MINUTES
OF THE BOARD OF COMMISSIONERS OF WEBER COUNTY
Tuesday, May 16, 2006 - 10:00 a.m.
Commission Chambers, Weber Center, Ogden, Utah

Each Commission meeting is recorded on CD or audio tape, which is available to the public through the County Clerk's Office.

In accordance with the requirements of Utah Code Annotated Section 52-4-7(1)(d), the County Clerk records in the minutes the names of all citizens who appear and speak at a County Commission 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.

COMMISSIONERS PRESENT: Craig L. Dearden, Chair; Camille T. Cain; and Kenneth A. Bischoff.

OTHERS PRESENT: Linda G. Lunceford, Clerk/Auditor; David C. Wilson, Deputy County Attorney; Fátima Fernelius, Clerk/Auditor's Office, took minutes.

A. **WELCOME** - Chair Dearden
B. **PLEDGE OF ALLEGIANCE** - Kevin Hamilton
C. **THOUGHT OF THE DAY** - Commissioner Cain

D. **CONSENT ITEMS:**
1. Purchase Orders in the amount of $154,513.91
2. Ratification of Warrants #212944 - #213120 in the amount of $279,189.01
3. Warrants #213121 - #213391 in the amount of $2,078,509.33
4. Minutes for the meeting held on May 2, 2006
5. Set public hearing date for June 13, 2006 on changing career status of following job positions from Merit to Exempt: Assistant Director, Department of Operations
   Property Management, Division Manager
   Planning & Zoning, Division Manager
   Roads & Highways, Division Manager
   County Engineer, Division Manager

Commissioner Bischoff moved to approve the consent items; Commissioner Cain seconded, all voting aye.

Commissioner Cain recognized the County Planning Department, which received the Governor's Quality Growth Award this morning for the Recreation Element of the Ogden Valley General Plan.

E. **PRESENTATION OF OUTSTANDING CITIZEN AWARD TO DON AND DEBBIE NOSEWORTHY**

Weber County Sheriff Brad Slater recognized the good works made by the Noseworthys during the search earlier this year for an avalanche victim above Ogden. The Noseworthys live close to where the command post was set up and without being asked began to provide food and other comforts to the volunteers. Sheriff Slater presented the Noseworthys with a plaque for Outstanding Citizen Award and thanked them for helping to lighten the load of those people during that tragedy. Chair Dearden, a former sheriff, stated his appreciation for the Noseworthys' efforts.

F. **ACTION ITEMS:**

10. **CONTRACT WITH CAREMARKPCS HEALTH, L.P. FOR MANAGED PHARMACY BENEFIT SERVICES TO WEBER COUNTY - CONTRACT C2006-52**

Brad Dee, Human Services Director, presented this contract for the Weber County prescription discount card. In an effort to help county citizens with escalating prescription costs, the county is joining a national program created by the National Association of Counties and CareMark to provide prescription discounts. These discounts can average about 20% and can be as much as 50% on mail-in programs for several months of prescriptions.

Mr. Dee stated that any Weber County resident with prescription coverage was eligible to use the program and the discount was received at the time of purchase. The program has been very successful in many participating counties across the United States. Mr. Dee addressed the commissioners questions' stating he had spoken with the County Health Department, which had agreed to facilitate the program. Cards will be distributed to every participating pharmacy, senior center, store, etc., in Weber County, and there were plans to publicize this program. Regarding tracking the savings in the county, Commissioner Cain said that currently there were 40 participating pharmacies in Weber County and they would report as part of their business process. She said that there were still some questions about Exhibit B of the contract, but she was certain no costs would flow to the county, except if the county should ever receive the rebate that CareMark was supposed to be getting. The county would be obligated to send it to them but this had not occurred with any of the participating counties.

Commissioner Cain moved to approve Contract C2006-52 by and between Weber County and CaremarkPCS Health, L.P., for managed pharmacy benefit services to Weber County; Commissioner Bischoff seconded, all voting aye.

1. **CONTRACT WITH UNION PACIFIC FOR AN ACCESS AGREEMENT ON FORT BUENAVENTURA PROPERTY LOCATED AT 2450 A. AVENUE, OGDEN, UT, TO INSTALL A MONITORING WELL TO MONITOR CHEMICAL PLUME - CONTRACT C2006-53**

Jennifer Graham, Recreational Facilities Director, stated that this allowed Union Pacific to have a monitoring well installed just inside the fence line of Fort Buenaventura. Currently, there is one monitoring well located at the Fort but it gets unacceptable readings about 50% of the time and this other well will allow better monitoring. There is no cost to the county.

Commissioner Bischoff moved to approve Contract C2006-53 by and between Weber County and Union Pacific for an Access Agreement on Fort Buenaventura Property located at 2450 A. Avenue, Ogden, Utah, to install a monitoring well to monitor chemical plume; Commissioner Cain seconded, all voting aye.

2. **CONTRACT WITH UTAH POWER FOR A REIMBURSEMENT TO THE COUNTY FOR ELECTRICAL UPDATES AT THE GOLDEN SPIKE EVENT CENTER - CONTRACT C2006-54**

Jennifer Graham, Recreational Facilities Director, stated that this was through Utah Power's incentive program for power savings. Utah Power will reimburse an estimate of $13,876 to the county for a portion of updates to electrical improvements to the GSEC facility. The county's portion is about $36,209, which was budgeted for in the 2006 budget. This agreement saves about $1,100/month to the GSEC's utility budget.

Commissioner Cain moved to approve Contract C2006-54 by and between Weber County and Utah Power for a reimbursement to the county for electrical updates at the Golden Spike Event Center; Commissioner Bischoff seconded, all voting aye.

3. **DISCUSSION AND/OR ACTION ON APPEAL OF THE PLANNING COMMISSION DECISION TO NOT REHEAR CUP #21-2003 BY BRAD KELLEY FOR A USED CAR LOT AND ATV SALES AND RENTALS, LOCATED AT APPROXIMATELY 5402 E. 2200 N., EDEN**

Sean Wilkinson, County Planning Department, stated that the Planning Commission initially heard this item on 11/18/2003 where the item was tabled as well as at the next meeting (12/16/2003). On 1/20/ 2004, the Planning Commission passed a motion to deny CUP #21-2003 and the County Commission upheld that decision on 3/9/2004.

The petitioner's resubmittal was heard by the Planning Commission on 3/28/2006 and at that time staff's recommendation to the Planning Commission was that they make a decision whether there was sufficient new information to merit rehearing this proposal. The Planning Commission made a decision that there was not enough information and voted to not rehear it.

County staff had initially recommended approval of this project because it met the criteria set forth in the Weber County Zoning Ordinance. Chapter 22C-5 contains five statements which are the basis for issuance of a conditional use permit, and it states that the Planning Commission will not authorize a conditional use permit unless evidence is presented to establish those five criteria. Mr. Wilkinson said that the Planning Commission based their decision on the location of this project more than on what staff recommended approval on. It is located in the vicinity of the Eden Cemetery and the Planning Commission felt that the noise caused by the ATV rentals would be a significant factor in disrupting services at the cemetery, and that it was not the proper location for this use. Some of the Planning Commission minutes from 2003-2004 indicate that the Commission recommended that the property be landscaped and for the petitioner to come up with a plan to contain the antifreeze and oils that may spill on the property. Mr. Wilkinson said that the petitioner submitted a new landscape plan and a plan to contain the onsite antifreeze and oils and according to the ordinance had met the requirements to apply for a conditional use permit. However, the Planning Commission felt that because of the location, and that the new landscape plan was not enough new information, they decided not to rehear this item.

Brad Kelley, petitioner, felt he had not received due process at the last Planning Commission meeting, stating that Mr. Wilkinson had gotten up to make the presentation with the new landscaping plan but the Planning Commission had said that it was not necessary to go over it on the rehearing of the issue. Mr. Kelley said that out of the seven members, five were new and had not heard the item before. Mr. Kelley now had the financing to cut up the asphalt for the new landscaping and to take care of the drainage. He said that a big issue had been the antifreeze and oil draining onto adjacent property and he had spoken with staff and they had recommended an area about six inches lower than the parking lot. If staff recommended that it be deeper or something else he would be happy to do that. Other concerns included lighting on the property and Mr. Kelley felt there would be sufficient lighting but would be glad to resubmit a new plan if staff felt it necessary; all ATVs would be locked with a cable and if staff recommended fencing the property to keep it safe, he would do so; he had checked into noise levels and most ATVs were not any noisier than diesels and dump trucks that used that same road; regarding loading and unloading vehicles, he said there was 26 feet between the parking stalls.

Commissioner Cain noted that she did not understand how lowering the asphalt and dumping the antifreeze and oil into the grass mitigated environmental concerns. She asked Mr. Kelley if the use of this property would "be compatible with and complementary to the existing surrounding uses, building and structures when considering traffic generation, parking, building design, location, landscaping and signs" and he agreed stating he felt that it would not be any more detrimental than any other commercial use. There will not be any driving on the property, only starting up of the ATVs. Mr. Kelley said that it would be a nice establishment or he would not be successful. Commissioner Bischoff expressed confusion as to why the Planning Commission would ask for concessions for landscaping and control of fluids and then not want to hear the item. The commissioners felt that Mr. Kelley had done what the Planning Commission had asked him to do and should have an opportunity to present his case.

Commissioner Bischoff moved to send the item back to the Planning Commission requesting that they hear the matter and make their findings as to why the item should be approved or denied; Commissioner Cain seconded, all voting aye.

4. **REQUEST FOR APPROVAL OF TAX SALE EXTENSIONS FOR THE FOLLOWING:**

Bob C. Larkin	19-020-0018, 19-020-0043, 19-022-0003
Pacomio Serrano	02-042-0007
Beverly Larsen	07-240-0003

Margarit Nersisian, Clerk/Auditor's Office, stated that these individuals were experiencing financial hardships. They had all signed contracts for paying off the balances.

Commissioner Bischoff moved to approve the tax sale extensions for the following LSNs: Bob C. Larkin, 19-020-0018, 19-020-0043 & 19-022-0003; Pacomio Serrano, 02-042-0007; and Beverly Larsen, 07-240-0003; Commissioner Cain seconded, all voting aye.

5. **REQUEST FOR APPROVAL TO WAIVE PENALTY FOR KEMCO INVESTMENT CO., 12-110-0060**

Margarit Nersisian, Clerk/Auditor's Office, stated that part of the problem for this item rested with Kemco and part with the county. Kemco had several properties in the vicinity of this one. In researching this item, Ms. Nersisian said that the wrong legal description was recorded for one property, thus had not been combined with the other properties. The other issue had been that the Recorder's Office had put the wrong address on the system at the time of recording and the petitioner never received the notices. This item was heard by the Tax Review Committee. Ms. Nersisian said that if the tax sale fee of $75.00 was waived, Kemco would pay the taxes plus the interest and the item could be removed from the tax sale list.

Commissioner Bischoff moved to waive the tax sale fee of $75.00 for Kemco Investment Co., LSN 12-110-0060; Commissioner Cain seconded, all voting aye.

6. **FINAL READING OF AN ORDINANCE PLACING A FEE ON UNCOVERED OR UNSECURED SOLID WASTE LOADS DELIVERED TO THE WEBER COUNTY TRANSFER STATION - ORDINANCE 2006-10**

David Wilson, Deputy County Attorney, noted that this was the second reading of this ordinance and contained the change the Commission requested at the last meeting expanding paragraph 4 to read "...dirt, rocks, concrete, bricks and asphalt, and other types of heavy construction material that will not blow from vehicles."

Commissioner Cain moved to adopt Weber County Ordinance 2006-10 placing a fee on uncovered or unsecured solid waste loads delivered to the Weber County Transfer Station; Commissioner Bischoff seconded.
Roll Call Vote:
Commissioner Cain ..... aye
Commissioner Bischoff ..... aye
Commissioner Dearden ..... aye

7. **RESOLUTION AUTHORIZING AND APPROVING AN INTERLOCAL AGREEMENT BETWEEN OGDEN CITY AND WEBER COUNTY FOR JUSTICE COURT SERVICES - RESOLUTION 8-2006, C2006-55**

Reed Richards, Deputy County Attorney, stated that Ogden City was establishing a Justice Court on July 1. Ogden City requested that the county provide bailiff service for the judges, court security services, and transportation of prisoners. Initially, they will have two judges working part-time with the idea of eventually having two full-time judges. These are cases currently heard in the District Court and shifts the load to the City Justice Court.

This is a one-year contract with four automatic 1-year extensions for a total of five years and includes a 90-day termination clause. If prisoners can be transported in conjunction with transports already being made to the District Court, there will be no charge, otherwise, it will be $30/hour with a minimum of two hours. Bailiff services and security services will be $19.50/hour. Chair Dearden asked if there would be new positions hired in the Sheriff's Office to handle the contract and Weber County Sheriff Brad Slater stated that eventually it may require creation of two new positions. He will assign two current employees to the bailiff position and will review the shift in work load to see if existing manpower can accommodate the security positions. Sheriff Slater addressed Commissioner Cain's question stating that the $19.50 hourly rate covered the county's costs.

Commissioner Bischoff moved to adopt Resolution 8-2006 authorizing and approving an Interlocal Agreement C2006-55 between Ogden City and Weber County for Justice Court Services; Commissioner Cain seconded.
Roll Call Vote:
Commissioner Cain ..... aye
Commissioner Bischoff ..... aye
Commissioner Dearden ..... aye

8. **REQUEST TO APPROVE THE FIRST READING OF PROPOSED AMENDMENTS TO THE LOCAL SALES AND USE TAX ("RAMP TAX"), TITLE 24-7, TO FUND RECREATIONAL FACILITIES AND CULTURAL ORGANIZATIONS INCLUDING ARTS, MUSEUMS AND PARKS**

Reed Richards, Deputy County Attorney, noted that the RAMP allocation process had been underway and it had become apparent that the 1/3 of the money allocated for the Arts and Museums area exceeded the amount needed to fund the projects. However, there were far more requests in the other two areas than could possibly be funded. The current ordinance did not allow transferring funds from one area to another and approximately $200,000-$300,000 could be left unused in the Arts and Museums area this year. The RAMP Board felt that the money coming in was to be used for projects and to benefit the communities each year rather than to sit there and be carried over for another year. This amendment allows the excess money in one area to be shifted to another at the recommendation of the Advisory Board with the County Commission's approval. The names of the committees will be changed to better reflect what they relate to–Arts and Museums Committee, Parks and Recreation Committee–and the terms of appointees were clarified as well as the expiration date of all terms for committee members.

Commissioner Bischoff moved to approve the first reading of proposed amendments to the Local Sales and Use Tax ("RAMP Tax"), Title 24-7, to fund Recreational Facilities and Cultural Organizations including Arts, Museums and Parks; Commissioner Cain seconded, all voting aye.

9. **RESOLUTION AUTHORIZING/APPROVING AGREEMENT WITH WELLS FARGO BANK FOR CAPITAL LEASE FINANCING FOR HEAVY EQUIPMENT - RESOLUTION 9-2006, CONTRACT C2006-56**

Dan Olsen, County Comptroller, stated that the county was purchasing a dump truck for the Roads Department, a trailer for the Roads Department, and a caterpillar for the Transfer Station. Six bids were received and Wells Fargo was the low bid with a rate of 4.15% for five years. These pieces of equipment had been approved in the original budget.

Commissioner Cain moved to adopt Resolution 9-2006 authorizing/approving Contract C2006-56 between Weber County and Wells Fargo Bank for Capital Lease Financing for heavy equipment; Commissioner Bischoff seconded.
Roll Call Vote:
Commissioner Cain ..... aye
Commissioner Bischoff ..... aye
Commissioner Dearden ..... aye

11. **REQUEST FOR APPROVAL OF A COUNTY-WIDE POLICY 10.1 ON THE USE OF THE VISA PURCHASING CARD PROGRAM**

Saundra Wiechmann, Clerk/Auditor's Office, presented this policy stating that US Bank would be the provider of the transaction card. This card will eliminate the need for small dollar purchase orders, petty cash, personal reimbursements, and allows the Accounts Payable Department to consolidate payments.

When payments are made with this volume-based card, they are allocated into a State pool and at the end of their accounting year the State issues rebates. Some counties received rebate checks as large as $80,000 for 2005 and the University of Utah received $230,000+.

Commissioner Bischoff moved to approve County-wide Policy 10.1 on the use of the Visa Purchasing Card Program, Commissioner Cain seconded, all voting aye.

G. RECESS PUBLIC MEETING UNTIL 6:00 P.M.

Commissioner Bischoff moved to recess the public meeting until 6:00 p.m., Commissioner Cain seconded, all voting aye.

H. RECONVENE PUBLIC MEETING

Commissioner Bischoff moved to reconvene the public meeting; Commissioner Cain seconded, all voting aye.

Many Ogden Valley residents were present and Commissioner Cain noted that Weber County had received an award of excellence for the Recreation Element of the Ogden Valley General Plan. Jim Gentry, County Planning Department, had accepted the Governor's Quality Growth Award with Chris Sands on behalf of Weber County. Only 10 in the State had received this award.

I. PUBLIC HEARINGS TO BE HELD AT 6:00 P.M.:

1. Commissioner Bischoff moved to adjourn the public meeting and convene the public hearings; Commissioner Cain seconded, all voting aye.

2. PUBLIC HEARING TO CONSIDER REZONING PROPERTY AT 2640 NORTH HIGHWAY 162 FROM AGRICULTURAL AV-3 TO COMMERCIAL CV-2

Jim Gentry, County Planning Department, showed area maps of this property, which consists of approximately 3.24 acres. There is an irrigation ditch that runs along the north and west boundary of the property. This property is adjacent to existing commercial property zoned CV-2 and was identified in the Ogden Valley General Plan as part of the commercial node. The Planning Commission unanimously recommended approval of this rezoning to the County Commission for a professional office and retail space. There is a Zoning Development Agreement for this item. The petitioner was invited to speak and he stated that Mr. Gentry had outlined the item well. Chair Dearden invited public comments and none were offered.

3. PUBLIC HEARING ON THE VACATION OF 5775 E. STREET IN ELKHORN SUBDIVISION PHASE 4

Sean Wilkinson, County Planning Department, presented area maps stating that this was a small stub road between houses built as part of Elkhorn Subdivision Phase 4. Currently, it is used only as a construction road and is not needed to provide access to the Trappers Ridge at Wolf Creek P.R.U.D. The Trappers Ridge Master Plan calls for a tennis court where this road would have entered Trappers Ridge and would block it. Chair Dearden invited public comments and none were offered.

4. PUBLIC HEARING REGARDING ZONING PETITION ZP #05-2006 BY WOLF CREEK PROPERTIES TO RE-ZONE PROPERTY AT APPROXIMATELY 3600 N. WOLF CREEK DRIVE FROM FOREST RESIDENTIAL FR-3 TO COMMERCIAL VALLEY CV-2

Kevin Hamilton, County Planning Department, presented area maps and a concept development plan stating that the petitioner desired to rezone approximately 1.3 acres to CV-2 zoning to allow building a Welcome Center/Sales Office. The rustic rock and log building will be from 6,000-8,000 sq. ft. The Planning Commission had unanimously recommended approval. Chair Dearden invited comments from the petitioner and from the public and none were offered.

5. **PUBLIC HEARING REGARDING ZONING PETITION ZP #03-2006 BY WOLF CREEK PROPERTIES TO AMEND WOLF CREEK MASTER PLAN BY ADDING APPROXIMATELY 174 ACRES WITH 106 DEVELOPMENT RIGHTS TO THE WOLF CREEK MASTER PLAN AND ZONE PROPERTY RESIDENTIAL ESTATE RE-15 AND FOREST RESIDENTIAL FR-3**

Kevin Hamilton, County Planning Department, showed area maps and concept development plans stating that the petitioner desired to amend the Wolf Creek Master Plan and zone the property RE-15 and FR-3. This amendment would increase the RE-15 allotment to 770 and add 174 acres to the Wolf Creek project. The concept development plan showed the property being combined with a small parcel, currently part of Wolf Creek property, and divided into 163.92 acres of RE-15 and 14.46 acres of FR-3 zones. According to the concept development plan, the property's 106 units would be allotted to the 163.92 acres of RE-15 zoning and 48 units of Wolf Creek's 704 units of FR-3 development rights would be allocated to the 14.46 acres of FR-3 zoning. In return for the 48 FR-3 units, Wolf Creek would have to set aside 48 acres of open space elsewhere in the Wolf Creek project. The county entered into an agreement in 1999-2000 with the property owner of the 174 acres that this property would have 106 units based on a density of one unit per 1½ acres. When Wolf Creek originally master planned their property they had approximately 2,500 acres and were allotted 2,152 units as part of their master plan with 704 being zoned FR-3. At that time Wolf Creek set a lot of property to the east as permanent open space and gave an easement on approximately 800 acres to Wildlife Resources and in return were allotted the said number of units.

Wolf Creek is now proposing to add the 174 acres as part of their plan and move some of their FR-3 zoned units to the north part of the property and onto a small portion of the property they own. Mr. Hamilton noted that in the Wolf Creek area the zoning is set by density calculations and by zoning development agreement, thus they will have more than the number of acres needed for the number of units they desire to build. The proposed rezoning will not result in any additional units in the Wolf Creek area over what would be permitted today; they would simply be moving units around. The 174 acre parcel would have 106 single family lots and the other parcel would have 24 two-family dwellings units; the density would come out of their total allotment of the 2,152 units. The Planning Commission unanimously recommended approval.

Mr. Hamilton addressed the commissioners' questions. He stated that the boundary had not changed, only the layout of the lots had changed. Commissioner Cain noted that if either parcel was not rezoned, they could still build 106 units in the 174 acres parcel and would still have the right to realign their roads, but with the rezone they would be able to build the other 48 units. Regarding eagles on the property, Mr. Hamilton said that the Division of Wildlife would be the agency to tell the county to accommodate for those eagles in this subdivision.

Howard Schmidt with Eden Valley Development, LLC, petitioner, stated that they were not seeking any additional units but were blending their land with Wolf Creek development in putting these two parcels together to make one and shifting some of their density into his. It would be a well planned development with a golf course and large lots.

Chair Dearden stated that the Commission had received a challenge to the Planning Commission's decision to approve this item and asked David Wilson, Deputy County Attorney, to report. Mr. Wilson stated that Monette Hurtado, Deputy County Attorney, had reviewed that challenge but she was out of town and he did not have an opportunity to speak with her directly on the merits of the challenge. He believed she had reviewed the challenge relating to notice and determined that the alleged flaw was insufficient to require starting the process again. A map had been attached showing the area proposed for rezoning and Mr. Wilson indicated that maps generally provide better notice to the public than legal descriptions. This notice in the newspaper is in addition to the notices mailed to property owners within 500 feet of the proposed rezone.

Chair Dearden invited public comments and following is a summary:

Cliff Curtis, resident on N. Elkridge Trail, stated he was directly impacted by the shifting of these units. He had poured his life savings into buying the property and thus had researched it–he reviewed Wolf Creek's Master Plan, the proposed roads, checked with the county to verify zoning and was aware of the 106 future homes, but also was aware that there would not be multi-family homes blocking his view of Pineview Reservoir. He did not feel it was right to change the zoning at this stage. Other concerns included that the road would be more traveled under this proposal and he had moved to get away from traffic. He was not opposed to the multi-family housing but rather to where they were shifting it.

Lowell Peterson, resident on Elkridge Trail, above the proposed multi-family homes, felt these homes would not affect Mr. Curtis' (above paragraph) view of the Reservoir. Mr. Peterson supported the proposed road going through as it does, saying there were things that could be done to mitigate the traffic and speed, and that there wasn't that much residential traffic.

Terry Curtis, resident on N. Elkridge Trail, stated that her first concern was that people who were speaking in favor of this item were not directly impacted; they lived up above and were not where her family was, which was right around the corner from these large up-to 35 ft. tall buildings. Ms. Curtis asked how many notices were sent out because most people were not notified. Commissioner Cain stated that it had been advertised in the newspaper but Ms. Curtis said it was different receiving the notice in the mail and that people directly impacted should have more of a say in the issue. Mr. Hamilton said that notices are mailed out to property owners within 500 ft.–State Code allows the county or municipality to set that distance–and a sign was also posted on the property. Ms. Curtis said that the road should be researched well and should be safe for all the children on that road, the people attending Planning Commission meetings felt discouraged because their voice was not heard. She had asked why the buildings couldn't be shifted a little bit and placed behind the golf course and had been told that they would not be worth as much money.

Mr. Hamilton said that there were nine homes on Elkridge Trail and there were several more lots to be built there. The proposed buildings on this project would sit 10-20 ft. down the hill but all the lots already approved up that road could have homes built on them up to 35 ft. tall which could also have an impact on people's views regardless of this proposed zoning. Mr. Curtis said they were aware of those proposed homes and that was why their only view left was to be able to look down the angle to where the multi-family homes were proposed.

Dave Rasmussen, resident on Elkridge Trail, spoke in opposition to this proposal. At the Planning Commission meeting he asked if they proposed to rezone the smaller parcel because it was the 6 par 3 hole in the golf course and he had been told they were not going to rezone that. In the Planning Commission minutes they had said to ignore that section of land, but now it was part of the small parcel being proposed for rezoning and when the notice was received it did not include the small parcel. He stated that the land given them by Wolf Creek was not a gift at all because there were wetland delineation marks scattered throughout that section. Commissioner Bischoff asked how much of that land was wetlands and Mr. Schmidt stated that there was approximately ½ acre but they had not known at that time it was wetlands since it was under snow. Regarding Mr. Peterson's comment on traffic, Mr. Rasmussen stated that on Elkhorn Drive currently there were 56 units of which 5 had driveways that back on Elkridge Trail, where there were 18 children under the age of 12 living there year-round. They had purchased there knowing that it would be a quiet road and an outlet to Moose Hollow, but now it was proposed to have hundreds of homes that would have a shortcut down Elkridge Trail. He noted that developers often name land after the wildlife they destroyed to develop and he would like Mr. Schmidt to put his name on the development rather than *Eagles Landing* so that he could be proud of it.

Dick Schickedanz, resident of N. Elkridge Trail, next to the Curtis', stated that he also had researched the area before purchasing his property and depended upon the zoning in place, trusting the "fathers of the community" to protect his rights and enforce the zoning that he bought into. He challenged the commissioners to visit the property in question, stand in his driveway, and tell him that if they lived there they would like this to happen–if so they would be in the minority to accept the proposed density within a few hundred feet of their home. In a spirit of compromise, he preferred Wolf Creek to build something like the Fairways project on the other side of the golf course that are 1-story, low profile, single family homes in close proximity to each other and are of high value. Chair Dearden stated that the commissioners had visited the area and previously had been told that the land was flat, which it was not.

Amy Rasmussen stated that some of the Planning Commissioners had visited the area such as Jim Banks, who contracts with Wolf Creek, and Mr. Peterson, who is a partner with Wolf Creek, and of course, they had interest to see these items pass. At the Planning Commission meeting there was a petition of over 300 signatures gathered within four days, but people were outraged and the Deputy County Attorney and Wolf Creek had said that did not matter, that it was emotional. Prior to purchasing their property, they had researched with Wolf Creek and County Planning and had been told there would never be multi-family housing there. She pleaded that the 35 ft. buildings not be shifted to the proposed location. The road is on a very steep grade and would need hillside review, and, yes, there were eagles there and she watched them daily. Commissioner Cain said that the circulated petition was not completely correct and that she had heard from a number of signers that they would not have signed it if they had the facts. Ms. Rasmussen stated that it was not only the Elkridge Trail residents, but people throughout the Ogden Valley that were opposed to some form of this and were dissatisfied with the way Wolf Creek was railroading it. This was a safety issue for their children and a property value issue.

Tracy Ayers, resident of Wolfridge Circle, said she was published wildlife photographer and was not aware of any eagles there.

Gary Anderson, Attorney for some residents, grandfather of the Rasmussen children on Elkridge Trail, and former Utah County Commissioner, stated that the issue was zoning. Mr. Anderson said that there were legal problems with the notice. The project in question was in the small parcel and the argument that it was not increasing density was disingenuous and the problem was with where those home sites were being proposed. Those who purchased there had done so because they were told that there would not be anything but single family dwellings. This rezoning request seemed to result only because of economics on the petitioner's part. Mr. Anderson noted how steep the road was and Mr. Schickedanz said that at the bottom of the hill was a very blind turn to the left.

Steve Clarke, of Eden, stated that the intent of the Ogden General Plan was to preserve the quality of life by preserving long views and to concentrate development and density in resorts but as such we were putting a lot of responsibility on resort owners and should not tie their hands at every turn. As a member of the Eden Planning Committee, he had looked at the before and after zoning and suggested the commissioners do so. The RE-15, FR-3, and the O-zones that existed were laced together designed around the boundaries of a golf course.

Roger Henriksen, legal counsel for Wolf Creek, stated that in this case it was clear that the residents had actual notice; there were many present at the Planning Commission meeting and there was opportunity to fully air the concerns from the various factions.

Jim Banks, Liberty resident, stated that he and other Planning Commissioners had been involved since Bear West conducted the study of the Ogden Valley, and the consensus of those who attended the meetings at that time was that cluster development was preferred. He stated he worked for Wolf Creek Sewer and Water Company, not Wolf Creek Properties.

Mr. Anderson asked for point of clarification–the last people who had spoken were for the petitioner and if they were speaking as such could the public speak after the petitioner. David Wilson, Deputy County Attorney, stated that procedure in a public hearing was up to the Commission Chair–the Chair had allowed anyone present to speak to the issue after having staff and the petitioner make initial presentations. It has not been the Commission's practice to take turns for and against.

Bob Dyer, Director of Planning & Development for Wolf Creek Properties, stated that if he was to draw a line from the front of the Curtis lot along the closest edge to the closest condominium, the only part of Pineview Reservoir not visible would be the part that cannot be seen by the dam. The high density 48 units in the FR-3 zone were all to the west and it would be impossible for those 48 units to block the view of anything other than the narrow inlet by the dam and another area consisting of about 100 sq. ft. The original plan was submitted 2/28/2006 to the Planning Commission and there was a lot of concern about the lower Elkridge Trail neighborhood having views blocked by the proposed townhouses. The closest one in the original proposal was about 65 ft. from the Rasmussen property line. That evening, Wolf Creek had met with residents who repeated their concerns about views and they again met on 3/7/2006, at the Huntsville Library. They had redrawn the plans in response to the public input and made a commitment to the property owners to move the property downhill while there was snow on the ground and had not known there were wetlands in the area until later. He said that everything submitted to the Planning and County Commissions showed Wolf Creek had 178.38 acres of total ground proposed for rezoning. A portion of the top section was to be rezoned. The small parcel across the top of the property also included the #6 golf hole and the rezone did not affect it.

Steve Roberts, Managing member of Wolf Creek, said that no matter where the 48 units were placed, there would be controversy, but they were not increasing density. Wolf Creek was trying to put in another 9-hole golf course which was very important to the success of their resort.

Steve Balek, of Patio Springs Subdivision, Eden, stated that there was a cluster in the Wolf Creek development, Moose Hollow, which had taken on the appearance of the barracks he had stayed in at Fort Ord many years ago. He did not want anything like that approved again; it was a disgrace.

Mr. Anderson said that the issue was density and Wolf Creek had been advertising a 36-hole golf course long before this issue, however, they did not own that land–it belonged to Mr. Schmidt. They wanted Mr. Schmidt's land so they could build the duplexes to make more money and manage the golf course. It was an economic issue and Wolf Creek had its density. Even though they were saying that they were not changing density, on those 14 acres they were changing the density radically. The property owners had researched their property, purchased it, and now the rules were being changed on them. He felt Jim Banks and the others had met and zoned it the way they wanted it but now were changing it, and it should not be changed because Wolf Creek had the density somewhere else. They should not put the density in that area.

Chair Dearden stated that different issues had been presented but he expressed confusion that if the rezoning was not approved, Mr. Schmidt could still build the same subdivision and put in the same road and it seemed alright with residents. He noted that Ms. Rasmussen had said earlier that it was alright to build in the large parcel but not the small one, but if the road was put in, the same traffic problem would exist.

Ms. Rasmussen said that at the last Planning Commission they had been told there was nothing they could do about the road but at the meeting at the library Mr. Dyer and Mr. Schmidt had told residents that they would look at different options to do the road. Residents had then called Utah Power, the county, and others to gain information but then Wolf Creek told residents it would be too expensive to build the road that way. The Rasmussens indicated that in the approved plan the road did not go through, that it went straight across to Moose Hollow and the safety, volume and

speed would be mitigated. They were concerned with people using the proposed road as a shortcut. Commissioner Cain noted that emergency personnel, county planners and engineers were much more positive about a road that goes through. Commissioner Bischoff asked whether the proposed rezoning had any effect on the road. Mr. Hamilton said that the road could be proposed and approved as part of a subdivision today and that when residents referred to the "approved" plan, it was a concept development plan approved as part of the previous rezoning. This was not an approved subdivision and the petitioner could ask for any desired type of road alignment without the rezoning.

Mr. Anderson emphasized that these residents were saying that when they researched and bought their properties that there would not be multi-family units which would devalue their properties.

Commissioner Cain said that this was a further example of the mixed messages the Commission had received from Ogden Valley residents in the past. During planning for the recreation element, they had not wanted sprawl, they wanted cluster development so they still had view corridors, and it would have to be adjacent to someone. She felt that after review, because of the decline of the smaller parcel, this would be about the best location because the views would not be significantly impacted, and design of those duplexes would be very important to make sure they were attractive, fit in the neighborhood, etc.

6. Commissioner Bischoff moved to adjourn the public hearings and reconvene the public meeting; Commissioner Cain seconded, all voting aye.

7. **ACTION ON PUBLIC HEARINGS:**

David Wilson, Deputy County Attorney, recommended that all four items discussed in the public hearing include findings and be part of the ordinances to be prepared for next week.

I.2.-PUBLIC HEARING ON REZONING 2640 NORTH HIGHWAY 162 FROM AV-3 TO CV-2

Commissioner Bischoff moved to direct staff to prepare an ordinance on the rezoning of 2640 North Highway 162 to reflect consistency with the General Plan; Commissioner Cain seconded, all voting aye.

I.3.-PUBLIC HEARING ON VACATION OF 5775 E. STREET IN ELKHORN SUBDIVISION PHASE 4

Because it was in the best interest of this area that this street be vacated, Commissioner Cain moved to direct staff to prepare an ordinance on the vacation of 5775 E. Street in Elkhorn Subdivision Phase 4; Commissioner Bischoff seconded, all voting aye.

I.4.-PUBLIC HEARING TO RE-ZONE PROPERTY AT 3600 N. WOLF CREEK DRIVE FROM FR-3 TO CV-2

Commissioner Bischoff moved to direct staff to prepare an ordinance to re-zone property at approximately 3600 N. Wolf Creek Drive from Forest Residential FR-3 to Commercial Valley CV-2 consistent with the General Plan; Commissioner Cain seconded, all voting aye.

I.5.-PUBLIC HEARING TO AMEND THE WOLF CREEK MASTER PLAN

Chair Dearden noted the need to obtain a written response from Monette Hurtado, Deputy County Attorney, to the notice challenge. Commissioner Cain said that this was a difficult issue but the change was better than some that could be proposed and that she was leaning toward approving the rezone request. Commissioner Bischoff also stated his desire to do the best for the community and said he would give the issue more thought. He would need to have compelling reasons not to grant the rezone.

Commissioner Cain moved to table this item to May 30, 2006 to review some questions that had arisen during the public hearing; Commissioner Bischoff seconded, all voting aye.

J. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, MAY 23, 2006, 2 P.M.

K. PUBLIC COMMENTS: None.

L. ADJOURN

Commissioner Bischoff moved to adjourn at 8:00 p.m.; Commissioner Cain seconded, all voting aye.

Craig L. Dearden, Chair
Weber County Commission

Linda G. Lunceford, CPO
Weber County Clerk/Auditor