

**APPROVED MINUTES
CACHE COUNTY COUNCIL**

May 25, 2021 at 5:00 p.m. - Cache County Chamber at 199 North Main, Logan, Utah.

In accordance with the requirements of Utah Code Annotated Section 52-4-203, the County Clerk records in the minutes the names of all persons who appear and speak at a County Council meeting and the substance "in brief" of their comments. Such statements may include opinion or purported facts. The County does not verify the accuracy or truth of any statement but includes it as part of the record pursuant to State law.

MEMBERS PRESENT: Chair Gina H. Worthen; Vice Chair Barbara Tidwell; Council Members Karl B. Ward, Paul R. Borup, David L. Erickson, Nolan Gunnell, Gordon A. Zilles

MEMBERS EXCUSED:

STAFF PRESENT: County Executive David Zook, Deputy County Executive Bryce Mumford, County Clerk Jess Bradfield, Deputy Attorney John Luthy, Public Works Director Matt Phillips and Deputy Clerk Bryson Behm

OTHER ATTENDANCE: Paul Berntson

Council Workshop (County Roads)

1. **Call to Order 3:00p.m.** – Gina H. Worthen
2. **County Roads** – John Luthy Deputy Attorney and Matt Phillips Public Works Director
John Luthy and Matt Phillips presented on the need for more turnarounds for road maintenance throughout the county. Four Locations were of specific interest, the locations included Mt Sterling near the Speth property, Paradise by the Baldwin and Summers property and in Petersboro near Avalon Hills and the Yonk property and in Benson near the Kunzler Property.
3. **Executive Session** : Approximately at 3:30 p.m.
Action: Motion made by Gordon Zilles to enter into an Executive Session; Seconded by Karl B. Ward.
Motion passes
Aye: 7 Gina H. Worthen, Barbara Tidwell, Karl B. Ward, Paul R. Borup, David L. Erickson, Nolan Gunnell, Gordon A. Zilles
Nay: 0
Action: Motion made by Karl B. Ward to leave the Executive Session; Seconded by Nolan Gunnell.
Motion passes
Aye: 5 Gina H. Worthen, Barbara Tidwell, Karl B. Ward, Paul R. Borup, David L. Erickson, Nolan Gunnell
Nay: 0
Absent: David L. Erickson, Gordon A. Zilles
4. **Adjourn** – Approximately at 4:30pm

MEMBERS PRESENT: Chair Gina H. Worthen; Vice Chair Barbara Tidwell Council Members: Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles, David L. Erickson

STAFF PRESENT: County Executive David Zook, Deputy Attorney John Luthy, County Clerk/Auditor Jess Bradfield, Assessor Kathleen Howell, Deputy Clerk Bryson Behm, Economic Development Director Shawn Milne, HR Director Amy Adams, Bart Nelson IT Director, Chief Deputy Auditor Dianna Schaeffer, Betty Weeks, Sheriff Chad Jensen and Development Director Chris Harrild

OTHER ATTENDANCE: Elaine Thatcher, Troy Cooper, Roy Hales, Madison Mumford, Diane Behl, Tere Champ-Major, Rick Major, Teri Painter, John Drew, Michael Bingham, John Spencer, Chip Spencer, Laura Harwell, Holly Gunther, Jeff Barnes, Clay Essig, Bill Wright, Richie Call

Council Meeting

1. **Call to Order 5:00p.m.** – Gina Worthen
2. **Opening Remarks and Pledge of Allegiance** –Executive David Zook
3. **Review and Approval of Agenda**
Action: Motion made by Gordon Zilles to approve the agenda; Seconded by Karl Ward.
Motion passes.
Aye: 7 Gina H. Worthen, Barbara Tidwell, Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles, David Erickson
Nay: 0
4. **Review and Approval of Minutes**
Action: Motion made by Karl Ward to approve the minutes from the May 11 meeting; Seconded by Nolan Gunnell.
Motion passes.
Aye: 5 Barbara Tidwell, Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles
Nay: 0
Abstain: Gina H. Worthen, David Erickson
5. **Minutes Follow-up**

6. Report of the County Executive: David Zook

- a. **Appointments:** Dillon L Hayden as a Deputy Sheriff (**ATTACHMENT 1**)
Action: Motion made by Gordon Zilles to approve the appointment of Dillon L Hayden; Seconded by David Erickson
Motion passes.
Aye: 7 Gina H. Worthen, Barbara Tidwell, Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles, David Erickson
Nay: 0
- b. Financial Reports: April 2021 Financial Statements
- c. ARPA Funds: \$25 million have been approved; there are specific uses of the ARPA funds, Exec Zook reached out to Dept. Heads for ideas and have reached out to the council for the same reason. Exec Zook also express his gratitude for the county's Emergency services as well mentioned the additional funding for road projects

7. Board of Equalization

Action: Motion made by Gordon Zilles to enter the Board of Equalization; Seconded by Karl Ward.

Motion passes.

Aye: 7 Gina Worthen, Barbara Tidwell, Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles, David L. Erickson

Nay: 0

- a. Findings and Determination- Grow and Multiply Ministry and Corporation of the Episcopal Church (**ATTACHMENT 2**)
Discussion: Chief Deputy Auditor Dianna Schaeffer spoke on the matters regarding the Grow and Multiply Ministry and gave her recommendation to deny their request. John Luthy of the County Attorney's office got up and concurred with Diana Schaeffer's recommendation. Chair Worthen also did a quick overview of the board of the church and her concerns.
Action: Motion made by David Erickson to deny the request of Grow and Multiply church; Seconded by Gordon Zilles
Motion passes.
Aye: 6 Gina H. Worthen, Barbara Tidwell, Karl B. Ward, Nolan Gunnell, Gordon A. Zilles, David Erickson
Nay: 1 Paul R. Borup
Discussion: Chief Deputy Auditor Dianna Schaeffer spoke on the matters regarding the Episcopal Church her strong recommendation for approval of their request. County Assessor Kathleen Howell gave a background of the situation of the church and the business connected to the church and agrees with Dianna Schaeffer's recommendation. John Luthy of the County Attorney's office addressed the exemption and a possible refund.
Action: Motion made by Paul Borup to approve the request of the Episcopal Church; Seconded by Barbara Tidwell
Motion passes.
Aye: 7 Gina H. Worthen, Barbara Tidwell, Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles, David Erickson
Nay: 0
- b. Consideration for possible refund to the Episcopal Church
Action: Motion made by Barbara Tidwell to approve the refund for the years 2019 and 2020; Seconded by Paul Borup.
Motion passes.
Aye: 6 Barbara Tidwell, Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles, David L. Erickson
Nay: 1 Gina Worthen
Action: Motion made by Barbara Tidwell to adjourn the Board of Equalization; Seconded by Nolan Gunnell.
Motion passes.
Aye: 7 Gina Worthen, Barbara Tidwell, Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles, David L. Erickson
Nay: 0

8. Department or Committee Reports

9. Items of Special Interest

- a. Animal Impound Facility Update
Discussion: Sheriff Chad Jensen presented on the update of the facility, because of rising material costs the estimate he was higher than expected the hard figure was \$3.2 million and wants some direction going forward. Worthen asked if it's a cost plus bid the Attorneys office confirmed it was a hard offer. and Barbara Tidwell asked if ARPA funds could help fund.
Action: Motion made by Gordon Zilles for initial approval for the facility while looking at other ways to fund and have the attorney's office examine the contract to avoid inflated costs.; Seconded by Karl Ward.
Motion passes.
Aye: 7 Gina Worthen, Barbara Tidwell, Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles, David L. Erickson
Nay: 0
- b. Open and Public Meetings Act Annual Training
Discussion: County Attorney James Swink presented a video from the State Auditor's office regarding rules and procedures about public meetings.

10. Public Hearings

Action: Motion made by David Erickson to set a public hearing on June 8 2021 for Ordinance 2021-16 and Resolution 2021-11
Seconded by Barbara Tidwell

Motion passes.

Aye: 7 Gina Worthen, Barbara Tidwell, Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles, David L. Erickson

Nay: 0

11. Pending Action (ATTACHMENT 3)

- a. Resolution 2021-05 Appointing two additional members to the Cache County Drainage District #6 Board of Trustees
Discussion: Bill Wright introduced himself shared his background of agriculture in the area and his experience with drainage systems in Lewiston.

Action: Motion made by David Erickson to nominate Eric Summers and Bill Wright to Drainage District 6 Board of Trustees
Seconded by Karl Ward

Motion passes.

Aye: 7 Gina Worthen, Barbara Tidwell, Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles, David L. Erickson

Nay: 0

Action: Motion made by Karl Ward to approve Resolution 2021-05; Seconded by Barbara Tidwell

Motion passes.

Aye: 7 Gina Worthen, Barbara Tidwell, Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles, David L. Erickson

Nay: 0

- b. Consideration of the RAPZ / Restaurant Tax Committee 2021 Funding Recommendations **(ATTACHMENT 4)**

Discussion: Exec. Zook clarified about the actual amount to be granted to the county fair and rodeo. Karl Ward has mentioned they have not entertained late applications in the past and the council agreed that late applications will not be accepted.

Action: Motion made by Karl Ward to amend the RAPZ funding and add \$50,000 to Zootah; There was no second

Motion Fails

Action: Motion made Gordon to Zilles to approve RAPZ funding with the correction of \$19,000; Seconded by Paul Borup

Motion passes.

Aye: 7 Gina Worthen, Barbara Tidwell, Karl B. Ward, Paul R. Borup, Nolan Gunnell, Gordon A. Zilles, David L. Erickson

Nay: 0

12. Initial Proposals for Consideration

- a. Resolution 2021-10 Resolution to approve inter-local agreements between Cache County and municipalities in the county for the administration of 2021 Municipal Elections

Discussion: John Luthy from the Attorneys office stated that since there is not budget change it doesn't require council approval.

13. Other Business (3:31:06)

- a. Children's Justice Center Grand Opening
- b. Greater Cache Valley Economic Summit
- c. Smithfield Health Days Parade
- d. Lagoon Dignitary Days
- e. Nibley Heritage Day Parade
- f. Lewiston Fourth of July Parade
- g. Hyrum Fourth of July Parade
- h. Cache County Employee Summer Party
- i. Hyde Park Hometown Days
- j. North Logan Pioneer Day Parade
- k. Logan City Pioneer Day Parade
- l. Summer Salsa Showdown

14. Council Member Reports (3:33:30)

David Erickson – UAC Conference follow up. Enjoyed UAC training and found it beneficial.

Gordon Zilles - Expressed his gratitude for county employees and said departments are well managed

Karl Ward – Mentioned a meeting with the Governor's Office about homelessness

Barbara Tidwell – No Report

Paul Borup – Expressed his gratitude for being an American citizen

Nolan Gunnell – no report

Gina Worthen – Expressed her gratitude to council and county employees

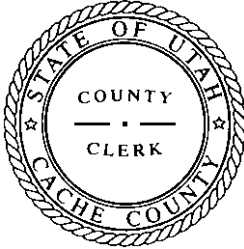
15. Adjourn – approximately at 7:15 p.m.

Jess W. Bradfield

ATTEST: Jess W. Bradfield
County Clerk/Auditor

Gina H. Worthen

APPROVAL: Gina. H. Worthen
Chair



CACHE COUNTY COUNCIL MEETING
MAY 25, 2021

ATTACHMENT 1

OATH OF OFFICE

* * * * *

I, Dillon Hayden having been appointed to the office of

Deputy Sheriff

*do solemnly swear that I will support, obey and defend the Constitution of the
United States and the Constitution of the State of Utah, and that I will
discharge the duties of my office with fidelity.*

Signed *Dillon Hayden*

STATE OF UTAH)

§

County of Cache)

Subscribed and sworn to before me this 19th day of May, 2024.



Signed *D. Chad Jensen*

D. Chad Jensen

Sheriff

CACHE COUNTY COUNCIL MEETING
MAY 25, 2021

ATTACHMENT 2

**BEFORE THE BOARD OF EQUALIZATION
OF CACHE COUNTY**

RE: Application for Property Tax Exemption
Exclusive Religious Use of the
GROW AND MULTIPLY MINISTRY

FINDINGS AND DETERMINATION
FOR TAX YEAR 2021

FINDINGS AND DETERMINATION FOR TAX YEAR 2021

This matter came before the Board of Equalization of Cache County (BOE) on May 25, 2021 on the verified application for property tax exemption submitted by the GROW AND MULTIPLY MINISTRY (GROW). The application asserts the property is used 100% for religious purposes with church activities on the main floor and the second floor being used as a parsonage.

FINDINGS

Supplemental Information-Applicant:

- Exhibit 1-Articles of Incorporation
- Exhibit 2-Tax Exemption
 - 1992 IRS letter to The Missionary Church International (TMCI) that assigned Employer Identification Number (EIN) 62-1425557 and a Group Exempt Number (GEN) TMC-8617 and informed TMCI to file Form 990 Return of Organization Exempt from Income Tax.
 - 2009 IRS letter to GROW assigning EIN 27-0633466, but explicitly stating, “an EIN does not grant tax-exempt status to non-profit organizations” and directed them to Publication 557 for the tax-exempt application process.
 - 2009 letter from TMCI to GROW asserting GROW could use GEN TMC-8617 to prove tax exemption for all their ministries so long as they are affiliated with TMCI
- Exhibit 3-Bylaws
- Exhibit 4-Property Information
- 2020 Form 1040 Individual Income Tax Return; Schedule C Profit/Loss from Business
- 2021 March bank statements
- 2020 profit and loss statement and bank statements
- Board of Directors List

Hearing:

On April 21, 2021, Board of Equalization members, Karl Ward and Gina Worthen met with GROW representatives, Rafael Gutierrez, President/Pastor, and Teresa Gutierrez, Vice President/Secretary. Also attending were County Assessor, Kathleen Howell, County Clerk/Auditor, Jess Bradfield, Chief Deputy Auditor Dianna Schaeffer, and Chief Civil Deputy Attorney, John Luthy.

Pastor Gutierrez read the 1992 IRS TMCI tax exempt letter. Ward questioned the ownership of the home being Grow and Multiply instead of TMCI that held the IRS exemption letter. Luthy asked whether or not GROW filed taxes, and Schaeffer produced the Form 1040 Individual Tax Return submitted with the application. Ward inquired about the Board of Directors composition; four of the five members are family members with two currently living at the subject property. Worthen asked if they had their own 501(c)(3) determination letter, but Pastor Gutierrez defended that their group number (GEN) had been accepted by Logan City, many retail operations, and other Counties. Schaeffer asked if he could clarify for the record what other counties had accepted GEN. He named South Carolina, California, and Texas, but deferred there were no counties in the state of Utah. Worthen wanted to know if members of GROW belonged to other local congregations. Mrs. Gutierrez said yes some belong to the Emmanuel Baptist church and GROW fellowships with many other churches. Worthen also inquired about the Iglesia Bautista Hispana expenditure on the 2020 profit and loss statement, and was told that it was another church of theirs.

Howell clarified that sales tax and income tax exemptions are very different than property tax exemptions. Pastor Gutierrez replied he had been a pastor for 35 years, they had purchased the home for a church, they are friends with other churches, they volunteer with the handicapped, and after 2017 with only a \$10 vehicle exemption granted, they had discussed selling the home and buying something bigger. Worthen asked him to tell her about using the first

floor as a church and the second floor as a parsonage. After he affirmed she pressed for more information on TCMI; did they ordain ministers? He said yes. How many churches under the TCMI umbrella? He estimated approximately 300 throughout every nation and every state. He volunteered that GROW pays \$25 monthly for the membership, \$125 for annual renewal, and must send monthly reports to TCMI. She asked if he worked for TCMI, but he said we are not employed and must develop our own support and funding. Luthy reviewed the three letters submitted as Exhibit 2 while asking Gutierrez if he had used GEN for opening bank accounts, whether or not he had other employment, should the property be owned by TCMI, and should GROW have a 501(c)(3) letter. Gina questioned if GROW might be a franchise of TCMI. Gutierrez objected. Luthy would like to know definitively what their exempt status is with the IRS.

Auditor's Office Review & Recommendation:

History of GROW applications for exclusive use:

- | | |
|------|---|
| 2016 | <i>Failed ownership test</i> |
| 2017 | <i>Residence passed ownership test, but the office area of approximately 40 square feet used exclusively for religious use was considered de minimus use. Personal property was granted on van only based on applicant attesting that of three vehicles listed only the 2003 Pontiac Montana was used exclusively for religious purposes.</i> |
| 2018 | <i>No application exemption status revoked</i> |
| 2019 | <i>No application</i> |
| 2020 | <i>Denied by council based on private ownership; appealed to state; local decision upheld</i> |

Supplemental Information-Auditor:

- Ownership History
- Utah Code 59-2-1101(g) definition "nonprofit entity"(D) no private inurement
- Utah Administrative Rule 884-24P-40
- IRS Tax Exempt Organization Searches - TCMI (yes) and GROW (no)
- IRS Publication 557 excerpt stating that to receive a written determination or affirmation of exempt status the organization must file Form 1023
- IRS 501(c)(3) Exemption Requirements- i.e. exclusively exempt purposes & no private inurement
- IRS technical excerpt on inurement
- IRS technical excerpt on private benefit

There are two statutory requirements for the property to be eligible under Utah exclusive use religious exemption. First, the property must be **owned by a non-profit**. Second, the property must be **exclusively used** for religious purposes per UCA 59-2-1101(1)(c). "Although we generally construe taxing statutes in favor of the taxpayer and against the taxing authority, we construe statutes providing tax exemptions strictly against the taxpayer." *Hales Sand & Gravel, Inc. v. Audit Division of the State Tax Commission of Utah*, 842 P.2d 887, 890-91 (Utah 1992) citing *Parson Asphalt Products Inc. v. Utah State Tax Commission* 617 P.2d 297, 398 Utah 1980.

Non-Profit Ownership. According to USTC 2.13.0 qualification under federal tax law as a 501(c)(3) organization does not automatically qualify the organization for exemption from property tax, but this designation is necessary before proving to the local BOE that the entity is a nonprofit entity per Utah Statue 59-2-1102(g) and that no earnings or donations benefit private individuals as interpreted under §501(c)(3) of the Internal Revenue Code.

Non-profit status is questionable because the 2009 IRS letter to GROW specifically declares that GROW has not been granted tax exempt status. Therefore GROW does not hold a 501(c)(3) letter of tax exempt determination from the IRS; furthermore, this EIN letter gave GROW directions for applying for tax exempt status. A 501(c)(3) letter is specifically required to qualify as a non-profit under UCA 59-2-1101(g), and Utah Administrative Rule 884-24P-40 requires the owner of parsonages to hold this 501(c)(3) designation. We believe it would be an error in judgement to stretch Utah law to qualify this applicant for exemption of Utah property taxes by using an old IRS letter granting a different entity in a different state exemption from federal taxation. GROW does not meet the strict construction required by Utah law for this property tax exemption.

Even if we were to concede that GROW falls under the umbrella of TMCI then our challenge remains the same of ensuring that no net earnings/donations inure to the benefit of private individuals per UCA 59-2-1101(g)(D) which defines a nonprofit entity.

Further research into federal IRS non-profit status as judged by a determination specialist while processing application Form 1023 under Internal Revenue Code (IRC) § 501(c)(3) raises more issues. To be exempt under 501(c)(3) of the IRC there are two basic tenets; 1) *an organization must be **organized and operated** exclusively for exempt purposes as set forth in the code, and 2) none of its earnings may **inure** to any private shareholder or individual.*

Included are two excerpts from IRS technical publications that discuss the topic of private inurement and the broader concept of private benefit that the courts and the IRS have relied on to analyze non-profit cases. These publications include numerous examples analyzing religious organizations. The burden of proof is upon the organization, and the courts have not hesitated to find that an organization has failed to carry its burden. (*Inurement* document page 28)

The **organization** of GROW is problematic because the Board of Directors is comprised primarily of family members. See Bubbling Well Church of Universal Love synopsis on page 2 (numbered page 136) of the *Private Benefit* document stating that close control of an applicant requires a clear demonstration that private interest will not be served.

An **operational** review of GROW reveals that the personal and church finances are inextricably intermingled and leads to the conclusion that there is private **inurement**, and even a minimal amount of inurement can disqualify an entity from 501(c)(3) tax exempt status. (*Inurement* document page 9-10)

Exclusive Use. With respect to GROW it is difficult to determine the boundaries of personal and religious use either physical or financial; therefore, we cannot ascertain that it is used exclusively for religious purposes. The question of exclusive use continues with their personal property. Schedule B lists four vehicles, but only two are registered to the organization, and in 2017 the applicant attested that only the van was used exclusively for religious purposes.

In light of the foregoing analysis and evidence on non-profit ownership and exclusive use, the auditor's office recommends denial, until GROW can demonstrate by a separation of private and organizational finances that no private inurement exists. Furthermore, we submit that a state appeal would provide deeper examination of the IRS exempt designations of non-profits within Utah law, issues of private inurement, and issues of determining exclusive use in a private versus a public space.

Findings of Fact: Based on the application, supplemental documentation, and matters presented to the Board of Equalization at the hearing on April 21st, 2021, the Board finds that:

1. GROW is currently the owner of record of real property described in the application
2. 1992 IRS group exempt number provided belongs to TMCI
3. 2009 TCMI letter to GROW shows affiliation at that point in time
4. 2009 IRS letter to GROW assigns EIN, but states tax-exempt status has not been granted
5. 2021 TCMI letter to GROW shows current affiliation
6. Financial documents show intermingling of personal and church expenditures
7. Board of Directors consist of four family members and one additional church member
8. Exclusive religious use of this residential property has been declared, but not proven
9. Minimal private inurement can disqualify an entity of IRC §501(c)(3) tax exempt status

Conclusions of Law:

Applicable Law: According to the Constitution of Utah Article XIII §3(1)(f) and Utah State Code 59-2-1101(3) property owned by a non-profit entity used exclusively for religious, charitable, or educational purposes is exempt from property tax. Utah State Code 59-2-1102(g) further defines a non-profit entity and discusses the concept of private inurement as interpreted under IRC §501(c)(3). Utah Administrative Rule 884-24P-40 requires the owner of parsonages to hold this 501(c)(3) designation. USTC Standards of Practice 2.13 states in part that qualification under

federal tax law as a 501(c)(3) organization does not automatically qualify the organization's real or personal property for exemption from property tax, but is necessary before proving to the local BOE that there is no private inurement. The determination of exclusive use exemption from property tax belongs to the county legislative body, and must be applied for each year. It is important to follow the hierarchy of law.

The relevant laws, rules, and standards used for determining this exclusive religious use exemption status included:

- Utah Constitution Article XIII, §3
- Utah Code Annotated 59-2-1101 & 59-2-1102
- Utah Administrative Code Rule 884-24P-35 & R884-24P-40
- Utah State Tax Commission (USTC) Standards of Practice 2
- Federal IRC §501(c)(3) and related case law regarding private benefit and inurement as summarized in Internal Revenue Service technical publications

Determination: The Board of Equalization, in a public meeting held May 25, 2021, upon lawful notice, met and reviewed the request for property tax exemption as contained in these findings and supporting documentation. Based upon the applications submitted, the auditor's recommendation, advice of legal counsel, and the law we find that GROW does hold a 2009 IRS letter assigning them an EIN number, but the EIN letter also explicitly states that "an EIN does not grant tax-exempt status." Utah law requires this 501(c)(3) designation explicitly in statute and rule of law. Furthermore, Utah statute and USTC Standards for non-profit use exemptions require that the applicant prove to the BOE that no inurement to private interest exists. Private inurement affects the non-profit determination and the exclusive use determination. We find that the applicant has failed to meet their burden of proof under the strict construction required by Utah case law on private inurement and exclusive use.

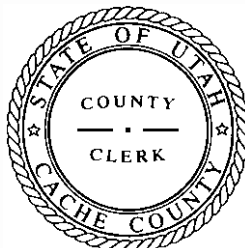
The foregoing findings were discussed and voted on by the following members of the Board of Equalization on May 25, 2021.

COUNCIL MEMBER	PARTIAL	APPROVE	DENY	TABLE	ABSENT/ABSTAIN
Karl Ward			X		
Barbara Tidwell			X		
David Erickson			X		
Paul Borup		X			
Nolan Gunnell			X		
Gina Worthen			X		
Gordon A. Zilles			X		

Therefore with regard to granting an exclusive religious use tax exempt status for 2021, the Board of Equalization of Cache County, Utah, finds the following:

_____ PARTIAL _____ APPROVED X DENIED _____ TABLED _____
ABSENT/ABSTAIN

Written this 25th day of May, 2021



Matt Worthen
Board of Equalization Chair

Attested:

Jess W. Bradfield
Jess Bradfield, Board of Equalization Clerk

**BEFORE THE BOARD OF EQUALIZATION
OF CACHE COUNTY**

RE: Application for Property Tax Exemption
Exclusive Religious Use of the
CORPORATION OF THE EPISCOPAL CHURCH

FINDINGS AND DETERMINATION
FOR TAX YEAR 2021

Application: Corporation of the Episcopal Church Contact: Thomas Call 801-322-4131

This matter came before the Board of Equalization of Cache County on May 25, 2021 on the verified application for property tax exemption submitted by the CORPORATION OF THE EPISCOPAL CHURCH (THE CHURCH). This organization owns a church (06-0018-0037) located at 85 S. 100 E. and the "Champ House" (06-0018-0001) located at 69 E. 100 N. in Logan.

History: In 1993 THE CHURCH applied to Cache County for an exclusive religious use exemption of the church. Their Articles of Incorporation state in part that their *purpose* is to acquire, by purchase, gift, grant, devise, or bequest, or otherwise, real or personal property, in trust or otherwise, for the religious, missionary, charitable, or educational purposes of the Episcopal Church. The Champ House was added in 1998 to their annual applications as 100% exclusive religious and worship activities. The assessor's office informed the auditor's office in December 2017 that a retail entity was operating at 69 E 100 N known as the Champ House. Further research indicated that Global Village Gifts, a retail shop, had been operating from this location since approximately 2012 although this information had never been disclosed to the county until specifically asked for during the 2018 application process. Summerfest also occupied office space at the Champ House. In 2018 the Council approved the exemption, but called for a review of the occupants of the Champ House for the 2019 exemption. In April 2019 council members and county administration met with representatives of THE CHURCH at the Champ House for a site visit. There was no religious use at the Champ House, and the occupants collectively paid \$1082 per month without considering their insurance costs. At that time this amount was reviewed by our county commercial appraiser and was considered in line with market rents. The council granted a partial exemption allowing the church building, but not the Champ House for 2019 and 2020. *Subsequently, THE CHURCH appealed to the Utah State Tax Commission (USTC) and Cache County was sustained at the Initial Hearing.*

The USTC determined that leasing the Champ House did not preclude THE CHURCH from qualifying for this exemption if THE CHURCH demonstrated that the leased property was being used *exclusively* for religious, charitable, or educational purposes by the tenants. The USTC found that THE CHURCH failed to meet their burden of proof regarding charitable use of the Champ house by either tenant under the existing six factor test established in the Utah County case law; therefore, the County's decision to deny was upheld. This gift to the community analysis regarding the Champ house starts on page 11 of the USTC initial hearing order issued on June 26th, 2020. *A formal hearing is scheduled with the USTC for Cases 19-128 and 20-991 on July 27th of 2021.*

Auditor's Office Review & Recommendation: THE CHURCH has submitted information regarding the current occupants of the Champ House, Summerfest and Logan Pride. Both tenants hold 501(c)(3) letters; however, this designation is not determinative of eligibility for property tax exemption per USTC 2.13.0. The organization must apply annually to the local BOE and prove their charitable use per R884-24P-35(2e). The Church is claiming a charitable exemption for the Champ House so they must prove each tenant's **"gift to the community"** exceeds the tax exempted each year. This gift can be identified by either the lessening of a government burden, or providing significant services to others without immediate expectation of a material reward. This gift to the community concept has existed in Utah Supreme Court case law since 1985 and was codified **effective January 1st of 2021** in UCA 59-2-1101(1) with a **notable change being the addition of volunteer service:**

- (e) "Gift to the community" means:
 - (i) the lessening of a government burden; or
 - (ii)
 - (A) the provision of a significant service to others without immediate expectation of material reward;
 - (B) the use of the property is supported to a material degree by donations and gifts **including volunteer service;**
 - (C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree;

- (D) *the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and*
- (E) *any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.*

In *Utah County v. IHC* the Court first articulated the six factors to be used in determining whether a particular institution is using its property exclusively for charitable purposes, but stated that the six factors provide useful guidelines for analysis of whether a gift exists in each case. In every case the foregoing factors are not of equal significance, nor must institutions always qualify under all six before it is eligible for exemption.

With respect to the Church Building we recommend approval of both real and personal property. With the addition of volunteer service to the charitable gift to the community statute, we can comfortably recommend approval of both real and personal property of the Champ house for the 2021 tax year. We also recommend approval of the refund for the 2019 and 2020 tax year exemptions for the Champ house.

Findings of Fact: Based upon the verified application and additional information the Board of Equalization finds that:

1. THE CHURCH is the owner of record of all property described in the attached application.
2. The church building is used exclusively for religious activities.
3. The Champ House generates income for THE CHURCH through “shared use” agreements with the occupants.
4. Summerfest is a 501(c)(3) letter holder whose stated ***purpose*** is to promote the general interest and welfare of the members of Summerfest Arts Faire and to further other related work. They annually organize a local arts fair receiving relatively no donations, and charging application fees and booth rent to artists and vendors. It makes no charitable donations to individuals or entities. A letter representing their “gift to the community” has been submitted for the council to consider.
5. Logan Pride Foundation is a 501(c)(3) letter holder whose stated ***purpose*** is to strengthen the LGBTQ community in Cache Valley. Their statement of functional expenses shows they gave no grants or contributions. A letter representing their “gift to the community” has been submitted for the council to consider.

Conclusions of Law:

1. THE CHURCH leases the Champ House as a source of revenue, which does not disqualify this exemption. (See Initial Hearing page 13)
2. Summerfest made no charitable donations to individuals or entities, receives relatively no donations, and there is material reciprocity in the transactions between Summerfest and the artists and vendors with whom it conducts business. A letter representing their “gift to the community” has been submitted for consideration.
3. Logan Pride Foundation gave no charitable donations to individuals or entities. A letter representing their “gift to the community” has been submitted for consideration.

Applicable Law: According to the Constitution of Utah Article XIII Sec 3(1)(f) and Utah State Code 59-2-1101(1)(b) property owned by a nonprofit entity ***used exclusively*** for religious, charitable, or educational purposes is exempt from property tax.

USTC Standards of Practice 2.13 states in part that qualification under federal tax law as a 501(c)(3) organization does not automatically qualify the organization’s real or personal property for exemption from property tax. ***The determination of exemption from property tax belongs to the county legislative body, and must be applied for each year.***

The relevant laws, rules, and standards used for determining this exclusive religious use exemption status included:

- Utah Constitution Article XIII, Section 3
- Utah Code Annotated 59-2-1101 & 59-2-1102
- Utah Administrative Code R884-24P-35 & R884-24P-40
- Utah State Tax Commission (USTC) Standards of Practice 2 and Appendix 2B
- USTC Case Law 09-2443 & 16-492
- Utah State Supreme Court Case Law -Parker v. Quinn (Utah 1901);Loyal Order of Moose (Utah 1982);

County Board of Equalization v. IHC, 709 P.2d 265 (Utah 1985)

Corporation of the Episcopal Church in Utah v. County BOE Salt Lake County (Utah 1996)

Determination: The Board of Equalization, in a public meeting held May 25, 2021, upon lawful notice, met and reviewed the request for property tax exemption as contained in these findings and supporting documentation. Based upon the applications submitted, the auditor's review, advice of legal counsel, and the law we find that THE CHURCH holds a 1942 IRS 101(6) letter that grants them exemption from federal income tax based on evidence that they were organized and operated *exclusively* for religious purposes. Leasing to another nonprofit does not disqualify THE CHURCH from property tax exemption; furthermore, THE CHURCH has shown that the tenants have provided volunteer service in excess of their tax liability for the 2021 tax year thereby satisfying their charitable gift to the community per UCA statute 59-2-1101(1) (e)(ii)(B) effective January 1st of 2021.

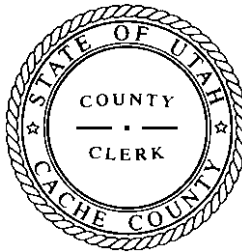
The foregoing findings were discussed and voted on by the following members of the Board of Equalization on May 25, 2021.

COUNCIL MEMBER	PARTIAL	APPROVE	DENY	TABLE	ABSENT/ABSTAIN
Karl Ward		X			
Barbara Tidwell		X			
David Erickson		X			
Paul Borup		X			
Nolan Gunnell		X			
Gina Worthen		X			
Gordon A. Zilles		X			

Therefore with regard to granting an exclusive religious use tax exempt status for 2021, the Board of Equalization of Cache County, Utah, finds the following:

_____ PARTIAL X APPROVED _____ DENIED _____ TABLED _____ ABSENT/ABSTAIN

Written this 25th day of May, 2021




Board of Equalization Chair

Attested:

Jess Bradfield, Board of Equalization Clerk

CACHE COUNTY COUNCIL MEETING
MAY 25, 2021

ATTACHMENT 3

CACHE COUNTY, UTAH
RESOLUTION 2021 - 05

**RESOLUTION APPOINTING TWO ADDITIONAL MEMBERS TO THE
CACHE COUNTY DRAINAGE DISTRICT #6 BOARD OF TRUSTEES**

WHEREAS, “the board of trustees of a drainage district shall be appointed by the legislative body of the county in which the district is located,” Utah Code Ann. § 17B-2a-206, and the County Council is the legislative body of Cache County; and

WHEREAS, pursuant to Utah Code Ann. § 17B-1-302(6)(a) the current three-member board of trustees of Drainage District #6 has voted to increase membership on the Board to five members, with at least one of the additional Board members (and two of members of the board as a whole) being required to own less than 10 acres of land; and

WHEREAS, at the County Council meeting held on April 13, 2021, the County Executive recommended the appointment of certain individuals to fill the two additional seats on the Board of Trustees of Cache County Drainage District #6; and

WHEREAS, when appointing a member of a drainage district board of trustees, “[t]he appointing authority [must] . . . allow any interested persons to be heard; and . . . adopt a resolution appointing a person to the local district board”; and

WHEREAS, the County Council properly published notice of a public hearing held on April 13, 2021, where it allowed any interested persons to be heard on the issue of appointments to the Board of Trustees of Cache County Drainage District #6;

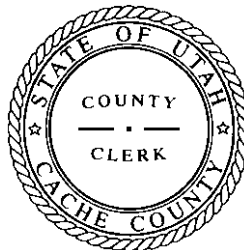
NOW, THEREFORE, the County Council adopts the following resolution:

BE IT RESOLVED, that the persons listed on the attached Exhibit A are hereby appointed to the Cache County Drainage District #6 Board of Trustees. The appointments shall be effective as of May 25, 2021, and the term of each appointment shall expire on December 31, 2024.

RESOLVED this 25 day of May 2021.

CACHE COUNTY COUNCIL


Gina H. Worthen, Chair
Cache County Council



ATTEST:


Jess W. Bradfield
Cache County Clerk/Auditor

APPOINTMENTS

05/25/2021

CACHE COUNTY DRAINAGE DISTRICT #6 BOARD OF TRUSTEES

BOARD MEMBER

ERIC SUMMERS

780 West 1600 South
Lewiston, Utah 84320
435-890-2754

eric.summers@airgas.com

Appointed to an Initial Term of

Approximately Two Years

Beginning: 05/25/2021

Expiring: 12/31/2022

BOARD MEMBER

BILL WRIGHT

800 South 450 West
Lewiston, Utah 84320
435-512-2100

twodogsfl@gmail.com

Appointed to an Initial Term of

Approximately Two Years

Beginning: 05/25/2021

Expiring: 12/31/2022

CACHE COUNTY COUNCIL MEETING
MAY 25, 2021

ATTACHMENT 4



RAPZ AND RESTAURANT PROGRAM
2021 RECOMMENDED FUNDING

No.	Entity	Title	Request	Award
1	Amalga Township	New Playground Equipment	12,500	10,000
2	American Festival Chorus and Orchestra	2021-2022 Season	30,000	30,000
3	American West Heritage Center	2021 Operational Support	93,500	93,000
4	American West Heritage Center	2021 Programming Capital/Maintenance Request	36,500	35,000
5	Cache Children's Choir	2021-2022 Season Support	12,000	10,000
6	Cache Community Band	Tuba, Equipment Trailer and Operating Expenses	10,000	10,000
7	Cache County Fairgrounds/Event Center	Cache Arena Overhead Fans	38,940	38,940
8	Cache County Fairgrounds/Event Center	Replace East and West Doors/Cache Arena	16,940	16,940
9	Cache County Fairgrounds/Event Center	WiFi and Communications build-out	10,385	10,385
10	Cache County Fairgrounds/Event Center	Pond fill	107,692	107,692
11	Cache County Fairgrounds/Event Center	Arena Surface Rehab	9,854	9,854
12	Cache County Fairgrounds/Event Center	Advertising & Promoting the Cache County Fair & Rodeo	8,620	19,620
13	Cache County - Development Services	Regional Trail Coordinator Position	35,000	35,000
14	Cache County - Development Services	Birch Canyon Survey & Recreation Assessment	40,000	40,000



RAPZ AND RESTAURANT PROGRAM

2021 RECOMMENDED FUNDING

No.	Entity	Title	Request	Award
15	Cache County - Development Services	Hyde Park Canyon Loop Trail	7,042	7,042
16	Cache County - Development Services	1400 North Middle Canal Crossing	53,433	53,433
17	Cache County - Development Services	North Logan Bonneville Shoreline Trail	6,050	6,050
18	Cache Daughters of Utah Pioneers	Museum Operating Expenses	7,500	7,500
19	Cache Valley Center for the Arts	CacheARTS Facilities	100,000	90,000
20	Cache Valley Center for the Arts	Arts Education and Outreach Prgramming	40,000	40,000
21	Cache Valley Center for the Arts	Out-of Area Marketing CacheARTS Presents FY21	25,000	20,000
22	Cache Valley Civic Ballet	CVCB: Pereformance and Education Enhancement	31,000	20,000
23	Cache Valley Cowboy Rendezvous, Inc.	Cache Valley Cowboy Rendezvous	9,900	10,000
24	Cache Valley Cruising Association	Cache Valley Cruise-In 2021	49,500	30,000
25	Cache County - Cache Valley Visitors Bureau	Boosted CVVB Domestic & International Marketing Campaign	94,525	94,525
26	Logan City - Parks and Recreation	Logan City Center Block Plaza, Splash Pad & Ice Rink	197,000	197,000
27	Common Ground Outdoor Adventures	Tourism promotion of the Cache Valley Century Ride	3,500	2,500
28	Cornish Town	Cornish Town Hall Improvements - Phase 3	33,950	34,000
29	Four Seasons Theatre Company	Four Seasons Theatre Company 2021 Season	45,000	25,000



RAPZ AND RESTAURANT PROGRAM

2021 RECOMMENDED FUNDING

No.	Entity	Title	Request	Award
31	Hyrum City	Blacksmith Fork Park - East	300,000	250,000
32	Logan City - Parks and Recreation	Trapper Park Restroom and Parking Lot Asphalt	160,000	160,000
33	Logan City - Parks and Recreation	Bridger Park Pickelball Court Lights	115,000	115,000
34	Friends of the Mendon Cottage Library	Shelving, collection development and programming needs	50,000	14,000
35	Jump the Moon Foundation	Continued and Expanding Art Services Funding	20,000	20,000
36	Logan Community Foundation dba Cache	Cache Theatre Company 2021-2022 Season	48,000	32,000
37	Logan Downtown Alliance	Logan City - Top of Utah Marathon	20,000	10,000
38	Lyric Repertory Company	Lyric Rep 2021-2022 Season	50,000	7,500
39	Millville City	South Park Pickleball Courts	111,000	111,000
40	Millville City	Park Walkway Phase 2	64,000	0
41	Music Theatre West	Fall Musical, Spring Musical, Teen Summer Workshop	38,000	28,000
42	Nora Eccles Harrison Museum of Art	NEHMA's 2021-22 exhibitions, K-12 Outreach, Public Programming	10,000	5,000
43	Nordic United	Smithfield Canyon Winter Trail	5,000	5,000
44	Nordic United	Promotion of Cache County Outdoor Winter Recreation and Maintenance	10,500	5,000
45	Providence City	Providence Pickelball Courts	120,000	0



RAPZ AND RESTAURANT PROGRAM
2021 RECOMMENDED FUNDING

No.	Entity	Title	Request	Award
46	Richmond City	White Pine Park Playground Equipment	47,000	47,000
47	River Heights City	New River Height City Park Northeast	40,000	40,000
48	Smithfield City	Blue Sox Field Restroom Facility	122,474	122,474
49	Smithfield City Children's Theatre	Ali Baba and the Forth Thieves	3,750	3,750
50	Stokes Nature Center	School and Community Program Support	35,000	25,000
51	Unicorn Theatre	Unicorn Theatre	15,000	7,000
52	United Way of Cache Valley	United Way of Cache Valley 211 Utah Pickle-ball Tournament	43,000	0
53	Utah Festival Opera & Musical Theatre	Partnership to ensure financial support for UFOMT	452,890	400,000
54	Utah Festival Opera & Musical Theatre	UFOMT Marketing Campaign	150,000	50,000
55	Utah Festival Opera & Musical Theatre	Utah Theatre Operations	10,000	0
56	Utah Festival Opera & Musical Theatre	Utah Theatre Marketing	8,000	0
57	Utah State University	Swenson Park	37,100	0
58	Utah State University	Cache Valley Community Writing Center	18,870	0
59	Whispering Canyons Foundation Inc	Operations	24,900	0
60	Zootah at Willow Park (formerly Willow Park Zoo)	Zootah Operating Expenses	155,000	155,000
GRAND TOTALS			3,449,815	2,716,205