson and entered into the Minutes. Chairman Kimber stated according to Mr. Bunderson's letter. an application would have to be made for consideration of the transfer of a conditonal use permit.

Chairman Kimber read another letter **(Attachment NO. 4)** from Jon Bunderson dated May 8, 1992, re: Willard gravel pit, and the question of whether or not Mr. Nielsen violated any area requirements imposed. In the letter Mr. Bunderson stated it was his opinion that Mr. Nielsen is not out of compliance within the terms of the permit because he has a letter from the State saying that he could have as many as forty acres open at any one time and still be in compliance with the dust emission requirments. Chairman Kimber requested this letter be accepted into the Minutes.

Chairman Kimber asked Mr. Beecher to write a letter to Attorney Jack Molgard in response to Mr. Molgard's letter discussed in the April Planning Commission Meeting relative to the opinion received from Attorney Bunderson. Mr. Beecher stated he had not heard from the Willard Flood District relative to the plan discussed in April's meeting concerning the overflow. Chairman Kimber stated he would suggest no action with reference to the Willard Flood.

Mr. Beecher stated they had not received any written agreement or written concerns from the Canal Company or the Bureau of Reclamation.

Mr. Darrell Nielsen, who was in attendance, stated he had met with the President of the Pine View Water Company who said he liked what had been done. He also said everything has been approved by the Water company and has been sent to the Bureau of Reclamation. Mr. Nielsen asked what would happen if the Flood Control didn't like the plan. Chairman Kimber replied he did not have an answer; we would have to wait and see what their concerns might be and proceed from there.

Mr. Nielsen asked about his permit, stating he does not have one at the present. Mr. Beecher stated it has only been expired since March, and Mr. Nielsen is operating on an extension. He said that he would recommend the Planning Commission table renewing the permit until the approval or disapproval is received from the Bureau of Reclamation and from the Willard Flood Control District. Mr. Beecher stated the Flood Control District is only a recommending board. The decision will be made after reviewing the recommendations.

Mr. Breitenbeker made a motion to table renewing the permit, indicating that the Willard Flood Control District was supposed to be back with their information and failed to do that, and we are waiting for them, and to notify Willard Flood that they have not complied with their agreement to furnish those plans. Mr. Grover seconded. None opposed. The motion carried. Mr. Beecher will write a letter to the Willard Flood District.

LAND USE CODES:

Mr. Ken Millard met with the Commissioners to discuss the proposed update to the Planning and Zoning Manual.
Verbatim discussion attached.

Mr. Breitenbeker made a motion to adjourn at 9:00 p.m. Mr. Thompson seconded. None opposed. The motion carried unanimously.

Passed and adopted in regular session this 18th day of June, 1992.

Richard D. Kimber, Chairman

ATTEST:

Marie L. Korth

AGENDA
BOX ELDER COUNTY PLANNING COMMISSION
MEETING PLACE; COUNTY COMMISSION CHAMBERS
BOX ELDER COUNTY COURTHOUSE
BRIGHAM CITY, UTAH

1. Public agenda for the Box Elder County Planning Commission meeting scheduled for 21 May 1992 at 7:30 P.M.

2. Notice given to the newspaper this 20 day of May , 1992 .

3. Approval of the minutes of 16 April 1992.

4. Scheduled Delegations:

   A. Hardy Subdivision Preliminary Approval

   B. Letter From Jon Bunderson

   C. Letter From Jeff Thorne

   D. Discussion on New Land Use Codes

   E.

   F.

   G.

   H.

   I.

   J.

5. Old Business

   A.

   B.

   C.

   D.

LAW OFFICES
MANN, HADFIELD AND THORNE
A PROFESSIONAL CORPORATION
ZIONS BANK BUILDING
98 NORTH MAIN
P. O. BOX 876
BRIGHAM CITY, UTAH 84302-0876
TELEPHONE (801) 723-3404
FAX (801) 723-8807

REED W. HADFIELD
JEFF R. THORNE
BEN H. HADFIELD

WALTER G. MANN, RETIRED

May 4, 1992

Box Elder Zoning Administrator
Box Elder County Planning Commission Members
Box Elder County Courthouse
Brigham City, Utah 84302

Re: Darrell Nielsen Conditional Use Permit

Dear Sirs:

Mr. Darrell Nielsen is in the process of negotiation to sell the existing D N Gravel Pit east of the Willard City limits.

It is the intention of Mr. Nielsen to transfer to the new purchaser the conditional use permit and to request that the new purchaser post the same bond that Mr. Nielsen has, when the transaction is completed.

It is our understanding that the conditional use permit is assignable to a new purchaser, and we are hereby giving you notice of the intention of Mr. Nielsen to transfer the permit when the new purchaser is named.

It is further Mr. Nielsen's intention that the new purchaser will appear before the appropriate officials to have the transfer of the existing conditional use permit made to his name, and to substitute his security for that of Mr. Nielsens

If you have any questions regarding this, please contact me.

Very truly yours,

MANN, HADFIELD & THORNE

By _____

JRT/pj
cc: Darrell Nielsen
pj/becty.dn

CIRCA 1890's

Box Elder County, STATE OF UTAH.

COUNTY COMMISSIONERS
ALLEN L. JENSEN
FRANK O. NISHIGUCHI
JAMES J. WHITE

OFFICERS
CARLLA J. SECRIST, COUNTY AUDITOR-TREASURER
MARIE G. KORTH, COUNTY RECORDER-CLERK
ROBERT E. LIMB, COUNTY SHERIFF
JON J. BUNDERSON, COUNTY ATTORNEY
MONTE R. MUNNS, COUNTY ASSESSOR
DENTON BEECHER, COUNTY SURVEYOR

CIRCA 1980's

May 20, 1992

Richard Kimber, Chairman
Box Elder County Planning Commission
Box Elder County Courthouse
Brigham City UT 84302

Re: Willard Gravel Pit

Dear Dick:

In response to your recent question concerning whether or not a Conditional Use Permit can be transferred, enclosed you will find a copy of an October 4, 1985 opinion, issued by myself, in the form of a two-page letter directed to Denny Beecher.

I believe this opinion covers the subject.

Very truly yours,

Jon J. Bunderson

JJB:vll
Enclosure

CIRCA 1890's

Box Elder County,

STATE OF UTAH

BRIGHAM CITY, UTAH 84302

OFFICERS

GLEN S. FIFE, COUNTY TREASURER
JAY R. HIRSCHI, COUNTY CLERK
ROBERT E. LIMB, COUNTY SHERIFF
MARIE G. KORTH, COUNTY RECORDER
JON J. BUNDERSON, COUNTY ATTORNEY
VON R. CURTIS, COUNTY ASSESSOR
DENTON BEECHER, COUNTY SURVEYOR
DORIS L. OLSEN, COUNTY AUDITOR

COUNTY COMMISSIONERS
DON E. CHASE
GLEN R. CURTIS
JAMES J. WHITE

CIRCA 1980's

October 4, 1985

COPY

Denny Beecher
Box Elder County Surveyor
Box Elder County Courthouse
Brigham City, Utah 84302

RE: Wells Gravel Pit--Conditional Use Permit

Dear Denny:

On behalf of the Planning Commission, you requested my opinion concerning the following situation.

Grant Cook was the Lessee of the Wells Gravel Pit located in the Willard area, and obtained a conditional use permit in his name. The conditional use permit was in effect for a period of time, and is still in effect. During that entire period of time, the gravel pit has continued to operate.

Mr. Cook is now, because of a court decision, no longer associated with the gravel pit and has no legal right thereto. Wells seeks to have the conditional use permit transferred to his name.

Our ordinance does not speak to the issue of the transfer of a permit. However, it would appear that a conditional use permit is issued to allow a particular use of a particular parcel of ground. It is not really a license to a particular person to do certain things with, to, or upon a particular parcel, but, rather, is a permit to allow the ground itself to be used in a particular manner.

Thus, I think the permit, under our ordinance scheme, runs more to the ground itself than to the person to whom the permit was issued.

Absent any direction in our ordinance, and based upon the above analysis, it is my opinion that upon an application being made, the Planning Commission has the authority to change the name under which the permit is held. The person to whom the permit is issued should understand that he or she then becomes responsible to meet the conditions imposed.

I have directed this letter to you, but it is intended for use by the Planning Commission.

Very truly yours,

Jon J. Bunderson
Box Elder County Attorney

JJB:jh

CIRCA 1890'S

Box Elder County, STATE OF UTAH.

COUNTY COMMISSIONERS
ALLEN L. JENSEN
FRANK O. NISHIGUCHI
JAMES J. WHITE

OFFICERS
CARLLA J. SECRIST, COUNTY AUDITOR-TREASURER
MARIE G. KORTH, COUNTY RECORDER-CLERK
ROBERT E. LIMB, COUNTY SHERIFF
JON J. BUNDERSON, COUNTY ATTORNEY
MONTE R. MUNNS, COUNTY ASSESSOR
DENTON BEECHER, COUNTY SURVEYOR

CIRCA 1980'S

May 8, 1992

RECEIVED
MAY 12 1992
COUNTY COMMRS

Mr. Richard Kimber
Chairman, Box Elder Planning Commission
Box Elder County Courthouse
Brigham City, Utah 84302

RE: Willard Gravel Pit

Dear Dick:

Pursuant to the May 1st letter from Allen Jensen making inquiries following your April 23rd meeting, I submit the following:

First, at the time I am dictating this letter I am not prepared to give an opinion as to whether or not a Conditional Use Permit can be transferred to another owner. I want to examine what may be a precedent regarding the Cook-Wells Gravel Pit and Permit, and do some additional research. In any event, I understand that is an issue which may arise in the future, and is not currently before the Planning Commission. Either Mr. Nielsen or a potential purchaser would have to raise that issue and submit the question to the Planning Commission in any event, but I will examine the issue and give you an opinion as soon as work permits.

Concerning the other issue, which I understand to be whether or not Mr. Nielsen is in violation of any area requirements imposed, I have now had an opportunity to review the Conditional

801-734-2031 01 SOUTH MAIN BRIGHAM CITY, UTAH 84302

Use Permit issued in February, 1989.

Condition #1 deals with dust emissions, and recognizes the fact that the Utah Air Conservation Regulations as adopted by the Utah Air Conservation Committee and the Utah State Board of Health basically preempt the field. In other words, the state has chosen to impose air pollution conditions, and has the ability to measure those emissions and determine whether they meet their standards. What we have said in the permit is that so long as the dust emissions meet state imposed requirements, Mr. Neilsen will be in compliance.

The issue of how many acres are open and excavated obviously has some relation to dust emissions, and as I understand it, the State Department of Health has basically said that up to forty (40) acres can be open at any one time without causing a violation of dust emission standards.

The more basic question is whether or not the county has imposed area standards referring to the size of the area which may be open at any one time.

I believe conditions #3 and #4, particularly #3, do impose area conditions.

We have imposed a condition or requirement that Phase One, as shown on the map, must be completed before Phase Two can begin. That appears on a map and can be scaled so that the size of the Phase One area can be determined.

Basically, our area restrictions are contained in conditions #3 and #4 of the permit.

It is my opinion that Mr. Nielsen is not out of compliance with the terms of the permit, because he now has a letter from the state saying that he could have as many as forty (40) acres open at any one time and still be in compliance with dust emission requirements.

It's further my opinion that Mr. Nielsen would be in violation of our Conditional Use Permit if he does not follow the steps required in paragraph #3, dealing with Phases One and Two, and however many other phases are involved.

I cannot determine whether he is in violation, because no one has scaled the size of Phase One and compared it with what is actually being done on the Phase One area; until that measurement is performed, there is no way to tell whether or not he is in compliance.

I hope this answers your questions.

Very truly yours,

Jon J. Bunderson
Box Elder County Attorney

JJB:me

DISCUSSION ON NEW LAND USE CODES:

MR. BEECHER: I would like to introduce Ken Millard. We discussed his plan last month on upgrading the code to fit the new law. I wanted him to come and explain to you a little bit as to what is entailed, to show you what we are in the process of doing, and go from there. Ken, would you explain what is happening, why we are doing what we are doing.

Ken prepared our plan back in 1972, 1973, 1974 when we adopted the zoning, mobile home, subdivision ordinances. His company helped prepare and write the plan and went around to all of the zoning meetings. Because he is so familiar with the plan, we recommended to you that we use him.

MR. MILLARD: I believe you understand that the Legislature last year changed the enabling legislation that permits zoning in subdivision regulations. That is the authority by which you can regulate subdivisions and zoning in the county. They have made it effective July 1. There is a possibility right there in the law that you can have a thirty day moratorium; by August 1, you should be in compliance with the new law, where you don't have subdivision and zoning regulations. It's quite a simple situation, however, it can be disasterous under some circumstances.

To give you a little additional history, over the years we have updated the ordinances that you adopted in Box Elder County almost annually the last twenty years. Then in the 1992 edition, we incorporated all the State law requires so that it is a bona fide set of regulations that you can adopt. If you adopted them without any changes whatsoever, it would have a minimum effect on what you are doing. I would hesitate to ask you to do that without knowing precisely what the changes are. Many upgrades give you tools to manage things that we didn't really have in the code twenty years ago. Little problems keep coming up, and so as experience dictates, we have tried to make sure that you have the authority, you have the procedures necessary to conduct your affairs without liability and without getting in trouble any other way.

With that said, we also are mandated to have a general plan. In the hierarchy of legal terms, the general plan is the foundation upon which the zoning and subdivision must rely. The plan is a guide on how you are going to make your decision. The codes are nothing more than affectuating those decisions or those policies that you have adopted in the county. It is just administration. To make this as painless as possible and as effective and speedy as possible, we went ahead and digitized in Word Perfect on the computer the old Master Plan. Effective July 1, we will not call it Mas-

ter Plan. The old one still refers to, we will call it a General Plan. That is one of the changes.

Another thing that will profoundly affect you and make you smile because it is very good for you, is that the advertising period for public hearings, in order to do business, is no longer thirty days for a county and fifteen days for a city. It is fourteen days for both. That means you can advertise and have the meeting in two weeks, instead of three, because fifteen days puts you a day beyond two weeks. Little things like that, definitions.

A subdivison is a division of land into two or more parcels, whereas the previous law said three or more.

MR. BEECHER: That means that every parcel of land that is sold has to be subdivided. Unless it is bonafide agriculture or bonafide commercial or industrial.

MR. MILLARD: Let me put it as simple as possible.

MR. BEECHER: It also excluded the school districts from any of the codes, any of the building ordinances, from inspections, and those types of things. They are totally exempt. Or any other State agencies. The school can build a school without having it inspected by the county inspector or the city inspector or complying with the building codes. They haven't been exempt from the building codes.

MR. THOMPSON: The way I understand it. I just finished a school over in Cache Valley, and I never saw any building inspector, only the architect. Let's say I have got a farm, and I sell an acre off of that farm?

MR. BEECHER: You have got to subdivide it. You have got to submit a subdivison plan and have it approved by the Planning Commission and the County Commission. Unless it is bonafide agriuclture or bonafide commercial uses, industrial, commercial type uses.

MR. THOMPSON: Is that mandated by State Legislature? Is that where that is coming from:

MR. MILLARD: No. That's the definition of a subdivision.

MR. BEECHER: By the State Legislature.

MR. THOMPSON: But they defined that? In those terms?

MR. MILLARD: I believe that we can legally get around it if you want to. To get around it, we can provide the additional exemptions. Before we could never require the first division to be a

subdivision. Now we can. What I am going to propose to you very simply is that you spend a little bit of time and try and go through the same process we did twenty years ago in developing the "Master Plan" then, now General Plan so that you know how we arrive at our policies and goals.

The first few pages in here is a discussion about land, of nothing but questions. It's a rehearsal of these questions and answers that gives us our goals and policies when we finally decide what the county wants and should have, and so forth. By going through those first eight pages, and you will find some little errors in here. This is meant to be a work book. Chew on it, work on it and so forth. If at all possible, the intent would be to have concensus on all the answers. Everybody feels the same. Obviously not everybody feels the same as everybody else. So what you try and do is, now you have a political decision, is what really is important to the county. I will say this much, there will be times when the elected officials will have to look beyond what the immediacy of the public is looking at in order to protect the interests of the county. It is an outright fact. You don't want to crucify them for doing that. But the more we can go through a work session like this, the more support for the decisions that will have to be made will be built into the system. There will be less likihood of crucifixion. We went through a lot of crucifixions back twenty years ago, learned an awful lot about developing thick skin, and saying, now look, that's not me, don't shoot me. I'm just a bearer of tides, you just don't like the tidings. Don't shoot the bearer of good of bad tidings.

After the first eight pages, you have essentially the original master plan goals and policies, and you do not have any of the maps. That's going to be a very expensive process to re-do all of the maps. I don't think that's essential until you have gone through to determine, first of all, how you feel about all these questions. Are we addressing them? Are there more questions that we need to address, and then look and read thorugh what the plan said twenty years ago, and say, that's got to be changed. That doesn't reflect our current thinking. Or this is pretty good. That's right on target, let's go with it. We have got to go through and work through this, so that it represents the county. One thing that glares at me. Twenty years ago we really thought that geothermal wells had a potential. I haven't heard anything about geothermal wells for a long time. Can it be resurrected? What is the latest word? Is it a non-issue any more? That's one thing we can strike right out. I'll be happy to do that.

Can you see what I am alluding to here? We had some concerns twenty years ago that are no longer concerns. Today we have some concerns that we didn't dream about twenty years ago. I think it is

only fair that you start with the work that was done before. That's the best education I think you can have. It is the fastest approach that we can take, the most cost effective, and I think -- By the time you go back to the public and have to defend any of the positions you take, the decisions made, you will be well armed. I think the public is much more educated than they were twenty years ago about these types of things anyway. We mentioned the word Master Plan, and we could have had people out with loaded guns. It wasn't hard to get people riled up in a big hurry. All we are trying to do is protect interests.

I would like to give you a bit of philosophy that underlies everything that, at least I find doing planning, and Denton, I am sure subscribes to the same thing. We are dealing with a partnership here. There is a three-way partnership. There is a private land owner, private interests. There is someone who wants to change those interests, be it developed land or whatever. We start with the farmer or the raw land. There's someone else that wants to do something. Then we also have the public as a whole represented by the government. Now if we can work that partnership so that everybody is protected, everybody is assisted, and everyone comes out the way they anticipate coming out, we have done our work. Because now we are successful. It is the mistakes that cause surprises. That's not what I expected. The miscommunication. I'll take it one step further. I have learned from the days of yore that the best public hearings are when nobody shows up. You are going to laugh at that, but if we do our homework, and when I represent private developers and have to come before a body like yours, I don't want anybody at the public hearings. Individually, myself, I have gone out and visited neighbors, anybody who might be concerned, to have them aware, educated as to what the issues are, what we are attempting to do, so that they don't come and ask what's happening. The unknown upsets people far more than saying, I can live with that, that's a known quanity. If we do our homework and everybody's happy, they don't come to the public hearings and chew us. I'm getting too old to fight the battle of a hundred people out there shooting back and forth. There's not much learning that goes on in a public hearing that is antagonistic. At public hearings we would like to have them where people really want to learn and are willing to exchange ideas, confess their sins, whatever. We learn from the process and come up with a product in that process.

My direction is to try and make sure that starting with you, by informing you as well as possible, as quickly as possible, what the issues are, what we are working with so that you are armed, you feel comfortable, you have trust and faith in the system, and you can convey that same feeling to others that you come in contact with.

The code itself. I have given Denny a copy. We'll address some of the things that you may have questions on, and as you go through it, I think my recommendation is, with the code, that Denny and I go through, and maybe just a small group, because this is very time consuming, so I can illustrate to you the changes between this and your existing ordinances. This one document contains all the zoning, all the subdivision, all the mobile home, all the recreational vehicle regulations, sign regulations under one cover.

So it's one book. I think it is important to see how the differences, the changes that are made in this code might affect you. From a professional point of view, if Denton and I, and one or two other people that may have the time to go through and mark up one of these books plus one of the existing code so that anybody could come back and look at them later without having to read it. Between this book and what I have suggested for the county is. This is generic. The new code that you would adopt would be specific Box Elder County. Every reference to County would either be Box Elder County or it would be generic county as appropriate. That's what we call customized. Any other changes that you want that we come through within the process will also be incorporated.

One of the rules that I learned early in school was the fact that change is very difficult to come by. I didn't really used to believe it very much, but I sure believe it now. People have a heavy interest in the status quo. As long as things don't change, nobody's threatened. We don't need to worry about anything. But you set about to change something, it worries people. Nonetheless, if change is ineveitable and is expected, that's the time to make the change. So if you have any other changes, since you are forced to make a change, you might as well make all of them that you need to as expeditiously as possible at one time, instead of saying, well, we didn't really do it very well. Let's go back and make some more changes. That really upsets people. That grinds at the process. We need to spend enough time to decide if there are some other changes.

Now looking back at your experience, if there is something you think should have been made, but you have been pushed so hard, that you haven't made it yet. Nonetheless, it should be made. If it isn't already incorporated here, maybe now is the time to incorporate it. Once is enough. I would prefer to respond to questions than to try and preach all night. I am prepared with you being armed like this to go through all these questions and start getting a feeling for how you feel. We can do that or you can take and look at them and start jotting things in the margins, whatever. But keep in mind that this is typeset the same size as the code, so that if you decide to take your glasses off, you should still be able to read it.

MR. BEECHER: I might just say that the law requires that you adopt this, the general plan. The County Commission has to adopt this after you recommend it to them.

MR. MILLARD: Not to be argumentative, but the County Commission will have to adopt both.

MR. BEECHER: Have they changed that? But you have to recommend them to them. You used to adopt the Master Plan and all its amendments, and the County Commission does all the rest.

CHAIRMAN KIMBER: I guess my feelings at this point are, that I would like to have the opportunity to go through this. At this point I have no intelligent questions to ask.

MR. THOMPSON: There are eight pages of them.

CHAIRMAN KIMBER: Well I could read them. I would like to see what is in the body of this before I start responding to those eight pages of questions.

MR. MILLARD: I am your servant. I am not trying to persuade you to do anything you don't want to do. The only suggestion I have is, I would hope you would go through the questions first before you look at the body. Then look at the body and see how others, your predecessors expressed themselves. Granted, I interpreted what they said. They ultimately passed it.

MR. THOMPSON: The State Legislature mandated that the County Commission accept both of those?

MR. MILLARD: They changed the procedures a little bit, and they refined the state law the point where the general plan, since it's a guide, and since it's mandatory. I am going to have to explain this to you a little bit. It's mandatory as justification for zoning. If you look at the state law, it says that you will have a general plan that will guide the decision making of the county. Then it says, it may include these elements. You get into housing and all these different things. The problem is that there are already divergent opinions as to what that little clause means.

I am a strict constructionist. I don't want to spend all my time in court trying to defend the fact that we didn't take it seriously. So I am saying, I think we have to have the plan. Others will say, well, you can't expect the county to have the plan for two or three or four years. But there is that little difference. There is the plan plus these elements. Since we are in such a good position. Mainly the general plan, I believe, if we just go through and update it, will be our solid position. I would like you to keep in

mind that we fell short something to the order of twenty percent of the population growth, or the population size. The growth was way down. We still had twenty percent more to grow to get up to what the plan anticipated in the first place. We did not explode out of the realm of what the plan was talking about. We are still within it. Therefore, I don't believe that we have the burden to go back and do all the population analyses and all of these fundamental studies just to come up with our basic plan. I think updating it is all that would be required. For some of the other counties that may not be the case because of the major part of the growth of the State. What's interesting is, you look at the population projections. Twenty years ago, we were pretty well dependent upon the State's official projections. So we didn't argue with them. We allocated by multi-county planning regions our fair share. Within the county, we allocated that growth. I haven't done a complete analysis to determine where we were right and where we were wrong. It almost looked at first glance that, generally speaking, we just didn't grow. The growth occurred in Davis, Salt Lake, and Utah Counties. So the State projection was practically right on the button. But all that growth occurred in those three counties. We didn't. Tooele is in about the same boat. There is a comparability here with the freeways. It is expected that the heavy growth would spill over in these counties. It has not.

I am using some verbiage here to justify the fact that I think we are in pretty good shape.

MR. BEECHER: What the law says, you shall. In order to acocmplish the purpose set forth in this chapter, each county **shall** prepare and adopt a comprehensive general plan for a., b., and then the plan will provide. The Planning Commission shall make and recommend to the legislative body a proposed general plan for the area within the county. You have to prepare it, submit it to the County Commissioners for their review and their adoption with your recommendations.

MR. THOMPSON: We have done that. You are going to update that, then, right?

MR. BEECHER: We have to do it again. We adopted a master plan twenty years ago, but now it has to be changed and called a general plan, it has to have certain different things in it.

MR. MILLARD: Keep in mind one thing. If you, I didn't bring the original master plan. It says 1990. The target date was 1990. So we can't very well say that's our master plan. So if we update it and say, this is our policy as of 1992. This is our new general plan, I think it fully dependable. If we should turn up something in our analysis that is significant and needs more treatment, then

it will be up to you to decide which category it falls into, the shall or the may. If it falls in the may, then you have time to do it. If it falls in the shall, then you may want to complete that task immediately. I don't really perceive that. I think almost everything you come with up now will be in the may category.

MR. THOMPSON: Who is policing that?

MR. MILLARD: Let me tell you something. I don't like to sit in the witness stand, in a chair before the judge and have attorneys beat me down. If we we don't do what the state law says, and somebody comes in, be it the gravel pit, be it whatever, and say, this is what I want to do. And you say, you can't do it. And they say, why? Because our Ordinance doesn't allow you to do it. What Ordinance? That's not effective. My attorney says you can throw your Ordinance out the window. It has no effect.

MR. THOMPSON: Because it hasn't been passed.

MR. MILLARD: Because it doesn't follow state law.

MR. BEECHER: It has right here. Effective July 1, 1992. The old one says, superceded. The legislature has given us no choice.

COMMISSIONER JENSEN: Or no money to do it.

MR. THOMPSON: So every time somebody wants to build a house in this county from here on out, it doesn't matter where it is.

MR. BEECHER: Well, rephrase that, whenever anyone wants to create a parcel of land --

MR. THOMPSON: To build a home on ?-- or anything, it's got to come before the Planning Commission? Whose idea is that? Nobody ever asked me if I thought that was a good idea.

MR. MILLARD: Keep in mind one thing. I feel we have got to put this in proper perspective. Before, you sold off the first parcel to your oldest son. That was exempt. The second one, you had to come to the county. The third one you had to come to the county. The only difference is you have to come to the county on the first one now.

MR. THOMPSON: I know what the difference is. I can see that. I can just see all kinds of problems here. Making more work for us, that's what they are doing.

MR. MILLARD: It's taking subdivision as a serious business. I have to admit that that does not bother me, because I see so many

problems with people selling off metes and bounds descriptions of land that just gets everybody in trouble. Then they want to come back and they want to subdivide and they should have thought it through before they sold the first one off because the second one doesn't let them put the road in the right place or it screws up the layout of the lot and all kinds of things. So if they will do a little planning up front, instead of cutting that first one off, it makes a lot of sense.

MR. KIMBER: We've had that happen, Jon.

MR. THOMPSON: Yes, we have. We have had to make some recommendations to change our zoning, planning because of the problems. Changed the sizes and configurations.

MR. MILLARD: One other thing that the law does provide for is a much easier way to vacate subdivisions and lots. In the subdivison everybody had an interest in it, you had one hundred percent, one person had a veto power.

MR. BEECHER: They have done a couple of good things. One is the fourteen day advertisement. The other thing that they have done: No one contests your Ordinance. If you have advertised for the fourteen days, even though you did it shabbily and didn't do it correctly, once it has been in place and no one has contested it for thirty days, they can't go back and say it was invalid. Am I remembering that correctly? The one thing that comes to mind is the Willard Zoning Ordinance when they took it to court with Darrell Nielsen. The court ruled that they didn't advertise it properly. Therefore, they didn't have an ordinance. That wouldn't occur under this new law. You have thirty days to deal with it if they didn't do it right. Definition 16, Jon, Subdivision.

MR. MILLARD: Do you have any questions? I don't know how much time you are going to spend on it. I am at your disposal. If you don't take that time, I am likely to grab him and go in a closet some place and start hammering some things out, because I need to know on some of these issues what has happened so we will know how to treat some of the things.

MR. THOMPSON: I'm like Richard. I have got to do a lot of reading before I can. I do have one question. In this county, Denton, do we really want to force everyone into an urban environment? Is that our intention? Is our master plan??

MR. BEECHER: Your existing master plan did not. It required that all urbanization be occurring in the cities and our primary goal was to preserve agriculture.

MR. THOMPSON: Every time we approve one of these subdivisions, we are in fact eluding our farm land, aren't we?

MR. BEECHER: You are if you are in prime farm land. Now this one of Hardy's is area that he doesn't farm. It's a nonfarmable area. The one to the west of it is a nonfarmable area. those are the things we are going to be looking at, is whether you are creating and taking land out of farms.

MR. THOMPSON: Those in Garland, just north of Garland that we approved?

MR. BEECHER: On 6000 West?

MR. THOMPSON: The one for Larry Butler. That is taking out prime farm land. Why did we do that? If that's against their master plan?

MR. BEECHER: Because you responded to the individual's request, or the Planning Commission did.

MR. THOMPSON: Is that good or bad?

MR. MILLARD: Can I say that the policy is that we are trying to avoid scatteration everyplace, concentrate it in the cities where it can receive the services it needs. I don't believe anybody ever thought that it was going to be an absolute black and white, you weren't ever going to do this, you were always going to do that. So on the individual basis, you have to look at it. Is it really in the county's interests to do so? Quite frankly, your leverage is in the services that are going to be required to the lot itself. I heard you talking a little while ago about paving the street in front these minor subdivisions. Paved streets are something that residents like. If they don't have them, they are unhappy residents, usually. Water supply is one of them. The state gets into water supply, making sure that it is sanitary. Because now they are looking not only at the adults, they are saying, we don't want those kids to suffer either. So the government, more and more, is intruding into these other areas. Waste disposal. They have really got a big kick on. Waste water disposal, solid waste disposal, etc. As a result a city is geared to handle these things where the county, because of the immense size, it's very costly to do this.

MR. THOMPSON: Right at the beginning, it talks about we should be looking at affordable homes for not only the rich and the wealthy, but the poor. That's unbelieveable. That's what it says.

MR. MILLARD: Housing is cheaper in the city than it is out --

MR. THOMPSON: No it isn't, not if you are going to force people to put streets and water system in.

MR. MILLARD: Let me explain myself here. There is no way they can afford it out there. If we put them out in the middle of -- half way between here and Corinne, where there is no sewer system, no water systems. It is going to be more expensive for them to have the same lifestyle as in the city. Now you can get by with some lower lifestyles, but even housing now, zoning permits, inspections, and all of the rules that have to be followed. It is very difficult. If you want to subsidize them, they are subsidized in the city as much as -- It's a question of which is going to be in the best interests of the community. They have to go to work. Sometimes the difference in rent or house payments is made up by the transportation costs. If they are going to work in Salt Lake and live out here, that's one thing. The difference is not going to be very much. If they are going to work in Brigham City where they could be close enough where they could even walk to it or be within five miles. It's really not a simple answer. It's not a simple question either. That's why by having a group of people and raising the different aspects of it, and saying you take this facet and I'll take that one, and let's put together a beautiful gem that will work, put it in the right setting, let the County Commission put it on their finger and say, we got a beauty here.

If we cannot justify what we are doing as a benefit to the present landowner and the future landowner and the future taxpayer, we haven't done our job. We have got to have some pluses on our ledger.

MR. THOMPSON: I would like to give a speech on that someday. But not tonight.
I just keep learning more and more about this.

MR. MILLARD: Any other questions?

MR. BEECHER: I guess the question is, where do you want to go from here? How do you want to proceed. How fast to you want to move?

CHAIRMAN KIMBER: I think we have to move rather rapidly.

MR. MILLARD: Don't forget to put on your Agenda that you have delcared this thirty day moratorium. If you haven't adopted it by July 1.

MR. BEECHER: Now that would be the Commissioners that would put that moratorium on, it wouldn't be the Planning Commission.

MR. MILLARD: I think everybody's got to keep that in mind. We don't want that to fall through the cracks. I don't want to see any of you in court. Because if any of you go to court, you may drag me there too, and I don't want to go to court.

CHAIRMAN KIMBER: What's your recommendation at this point, Denny? I think we have some direction.

MR. BEECHER: I would say an ad hoc committee be assigned to go through this and come back next month with some recommendations and thoughts, and each of you take and read what you have got. I think an ad hoc committee of a few people would be easier to work with than the entire body. Then have them come back and report to the body.

CHAIRMAN KIMBER: I think we are going to have a lot of your involvement, because you are familiar with a lot of this. I'm assuming that spelling errors and those things, your computer will pick that up.

MR. MILLARD: No, it doesn't. Those computers can't be trusted.

CHAIRMAN KIMBER: From what I have read, I have noticed several errors, spelling errors, words run together, those kinds of things.

MR. MILLARD: Since I talked to Denny a couple of days ago, I decided that we had better have this in front of us. When this was taken from the original plan, I have not been able to catch all of the errors in the translation. We scanned it, and I'm not sure scanning beats retyping it or not, but I had a little trouble getting thorugh that many pages very quickly.

CHAIRMAN KIMBER: I'm not being critical. I just wondered if as we go through, if we ought to mark those.

MR. BEECHER: Yes, mark any grammatical, any spelling, anything that doesn't make sense.

MR. MILLARD: Any way you want to reword it.

MR. BEECHER: Like Ken said, now is the time when we can just do the whole thing over again, something we have talked about for a number of years off and on and have never done anything, so now we have to. We just as well go through the whole gamit and rephrase it the way we want it.

CHAIRMAN KIMBER: What I would like to do is call a special work session, say in two weeks, after we have had an opportunity to go through it, read the question, look at the material. You have mentioned the geothermal energy section. Things have changed at Lucin. There are a lot of things here that I think we can each individually look at and then at that point maybe we would have some questions that Denny could pass on to you or something. I am just not prepared at this point.

MR. BEECHER: That's certainly understandable. We didn't anticipate your being prepared. We just wanted to be able to give you something so that you knew more than you did last month.

CHAIRMAN KIMBER: I think we have some direction now, that we can go. Would there be any problem with all of us getting back together in two weeks, spending an hour and a half to two hours on this, and then at that point, maybe appoint a committee to proceed from there. Is that Ok?

June 11. 7:30 p.m. The other two Commissioners will be invited.