

**MINUTES
OF THE BOARD OF COMMISSIONERS OF WEBER COUNTY**

Tuesday, December 10, 2013 - 10:00 a.m.

Commission Chambers, 2380 Washington Blvd., Ogden, Utah

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: Kerry W. Gibson, Chair, Jan M. Zogmaister and Matthew G Bell.

OTHERS PRESENT: Ricky D. Hatch, County Clerk/Auditor; David C. Wilson, Deputy County Attorney; Fátima Ferneliuss, of the Clerk/Auditor's Office, took minutes.

- A. WELCOME** – Chair Gibson
- B. PLEDGE OF ALLEGIANCE** – Ricky Hatch
- C. THOUGHT OF THE DAY** – Chair Gibson

D. CONSENT ITEMS:

1. Purchase Orders for \$307,349.62
2. Ratify Warrants #304052 - #304317 for \$1,053,772.85 dated December 3, 2013
3. Warrants #304318-#304490 for \$2,103,347.71
4. Minutes for the meetings held on November 19 and 26, 2013
5. ACH payment to US Bank for \$75,570.74 for purchasing card transactions ending 11/15/2013
6. Cancel the regular scheduled County Commission meetings for December 24 and 31, 2013
7. Retirement Contracts: Steven R. Gay-Contract C2013-274; Steve H. Hodges-Contract C2013-275
8. Set public hearing for Tues., December 17th, 10 a.m., on amendments to 2013 Weber County Budget
9. New business license
10. Request from Department of Operations to surplus part of parcel #16-049-0022
11. Real Estate Sales Agreement & Quit Claim Deed of a part of parcel #16-49-0022 - Contract C2013-276
12. Change Order #7 on Contract #2009-21 with Utah Department of Transportation - Contract C2013-277

Commissioner Bell moved to approve the consent items; Commissioner Zogmaister seconded, all voting aye.

E. ACTION ITEMS:

1. RESOLUTION APPROVING THE 2014 WEBER COUNTY BUDGET – RESOLUTION 34-2013

Dan Olsen, County Comptroller, noted that the tentative budget was adopted and that no public input was received at the public hearing. Subsequent budget changes include funding to purchase the excavator for the Roads Department, funding for employee merit increases, and a shift in future property tax revenue between the General Fund and the Health Department. Additionally, \$60,000 was added to the CVB contract, funding for phase II of the Conference Center chairs was eliminated, and debt service cost on bonds was accounted for in the Debt Service Fund. The resolution declares that the county agrees to pick up 100% of the required member contribution for eligible employees required to contribute to the Utah Retirement Systems Contributory Retirement Plan for 2014. Commissioner Zogmaister spoke in favor of providing COLA to employees, which helps keep the county competitive and rewards performance, and the other commissioners agreed but want to wait until later in 2014 before deciding whether to approve a COLA. She noted that the county has lost good employees to other agencies in the past due to its base salary and said that the budget is in a sound position.

Commissioner Bell moved to adopt Resolution 34-2013 approving the 2014 Weber County budget; Commissioner Zogmaister seconded.

Roll Call Vote:

Commissioner Bell	aye
Commissioner Zogmaister.....	aye
Chair Gibson.....	aye

2. REQUEST FROM THE WEBER COUNTY TAX REVIEW BOARD TO APPROVE PARTIAL REFUND REQUEST FOR PARCEL #21-001-001

Machel Maycock, of the County Assessor's Office, stated that Tim Charlwood is requesting tax refund for years 2008-2012. The property was zoned F4-40, however, when the maps were drawn, they showed it as F-5 (which affects how it is valued). The property was in greenbelt until this year. Sean Wilkinson, of County Planning, researched this and the error has been corrected. Ms. Maycock said that Mr. Charlwood did not appeal during this five year period but had the opportunity to do so—he could have appealed the zoning at any time and the issue would have been researched, and he could also have appealed the amount on the tax notice at any time. Ms. Maycock pointed out that the market value is on the tax notice and the taxpayer has the responsibility to review it. When Mr. Charlwood pointed out the zoning issue, it was corrected. The Tax Review Board is recommending refunding \$600.56 for 2012.

Mr. Charlwood said that the county made a mistake and that he has a 1997 letter from Craig Barker (former County Planning Division Director) that shows the property was zoned F-40 and it has taken until now for Mr. Barker's letter to be accepted by the Assessor's Office. He said he could not have appealed because the information was not exposed until this year and the request would have been denied based upon the zoning. He applied for a heli permit with the Planning Division in 2011 and showed that letter but it could not be found in the county's records until 10/2013. Matt Hone, county appraiser, stated that if the letter had been presented in an appeal, he would have contacted County Planning to research the issue.

Mr. Wilkinson stated that the issue first arose with the application for the heliport. The letter was at that time shown to Planning, which started researching ordinances beginning with the 1950's. With the Ogden Valley General Plan update in 1998 there was an adopted zoning map that showed the property zoned F-40 and it appears with the transfer of the zoning map information to GIS that the line was drawn in the wrong place, not by much, but it affected this property. It has been determined in the last few months that the property was never zoned F-5.

David Wilson, Deputy County Attorney, stated that the county generally does not reach back more than one year, which is the time period for a refund, and he cautioned not setting a precedent. Chair Gibson said that Mr. Charlwood paid the higher rollback tax based on the higher value. Commissioner Zogmaister stated that the taxpayer has the responsibility to notify the county of errors that may have occurred in their assessment. This has been the county's procedure and Mr. Charlwood did not take any action until the end of 2011. Commissioners Gibson and Bell believe that this case is somewhat unique.

Commissioner Bell moved to return \$2,737 to Mr. Charlwood; Chair Gibson seconded. Commissioner Zogmaister stated that it is not the amount of money but the principal that is the concern. She finds it difficult to go back beyond the time when the taxpayer had knowledge to question the issue and could have appealed. Commissioner Zogmaister made a substitute motion to refund for years 2011 and 2012 only, which is beyond the county's normal procedure, but is to take into account the time to research and the error. Chair Gibson seconded the substitute motion. Commissioner Bell agrees that the taxpayer has responsibility but so does the county and he feels comfortable refunding \$2,737. Chair Gibson said that there is a significant period of time where the zoning map caused difficulty for the property owner to the extent that he paid extra during that period. Commissioner Zogmaister voted aye and commissioners Bell and Gibson voted nay. Chair Gibson moved to refund \$2,737.75; Commissioner Bell seconded. Commissioners Bell and Chair Gibson voted aye. Commissioner Zogmaister voted nay.

3. RATIFICATION OF AN AGREEMENT WITH EATON ENERGY SOLUTIONS, INC. FOR PROFESSIONAL SERVICES – CONTRACT C2013-278

Lynnda Wangsgard, County Library Director, presented the contract for three Library capital projects—Headquarters Library in Roy, renovation of the Main Library in Ogden, expansion or renovation of the North Ogden Branch. The objective of the Commissioning Agreement is to document that these new/renovated facilities fulfill the functional and performance requirements of both the design and construction contract documents. Ms. Wangsgard gave an overview of the commissioning consultants’ responsibilities, including developing/coordinating the execution of a commissioning plan, which includes observing and documenting all system’s performance to ensure that they are functioning in accordance with the Library’s objectives and contract documents. The agreement can be terminated if the County is dissatisfied with their work, or chooses another course of oversight. The overall cost of these services, over a six-year period, is \$140,103.

Chair Gibson noted that Ms. Irvine, Library Board Chair, had signed the contract and asked if the chair, who is not an employee of the county, has the authority to sign on behalf of the Library. David Wilson, Deputy County Attorney, stated that she has been delegated the authority and that construction agreements typically come before the Commission for ratification. Chair Gibson said that when members are appointed, the appointments should be made of those willing to represent the constituents’ views and that there should be a direct chain to the elected policy makers. Ms. Wangsgard explained that when the Library Board authorized Ms. Irvine to sign on their behalf it was not with the intent that the board would not have oversight by the Commission, but simply to let the commissioners know that they had done a thorough review of the contract and are ready to move forward, and they realize that the Commission has final authority. Commissioner Bell believes that there should be a construction manager who would answer to the Commission on the projects.

Commissioner Bell moved to approve Contract C2013-278 ratifying the agreement with Eaton Energy Solutions, Inc. for professional services; Commissioner Zogmaister seconded

4. CONTRACT WITH THE COUNTY SEAT FOR PROMOTIONAL/SPONSORSHIP OF WEBER COUNTY ON THE COUNTY SEAT TELEVISION SERIES – CONTRACT C2013-279

Chair Gibson noted that this program focus on county government, not politics, and is a great educational tool. To help offset costs, the program provides advertising/promotional opportunities for counties. The county chose the lowest cost option of \$11,000 for 2014, effective January 1. Commissioner Zogmaister noted the county chose the lowest cost option in hopes that the grants that Utah Association of Counties (UAC) receives will offset costs in the future.

Commissioner Zogmaister moved to approve Contract C2013-279 with The County Seat for promotional/sponsorship of Weber County on The County Seat Television Series; Commissioner Bell seconded, all voting aye.

5. RESOLUTION APPOINTING A MEMBER TO THE OGDEN VALLEY PLANNING COMMISSION – RESOLUTION 35-2013

Rob Scott, Weber County Planning Division Director, noted that the vacancy was advertised and four applications were received.

Commissioner Bell moved to adopt Resolution 35-2013 appointing William M. Haymond to the Ogden Valley Planning Commission to fulfill the remaining term of Dennis Montgomery expiring 6/30/2015; Chair Gibson seconded for discussion. Commissioner Zogmaister recommended appointing applicant Darla VanZeben whom she said would be a great asset because of her experience. The commissioners know both applicants and said that either are good candidates.

Roll Call Vote:

Commissioner Bell aye
Commissioner Zogmaister..... aye
Chair Gibson..... aye

6. **2013 LOCAL TRANSPORTATION FUNDING AGREEMENTS AS PRIORITIZED BY THE WEBER AREA COUNCIL OF GOVERNMENTS (WACOG):**

- Ogden City: 20th Street – Contract C2013-280
- Ogden City: Harrison Blvd @ 2nd Street – Contract C2013-281
- South Ogden City: 40th Street – Contract C2013-282
- West Haven City: 2550 South – Contract C2013-283

Douglas Larsen, Weber County Development Partnership Executive Director, stated that these prioritized projects, included in the Regional Transportation Plan, qualified for funding by WACOG and the Weber County Commission. He gave an overview of each project, which will receive funds from the Corridor Preservation Fund and from the Sales Tax Transportation Fund.

Commissioner Zogmaister moved to approve Contracts C2013-280 through 283, 2013 Local Transportation Funding Agreements as prioritized by the Weber Area Council of Governments; Commissioner Bell seconded, all voting aye.

7. **CONTRACT WITH ANDREW HEYWARD FOR AN INDIGENT DEFENSE ATTORNEY IN JUVENILE COURT – CONTRACT C2013-284**

David Wilson, Deputy County Attorney, presented this contract for indigent defense.

Commissioner Bell moved to approve Contract C2013-284 with Andrew Heyward for indigent defense services in Juvenile Court; Commissioner Zogmaister seconded, all voting aye.

8. **CONTRACT WITH HALES ENGINEERING FOR THE TRANSPORTATION MASTER PLAN PROJECT – CONTRACT C2013-285**

Jared Anderson, County Engineer, stated that bids were issued and Hales Engineering was the low bidder.

Commissioner Zogmaister moved to approve Contract C2013-285 with Hales Engineering for the Transportation Master Plan Project; Commissioner Bell seconded, all voting aye.

9. **CONTRACT AMENDMENT WITH BOWEN COLLINS AND ASSOCIATES FOR ADDITIONAL BANK PROTECTION SITES AND SCOPING REQUIREMENTS AS PART OF THE WEBER EMERGENCY WATERSHED PROTECTION PROJECT – CONTRACT C2013-286**

Jared Andersen, County Engineer, noted that this company has been the design engineer for the majority of the EWP projects. Additional structure work needed to be designed.

Commissioner Bell moved to approve Contract C2013-286 with Bowen Collins and Associates for additional bank protection sites and scoping requirements as part of the Weber Emergency Watershed Protection Project; Commissioner Zogmaister seconded, all voting aye.

F. PUBLIC HEARINGS:

1. Commissioner Bell moved to adjourn the public meeting and convene the public hearings; Chair Gibson seconded, all voting aye.
2. **PUBLIC HEARING FOR REPRESENTATIVES FROM NON-PROFIT ORGANIZATIONS AS WELL AS OTHERS TO DISCUSS POTENTIAL PROJECTS FOR THE 2014 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

Chad Meyerhoffer, with County Engineering, noted that this first public hearing is to supply information regarding the 2014 CDBG program, to solicit possible projects that may be eligible for the funds, and to field possible suggestions and questions about the projects from the citizens. The national objective is for grant money to be primarily spent to benefit low to moderate income persons but other national objectives may be used to meet urgent needs as specified.

Eligible activities are identified in the CDBG application guide that is available for review by interested parties. All possible projects in which funding may be applied for are indicated in the regional Consolidated Plan and is available for review in the Weber County Planning Office.

Projects within the Wasatch Front Region will compete between Weber, Morgan, and Tooele Counties and can expect approximately \$900,000 in CDBG funds for 2014. Mr. Meyerhoffer explained how projects will be rated to determine what projects can proceed with final application. All pre-applications must be submitted to the Wasatch Front Regional Council by 1/31/2014. The unincorporated county does not currently have any active grant projects. The county has sponsored the Weber Housing Authority in a project that offers incentives for first time home buyers. Mr. Meyerhoffer outlined projects accomplished through grants in Weber County, including an emergency housing rehabilitation project administered through the Weber Housing Authority, installing storm drains in low-to-moderate income communities, and sponsoring non-profit agencies and others.

Possible county project for the 2014 funding year are for ADA upgrades and upgrades at the Weber Memorial Park and the North Fork Park Water Systems. Commissioner Bell asked to be informed of the progress on the water systems. The Weber Housing Authority would like to apply for funds to offer down payment assistance and subsistence payments to prevent homelessness, for all Weber County outside of Ogden City. Mr. Meyerhoffer was not contacted by any non-profit agencies who were at the CDBG "How to Apply Workshop" nor by anyone else to be sponsored by the county.

Andi Watkins, with Weber Housing Authority, said that they are interested in applying for the down-payment assistance program for \$200,000 and \$30,000 to help 60 households with one-time emergency rental assistance. Commissioner Zogmaister iterated the urgent need for the down-payment assistant program noting that there is no other agency in the county offering assistance with emergency rental funds.

3. **PUBLIC HEARING ON AMENDMENTS TO THE COUNTY LAND USE CODE TITLE 108 (STANDARDS) CHAPTER 13 (HOME OCCUPATION, SHORT TERM VENDORS, TEMPORARY OUTDOOR SALES, FARMER MARKETS) TO ALLOW YURTS AS PART OF A SKI OPERATION TO BE USED FOR SHORT TERM VENDORS; TITLE 104 (ZONES) CHAPTER 11 COMMERCIAL VALLEY RESORT RECREATION ZONE (CVR-1) CONDITIONAL USES TO REMOVE YURTS FROM WEBER COUNTY LAND USE CODE, AND TITLE 108 (STANDARDS) CHAPTER 2 (OGDEN VALLEY ARCHITECTURAL, LANDSCAPE AND SCREENING STANDARDS) SECTIONS 108-2-2; (DEFINITIONS) TO MOVE THE DEFINITION OF YURT TO TITLE 101 (GENERAL PROVISIONS) CHAPTER 1 SECTION 7 (DEFINITIONS)**

Jim Gentry, of the County Planning Division, stated that Powder Mountain petitioned for yurts to be allowed as part of the ski resort. Currently, they are only listed in the CVR-1 zone.

5. **PUBLIC HEARING ON AMENDMENTS TO THE CONCEPT DEVELOPMENT PLAN FOR THE RIDGE TOWNHOMES (CONTRACT 2006-62) FORMERLY KNOWN AS THE TOWNHOMES AT EAGLES LANDING BY USING 4-PLEX RATHER THAN 2-PLEX UNITS, REDUCING THE NUMBER OF STRUCTURES FROM 24 TO 12, AND CHANGING THE ARCHITECTURAL DESIGN – CONTRACT C2013-287**
4. **PUBLIC HEARING ON A CONDITIONAL USE PERMIT (CUP) 2013-25 THE RIDGE TOWNHOMES AT WOLF CREEK PRUD A 48 UNIT CONDOMINIUM PROJECT AT APPROXIMATELY 3400 NORTH MOOSE HOLLOW DRIVE BASED ON THE NEW CONCEPT PLAN – CONTRACT C2013-287**

Sean Wilkinson, of the County Planning Division, noted that items F4 and F5 are very similar. In 2006 there was a rezone for property in the Wolf Creek area at Eagles Landing and the "Townhomes parcel." The latter property is about 16 acres and was zoned FR-3 in 2006. This added quite a bit of land to the overall Wolf Creek master plan and additional density.

At that time, there were 24 two-plex units proposed on the property and he showed those renderings. A new developer is proposing a few changes, including going from the 24 two-plex units to 12 four-plex units, decreasing structure heights from about 35 ft. to 26 ft. and changing building styles, which Mr. Wilkinson showed. A new Zoning Development Agreement is required with this item and since construction on the original agreement has taken place, there is only the expiration date (2/2017). Mr. Wilkinson said that two residents on Elkridge Trail, which will eventually connect to the road that runs through this townhomes parcel, were in favor of the reduced height. The Ogden Valley Planning Commission unanimously recommended approval of these changes.

Chair Gibson invited public comments and none were offered.

6. PUBLIC HEARING ON A PROPOSED AMENDMENT TO THE WEBER COUNTY LAND USE CODE TITLE 108 (STANDARDS) CHAPTER 7 (SUPPLEMENTARY AND QUALIFYING REGULATIONS) SECTION 29 (FLAG LOT ACCESS EASEMENT STANDARDS) BY UPDATING ACCESS EXCEPTION STANDARDS

Sean Wilkinson, with County Planning Division, worked with the Fire District and County Engineering in updating the access exception standards (for properties that either don't have enough frontage or have none) and access their properties via private right-of-way.

The standards were outdated and the changes include clarifying the difference between agricultural parcels and those to be used for dwellings, widths were adjusted, the maximum allowed grade changed from 15% to 10% and can be reviewed on a case by case, the radius standard was updated, existing bridges need to provide a statement from a certified engineer that they meet the weight bearing capacity for fire trucks and new bridges must be constructed per standards.

- 7. Public Comments: Chair Gibson invited comments and none were offered.
- 8. Commissioner Bell moved to adjourn the public hearings and convene the public meeting; Commissioner Zogmaister seconded, all voting aye.

G. ACTION ON PUBLIC HEARINGS:

1. PROCEED WITH 2014 COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATIONS

Commissioner Zogmaister moved to proceed with the 2014 Community Development Block Grant applications; Commissioner Bell seconded, all voting aye.

2. AMENDMENTS TO LAND USE CODE TITLE 108, CHAPTER 13, SECTION 3, LAND USE CODE TITLE 108, CHAPTER 2, LAND USE CODE TITLE 104, CHAPTER 11, LAND USE CODE 101, CHAPTER 1, SECTION 7 AND ORDINANCE AS PRESENTED (PUBLIC HEARING ITEM #3) – ORDINANCE 2013-31

Commissioner Zogmaister moved to adopt Ordinance 2013-31, amendments to the Land Use Code Title 108, Chapter 13, Section 3, Land Use Code Title 108, Chapter 2, Land Use Code Title 104, Chapter 11, Land Use Code 101, Chapter 1, Section 7 and Ordinance as presented; Commissioner Bell seconded.

Roll Call Vote:

Commissioner Bell	aye
Commissioner Zogmaister.....	aye
Chair Gibson.....	aye

3. CONDITIONAL USE PERMIT (CUP) 2013-25 (PUBLIC HEARING ITEM #4)

Commissioner Bell moved to approve the Conditional Use Permit 2013-25; Commissioner Zogmaister seconded, all voting aye.

4. **CONCEPT PLAN AMENDMENTS FOR THE RIDGE TOWNHOMES (PUBLIC HEARING ITEM #5)**

Commissioner Zogmaister moved to approve Contract C2013-287, concept plan amendments for The Ridge Townhomes; Commissioner Bell seconded, all voting aye.

5. **AMENDMENTS TO LAND USE CODE TITLE 108, CHAPTER 27, SECTION 29 (PUBLIC HEARING ITEM #6) - ORDINANCE 2013-32**

Commissioner Zogmaister moved to adopt Ordinance 2013-32, amendments to the Land Use Code Title 108, Chapter 13, Section 3, Land Use Code Title 108, Chapter 2, Land Use Code Title 104, Chapter 11, Land Use Code 101, Chapter 1, Section 7 and Ordinance as presented; Commissioner Bell seconded.

Roll Call Vote:

Commissioner Bell	aye
Commissioner Zogmaister.....	aye
Chair Gibson.....	aye

H. ACTION ITEMS CONTINUED:

1. **REQUEST ON RESOLUTION SUPPORTING THE CAUCUS-CONVENTION SYSTEM OF SELECTING CANDIDATES FOR POLITICAL OFFICE**

This item was held.

I. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, DECEMBER 17, 2013, 10 A.M.

J. PUBLIC COMMENTS: None

K. ADJOURN

Commissioner Bell moved to adjourn at 10:48 a.m.; Commissioner Zogmaister seconded, all voting aye.

Attest:

Kerry W. Gibson, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor