

**UTAH STATE TAX COMMISSION
MEETING MINUTES**

9:00 a.m., Thursday, September 27, 2012

Commission Room 1000, 210 North 1950 West, Salt Lake City, Utah

Participating:

R. Bruce Johnson - Commission Chair
Marc B. Johnson - Commissioner
D'Arcy Dixon Pignanelli – Commissioner
Michael J. Cragun - Commissioner
Barry Conover - Executive Director

Commission Office:

Christa Johnson, Commission Executive Assistant
Charlie Roberts, Public Information Officer

Note: A list of others present, a copy of related materials and an audio recording of the meeting can be obtained from the Office of the Commission at 801-297-3901.

I. Call to Order

Commission Chair B. Johnson called the meeting to order at 9:00 a.m.

II. Public Comment (Individuals or groups wishing to address the Commissioners for up to three minutes on matters not related to a pending or reasonably imminent appeal to the Tax Commission)

Commission Chair B. Johnson asked if anyone wished to address the Tax Commissioners. There were no comments.

III. Consider Approving Open and Closed Special Commission Meeting Minutes of Monday, August 27, 2012 and Special Commission Meeting Minutes of Wednesday, September 12, 2012

MOTION: Commissioner Dixon moved approval of the Open and Closed Special Commission Meeting Minutes of Monday, August 27, 2012 and Special Commission Meeting Minutes of Wednesday, September 12, 2012. The motion passed unanimously.

Commissioner Dixon recognized Commission Executive Assistant Christa Johnson for her work on the minutes.

IV. Approve submission of proposed rule amendments to Division of Administrative Rules for publication in Utah Register

Commissioner Cragun introduced the following proposed rule amendment for the Commission to consider and submit for publication to the Division of Administrative Rules:

- a. R884-24P-73. Urban Farming Assessment Pursuant to Utah Code Ann. Section 59-2-170

Commissioner Cragun stated that this rule comes before the Tax Commission due to the passage of 2012 General Session Senate Bill 122. The bill enacts provisions for valuing land that is actively devoted to urban farming in a county of the first class and requires the Tax Commission to provide guidance for when land is actively devoted to urban farming. In the absence of more detailed studies, The Salt Lake County Assessor suggests that land meeting the productive capabilities of land classified as Irrigated One should receive urban farming classification.

Commissioner Cragun explained that the rules will be posted in the October 15, 2012 Bulletin. The 30-day public comment period will end on November 14, 2012. The earliest date for the rules to become effective is November 21, 2012 and the earliest regularly scheduled Commission Meeting to make the rules effective is December 13, 2012.

Commissioner Dixon asked Mr. Denny Lyle, Property Tax Division Director, to explain what Irrigated One is and why that classification was chosen for urban farming.

Mr. Lytle explained that the new law calls for the Property Tax Division to provide guidance by January 1, 2013, based upon a recommendation from the Salt Lake County Assessor. However, the Salt Lake County Assessor has not yet conducted any study on berries, vegetables and other truck crops that would typically be produced on urban farming land. Therefore the Property Tax Division received no crop budget to generate values as they typically do for the statewide assessment program. Irrigated One is the highest valued and most productive farm land in Salt Lake County. Given the types of crops that will be produced on urban farming land, is a reasonable approach to get the value. He will continue to encourage Salt Lake County to promulgate a study.

Commission Chair B. Johnson asked what the value break is for Irrigated One land.

Mr. Lytle explained that the range is \$200 to \$800 depending on the type of ground and the county.

MOTION: Commissioner Cragun moved to submit rule amendment R884-24P-73 as presented to the Division of Administrative Rules. The motion passed unanimously.

V. Consider Amending Administrative Rules

Commissioner Cragun introduced the following proposed rule amendments for the Commission to consider and make effective:

- a. R861-1A-12 Policies and Procedures Regarding Public Disclosure 41-3-209, 59-1-210, 59-1-403, 59-1-405
- b. R873-22M-42 Issuance of Nonrepairable Certificate in Certain Circumstances Pursuant to Utah Code Ann. Section 41-1a-1005.5

Commissioner Cragun explained the amendment to rule R861-1A-12 deletes language that is contained in statute; provides that hearings related to the enforcement of Title 41, Chapter 3, Motor Vehicle Business Regulation are open to the public, and clarifies that all other hearings before the Commission are confidential tax matters and not open to the public. The amendment further-states that orders resulting from enforcement of Title 41, Chapter 3, Motor Vehicle Business Regulation are public information, and clarifies when all other Commission orders may be disclosed to persons other than the named parties.

Commissioner Cragun stated that he sent a copy of the proposed rule amendment to the Utah Taxpayers Association and received no response. The Commission, however, receive a written public comment from Mr. Zach Shaw on behalf of Salt Lake County. The letter indicated that the rule may limit the county's ability to share information that by statute that they are already permitted to share.

Mr. Shaw explained that Salt Lake County's concern is the wording of the rule text. The word may under the rule text (2) Orders, section (ii) be changed to allow for the rule text to read more clearly. Salt Lake County would be satisfied with the rule if the Commission made that change.

Commissioner Cragun stated that when the rule was first proposed there were some different concerns expressed about the taxpayer submitting private information as evidence related to locally assessed property tax, which does not include commercial property.

Commissioner M. Johnson asked if a taxpayer submits their personal income tax return in a locally assessed board of equalization hearing and a city government requested to see the federal income tax return, if there is any type of procedure that would prohibit disclosing that information.

Commission Chair B. Johnson explained that if a taxpayer chooses to submit an income tax return in a public hearing and does not request a protective order then the taxpayer has waived any privilege they had of protecting their private information.

Commission Chair B. Johnson's said his personal preference would be to have evidence submitted in a property tax administrative proceeding to be an open provision, but the Redaction Program makes the information available to taxpayers.

MOTION: Commissioner Cragun moved to adopt the proposed rule amendment R861-1A-12 as presented. The motion passed three to one, with Commissioner M. Johnson voting in opposition.

Commissioner Cragun noted that the Commission believes the County may continue to make disclosures that they are allowed to by law.

Commissioner Cragun stated the rule amendment to Rule R873-22M-24 2012 indicates the documents and information an insurance company must submit with an application for a non-repairable certificate to prove that it meets the statutory requirements to receive a non-repairable certificate. This rule is patterned after rule R873-22M-41 which deals with salvage certificates.

Commissioner Cragun stated that the Commission received public comment from State Farm Insurance. The letter indicated that they would prefer not to provide a copy of the endorsed check; that they would rather submit a proof of payment in the form of a computer screen shot. However, he noted that State Farm already provides copies of canceled checks when seeking salvage certificates under R873-22M-41.

Mr. Brad Simpson, Motor Vehicle Division Director, stated that the Division recommends that insurance companies submit a copy of the endorsed check. The concern with the screen shoot is that there is no proof that the check cleared the bank. If a further law suit or civil action were to take place and a non-repairable certificate title is issued there is no way to reverse the issued non-repairable certificate title, the vehicle will be destroyed, and would be used for scrap metal.

MOTION: Commissioner Cragun moved to adopt the proposed rule amendment R873-22M-24 as presented. The motion passed unanimously.

AMENDED MOTION: Commission Cragun moved to adopt rule R873-22M-24 with an effective date of October 1, 2012. The motion passed unanimously.

VI. Executive Director's Report

Mr. Conover reported that the security check report from Deloitte & Touche is running behind schedule, but should be available in early October.

VII. Conflict Waiver Request

MOTION: Commissioner Cragun moved that the Commissioners meet in closed session to discuss pending or reasonably imminent litigation. The motion passed with Commission Chair B. Johnson, Commissioner M. Johnson, Commissioner Dixon and Commissioner Cragun voting aye.

VIII. Retuned to Open Session

Commission Chair B. Johnson stated that after some discussion the Commission determined that no action was necessary to take at this time.

IX. Adjourn

Commission Chair B. Johnson adjourned the meeting at 10:57 a.m.

Approved on: Thursday, October 11, 2012

Attested: Christa Johnson
Executive Assistant
Utah State Tax Commission