

MINUTES
WEBER COUNTY COMMISSION

Tuesday, August 7, 2018 - 10:00 a.m.

Commission Chambers, 2380 Washington Blvd., Ogden, 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 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.

WEBER COUNTY COMMISSIONERS: James "Jim" H. Harvey, James Ebert and Scott K. Jenkins.

OTHER STAFF PRESENT: Ricky D. Hatch, County Clerk/Auditor; Christopher Crockett, Deputy County Attorney; and Fátima Fernelius, of the Clerk/Auditor's Office, who took minutes.

- A. WELCOME** – Chair Harvey
- B. INVOCATION** – Christopher Crockett
- C. PLEDGE OF ALLEGIANCE** – Courtlan Erickson
- D. THOUGHT OF THE DAY** – Commissioner Jenkins

E. PUBLIC COMMENTS: None.

F. PRESENTATIONS:

1. PRESENTATION OF SEAL OF SERVICE AWARD TO DR. KAY HAW OF WEBER COUNTY SHERIFF'S OFFICE.

Chair Harvey stated that this award is given to outstanding employees in Weber County and Dr. does her job out of love, and he expressed thanks. Chief Jason Talbot, of the County Sheriff's Office, stated that it takes a special person to work in a jail and the love Dr. Haw has for the people there is unbelievable. Commissioner Ebert noted the tremendous job and challenges at the Sheriff's Office, and Dr. Haw responded to his questions including that she and her staff see several hundred inmates/month, that about 60% of that population is on medication, dispensed at least twice/day, etc. Her biggest staffing challenge is the nursing shortage as many leave due to salary. Commissioner Ebert expressed thanks for her dedication and taking on those specific challenges and choosing to work with Weber County in corrections, a difficult assignment, when she could work elsewhere. She was presented with a plaque and \$100 for her exemplary work.

2. PRESENTATION OF AN UPDATE ON FIRE LEVEL ACTIVITY AND FIRE CONDITIONS.

Weber Fire District Captain Rick Cooper reported on the current fire levels within the District and nationally. He reiterated that we are in advanced fire behavior and above fire potential level activity throughout the entire State for low and high elevations, which will only worsen until there is substantial rain, which is not anticipated for another 1½ months, and dry lightning is expected soon. This is a huge concern for fire management, not only on the local level, but also state and federal levels. The county and its public information officer have been proactive and getting the message out to the public about the restrictions in order to help minimize fire behavior. County-wide the resources are better prepared than five years ago when Captain Cooper took over and agencies have built a stronger rapport with each other and better response times. The worse threat are the minimal resources and field conditions for wildland and urban interfaces areas. He responded to the commissioners' questions stating that there were 19 grassfires from 10 p.m.-2 a.m. on July 4th and that Box Elder County's fires are affecting Weber County's air quality.

3. PRESENTATION OF THE 2ND QUARTER 2018 FINANCIAL REPORT.

Scott Parke, County Comptroller, stated that the expenditures are where expected. The county is conservative with revenue estimates. Last year 4% sales tax growth was projected and the county is on track to experience about 6.8% growth. The 2018 property tax growth rate was estimated at 1.75% and it has been growing over 4%, although a portion of that is due to an RDA that came off a year early (making the actual growth rate closer to 3.3%). The county is anticipating about \$700,000 of additional revenue in 2018. Mr. Parke said that the county is in good shape but still needs to be conservative because of unknown general economy impacts.

G. CONSENT ITEMS:

- 1. Warrants #1511-1516 and #430667-430887 in the amount of \$1,521,873.05.
- 2. Purchase orders in the amount of \$78,730.66.
- 3. Minutes for meetings held on July 31, 2018.
- 4. New business licenses.
- 5. Set public hearing for August 14, 2018, 10 a.m., regarding a request to vacate a portion of lot 1 of the Pelican Bluff Subdivision.
- 6. Addendum to a contract with Century Link agreeing to a new price structure that lowers the price.
Commissioner Jenkins moved to approve the consent items; Commissioner Ebert seconded.
Commissioner Ebert – aye; Commissioner Jenkins – aye; Chair Harvey – aye

H. ACTION ITEMS:

1. MEMORANDUM OF UNDERSTANDING WITH OGDEN CITY FOR DISTRIBUTING JAG GRANT FUNDS.

Steffani Ebert, of the County Sheriff's Office, stated that the federal government had a hold on these funds for the past year which impacted the past two years' grants. Ogden City submits an application on behalf of the county, which is treated as a disparate agency. The total grant for the year is about \$58,997, of which Weber County will receive \$5,900 and Ogden \$53,097. The county will use the funds to create a safe exchange zone in the Sheriff's Complex parking lot where exchange of children of child custody issues, online transaction exchanges, and other things of that nature can occur.

Commissioner Jenkins moved to approve the Memorandum of Understanding with Ogden City for the purpose of distributing JAG grant funds; Commissioner Ebert seconded.

Commissioner Ebert – aye; Commissioner Jenkins – aye; Chair Harvey – aye

2. RESOLUTION AUTHORIZING THE FILING OF CROSS-APPEALS FOR 2018 CENTRALLY ASSESSED PROPERTIES – RESOLUTION 38-2018.

Courtlan Erickson, Deputy County Attorney, outlined State timelines for submission of these appeals. The county has 60 days to file a cross-appeal, if it wants to become a party to these appeals. Since June six additional taxpayers have filed: Century Link, AT&T Inc., Pioneer Pipeline Company, Compass Minerals Ogden Inc., Union Pacific Railroad Company, and Integra Telecom.

Commissioner Jenkins moved to adopt Resolution 38-2018 authorizing the filing of cross-appeals for 2018 centrally assessed properties for Century Link, AT&T Inc., Pioneer Pipeline Company, Compass Minerals Ogden Inc., Union Pacific Railroad Company, and Integra Telecom; Commissioner Ebert seconded.

Commissioner Ebert – aye; Commissioner Jenkins – aye; Chair Harvey – aye

3. CONTRACTS WITH THE FOLLOWING ATTORNEYS TO PROVIDE INDIGENT DEFENSE COUNSEL ON CAPITAL CASES: RANDALL MARSHALL AND JAMES RETALICK, MARTIN GRAVIS AND JASON WIDDISON.

Bryan Baron, Deputy County Attorney, stated that the county has an obligation to provide indigent defense counsel on capital cases, which have specific rules, including hiring two attorneys per defendant. This is for the Miller Eric Costello and Brenda Emile capital cases.

Commissioner Jenkins moved to approve contracts with Randall Marshall and James Retallick, and Martin Gravis and Jason Widdison, attorneys to provide indigent defense counsel on the capital cases; Commissioner Ebert seconded.

Commissioner Ebert – aye; Commissioner Jenkins – aye; Chair Harvey – aye

I. PUBLIC HEARING:

1.

Commissioner Ebert moved to adjourn the public meeting and convene the public hearing; Commissioner Jenkins seconded.

Commissioner Ebert – aye; Commissioner Jenkins; Chair Harvey – aye

2. PUBLIC HEARING REGARDING A PROPOSAL TO AMEND THE FOLLOWING WEBER COUNTY CODE: §102-1, §104-[ALL], §106-2, & §108-[ALL], TO MAKE DECISIONS FOR PLANNED RESIDENTIAL UNIT DEVELOPMENTS (PRUD) LEGISLATIVE AND NOT ADMINISTRATIVE BY CREATING A PLANNED RESIDENTIAL UNIT OVERLAY ZONE AND REPEALING THE PLANNED RESIDENTIAL UNIT ENTITLEMENT & ADMINISTRATIVE CRITERIA FROM EACH ZONE AND THE STANDARDS CHAPTER; AND TO ADD FLEXIBLE LOT WIDTH & LOT AREA STANDARDS INTO THE SUBDIVISION CODE IN A MANNER THAT ALLOWS FLEXIBILITY & DIVERSITY OF LOT TYPES IN A SUBDIVISION WHILE NOT INCREASING OVERALL DWELLING UNIT DENSITY.

Charles Ewert, of the County Planning Division, noted that up until this point, the PRUD code is a list of standards that go with a PRUD decision. PRUDs are listed in many zones as being an allowed development-type and as such a landowner has the right to be approved if they comply with the code standards. Current PRUD code states that any standard can be waived or modified but gives no rules/criteria for doing so. Last year an application was received to amend this code to reduce the amount of single-family residential dwellings that could come with a PRUD from 24 to 8 under certain circumstances, and it was put on hold for review. The Ogden Valley Planning Commission did not wish to make changes to the PRUD code because there are issues with it and they did not wish to expand the problems; the County Commission discussed this item and had similar concerns, which is that the Code is way too flexible/too open-ended. The code is written with what appears as unlimited legislative discretion and decision making, but it is not a legislative decision, rather it is an administrative decision, and it would have to be approved. Currently it is a complicated and convoluted situation without predictable outcomes.

Commissioner Ebert noted that because it is so flexible, the decision comes from the Planning Commission, which came from the staff recommendations, and puts staff and the Planning Commission in an untenable situation where they were trying to balance the wants/needs of the Commission and community against the developer, creating at times an indefensible situation. A more structured code is needed so staff will not have to make arbitrary decisions.

Mr. Ewert offered two options: a) to amend the code by reinforcing it with objective standards or b) staff's recommendation to change the PRUD to a legislative/zoning decision as opposed to an administrative approval by making the PRUD an overlay zone. The applicant's request from last year has been incorporated into this amendment. It also includes the Planning Commission's recommendations, which rewrites the PRUD rules to be legislative. Mr. Ewert reviewed major points of this proposal, noting that he had worked with the County Attorney's Office and they have suggested a few minor non policy-related changes, and he requested that this be the first reading for an opportunity to make the necessary changes. Mr. Ewert addressed the commissioners' questions, including that both Planning Commissions recommended removing the section about lot averaging from the PRUD code because that undermines the cluster code that was just adopted, and they prefer to see that prevail. Lot averaging can be placed in the Subdivision Code and still accomplish some flexibility and not really impact the processing time or density. Commissioner Ebert noted that the first meeting on the item is administrative, people show up upset about how an incoming PRUD is set up, but in that meeting the commissioners cannot override the administrative section of the ordinance if the requirements are met. According to State Code, a conditional use permit shall be approved, and there is very limited ability to deny it.

3. Public Comments: Eric Householder, a developer with the Householder Group, likes flexibility but is not opposed to anything in this amendment and also is not opposed to establishing a framework for the process. Bob Favero, Weber County property owner, would like flexibility on lot size and encouraged having lot averaging in this code. He'd submitted an application under the Cluster Subdivision Ordinance prior to the current one to develop land in the Taylor area. The former code allowed smaller open spaces but it changed to require all open space in one area and all homes in another. Because of this, he changed his approach to go to acre lots and not use the current Cluster Subdivision rules, in order to use corners more effectively. He believes that the open space in the future will turn into 10-acre weed patches as farming does not continue with farmers' heirs. He said that secondary water is a huge issue not addressed in any of this conversation, and it will run out. Commissioner Jenkins noted that the water districts require that developers have enough culinary water and a secondary system or they will not connect them in and Mr. Favero said that this is not working; the extraction amount by the water companies is way over what Weber Basin's recommendations are for what is needed to provide the service and this will dry up a lot of areas. Commissioner Jenkins understands this. When he was in the legislature he tried for many years to correct the 1:1 ratio they use because the agriculture water is in open ditches, etc., and should be treated differently from culinary water, but in the end it became difficult to prove. He said that the amount of money spent for secondary water is many times over what is paid for the shares that one owns.

4. Commissioner Ebert moved to adjourn the public hearing and reconvene the public meeting; Commissioner Jenkins seconded.
Commissioner Ebert – aye; Commissioner Jenkins – aye; Chair Harvey – aye

5. **REQUEST FOR ACTION ON PUBLIC HEARING: I.2-AMENDING THE FOLLOWING PARTS OF THE WEBER COUNTY CODE: §102-1, §104-[ALL], §106-2, AND §108-[ALL].**
Commissioner Ebert moved to table this item for two weeks to have more time for review; Commissioner Jenkins seconded.
Commissioner Ebert – aye; Commissioner Jenkins – aye; Chair Harvey – aye

J. COMMISSIONER COMMENTS: None.

K. ADJOURN

Commissioner Jenkins moved to adjourn at 11:39 a.m.; Commissioner Ebert seconded.
Commissioner Ebert – aye; Commissioner Jenkins – aye; Chair Harvey – aye

Attest:

James "Jim" H. Harvey, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor