

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

Tuesday, January 5, 2016 - 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, Matthew G Bell and James Ebert.

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

- A. WELCOME** – Chair Gibson
- B. INVOCATION** – Ryan Judkins
- C. PLEDGE OF ALLEGIANCE** – Jared Andersen
- D. THOUGHT OF THE DAY** – Commissioner Ebert

**E. CONSENT ITEMS:**

- 1. Purchase orders for \$147,095.52
  - 2. Ratify warrants #328145-#328473 for \$1,652,651.84 dated December 29, 2015
  - 3. Warrants #328474-#328644 for \$849,105.92
  - 4. Minutes for the meeting held on December 22, 2015
- Commissioner Ebert moved to approve the consent items; Commissioner Bell seconded.  
Commissioner Ebert – aye; Commissioner Bell – aye; Chair Gibson – aye

**F. ACTION ITEMS:**

- 1. **COOPERATIVE AGREEMENT WITH UTAH DEPARTMENT OF TRANSPORTATION (UDOT) FOR THE 3500 WEST ROAD WIDENING PROJECT**

Jared Andersen, County Engineer, noted that the county is designing a roadway and related infrastructure improvements on 3500 W. UDOT has agreed to participate in the cost of the eastbound right-turn deceleration lane at SR-39/1200 S. as part of those improvements. UDOT will reimburse the county to make those improvements.

Commissioner Ebert moved to approve the Cooperative Agreement with the Utah Department of Transportation (UDOT) for the 3500 W. road widening project; Commissioner Bell seconded.  
Commissioner Ebert – aye; Commissioner Bell – aye; Chair Gibson – aye

- 2. **RIGHT-OF-WAY CONTRACT WITH SHADOW MOUNTAIN MANAGEMENT, PARCEL 7, FOR THE SKYLINE DRIVE PROJECT**

Jared Anderson, County Engineer, briefly presented this contract.

Commissioner Bell moved to approve the right-of-way contract with Shadow Mountain Management, Parcel 7, for the Skyline Drive project; Commissioner Ebert seconded.  
Commissioner Ebert – aye; Commissioner Bell – aye; Chair Gibson – aye

- 3. **RIGHT-OF-WAY CONTRACTS WITH THE FOLLOWING FOR THE 12<sup>TH</sup> STREET PROJECT:  
KADEN KORY VERNON & AUDRIE RICHINS, PARCEL 175  
RICH GRANT INVESTMENTS, PARCEL 170**

Jared Andersen, County Engineer, briefly presented these contracts.

Commissioner Bell moved to approve the right-of-way contracts as listed above for the 12<sup>th</sup> Street project; Commissioner Ebert seconded.  
Commissioner Ebert – aye; Commissioner Bell – aye; Chair Gibson – aye

**4. FIRST READING OF ORDINANCE AMENDING CERTAIN PROVISIONS OF THE PURCHASING CODE**

Brianna Sederholm, County Purchasing Agent, stated that this amendment makes the purchasing process more efficient by allowing purchase orders to be released by the Purchasing Agent on amounts up to \$20,000 rather than \$5,000.

Commissioner Ebert moved to approve the first reading of the ordinance amending certain provisions of the purchasing code as discussed; Commissioner Bell seconded.  
Commissioner Ebert – aye; Commissioner Bell – aye; Chair Gibson – aye

**5. CONTRACT WITH SNOWY RANGE LAND TREATMENTS, LLC FOR ON-CALL SNOW REMOVAL SERVICES**

Ryan Judkins, of County Roads, stated that this is for on-call snow removal on a portion of Summit Pass, a new county road at Powder Mountain Ski Resort. Services are charged on an hourly basis.

Commissioner Bell moved to approve the contract with Snowy Range Land Treatments, LLC for on-call snow removal services; Commissioner Ebert seconded.  
Commissioner Ebert – aye; Commissioner Bell – aye; Chair Gibson – aye

**6. INDIGENT DEFENSE AGREEMENTS WITH THE FOLLOWING:**

**MICHAEL BOUWHIS  
SAMUEL NEWTON  
MARY ANNE ELLIS  
CAROL MORTENSEN  
JENNIFER CLARK  
MARTIN GRAVIS  
JOHNATHAN HANKS  
MIKE STEWART  
JASON RICHARDS  
JON PACE  
RANDALL MARSHALL**

David Wilson, Deputy County Attorney, presented the above contracts noting that about half of them have a 3-year term and the remaining have a 1-year term.

Commissioner Ebert moved to approve the above listed contracts for indigent defense; Commissioner Bell seconded.  
Commissioner Ebert – aye; Commissioner Bell – aye; Chair Gibson – aye

**G. PUBLIC COMMENTS: None**

**H. ASSIGN PLEDGE OF ALLEGIANCE FOR MEETING ON TUESDAY, JANUARY 12, 2016, 10 A.M.**

**I. ADJOURN**

Commissioner Bell moved to adjourn at 10:31 a.m.; Commissioner Ebert seconded.  
Commissioner Ebert – aye; Commissioner Bell – aye; Chair Gibson – aye

Attest:

\_\_\_\_\_  
Kerry W. Gibson, Chair  
Weber County Commission

\_\_\_\_\_  
Ricky D. Hatch, CPA  
Weber County Clerk/Auditor

5160026  
1-5-2016

**AGREEMENT FOR INDIGENT DEFENSE ATTORNEY  
JUVENILE COURT**

THIS AGREEMENT is made effective the 1<sup>st</sup> day of January, 2016, by and between WEBER COUNTY, a body politic of the State of Utah, hereinafter referred to as "County," and Jennifer Clark, hereinafter referred to as "Attorney."

**WITNESSETH:**

**WHEREAS**, pursuant to Chapter 32 of Title 77, *Utah Code Ann.* (1953) as amended, Weber County has the responsibility to provide legal counsel to every indigent person who faces the substantial probability of deprivation of his or her liberty; and

**WHEREAS**, pursuant to Chapter 6 of Title 78A, *Utah Code Ann.* (1953) and other corresponding provisions and appellate court decisions, the County has the obligation to provide legal counsel in certain other circumstances ; and

**WHEREAS**, Attorney is a member of the Utah State Bar Association in good standing and admitted to practice law before the courts of the State of Utah; and

**WHEREAS**, Attorney is willing to represent persons in the Second District Juvenile Court when appointed by the Court in accordance with paragraphs 1(A) and 1(B) below;

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained hereafter, the parties hereto agree as follows:

1. A. Attorney agrees to provide competent legal counsel to any minor defendant, where the court appoints the Attorney as a result of the minor defendant or the minor's parents or legal guardians being deemed by the court to be indigent pursuant to the statutory indigency guidelines or where the court appoints the attorney as otherwise provided in Utah Code Section 78A-6-1111(1)(e), when a delinquency petition is brought by the Weber County Attorney's Office, , and the minor defendant has been charged with a delinquent act be it felony, misdemeanor, status offense, or certification proceeding. The attorney will also represent such minor defendants in juvenile court probation violations hearings, order to show cause hearings and restitution hearings.

Attorney agrees to promptly notify the court of any changes with regard to the indigent status of client, which changes would affect the qualifying of the client for court-appointed personnel.

- B. Attorney agrees to provide competent legal counsel to any legal parent or legal guardian, where the court appoints the Attorney as a result of the legal parent or legal guardian being deemed by the court to be indigent pursuant to the statutory indigency guidelines, and where the legal parent or legal guardian appears in a Weber County Juvenile Court dependency,



neglect, abuse, order to show cause, or termination of parental rights proceedings brought by the Utah Attorney General's Office for the Utah Division of Family Services, pursuant to Utah Code Section 78A-6-1111 et al.

- C. In the event Attorney is appointed to represent a client as a result of the client's indigency, Attorney agrees to promptly notify the court of any changes with regard to the indigent status of client, which changes would affect the qualifying of the client for court-appointed counsel.
  - D. Attorney agrees that if she is qualified for the defense in a capital defense case where the County Attorney's Office seeks the death penalty, Attorney shall accept such assignment. County agrees that it shall pay additional compensation as negotiated by the Coordinating Attorney. The Coordinating Attorney shall have sole discretion in determining whether Attorney is assigned as defense counsel in a death penalty case.
2. Attorney will represent various clients that would typically be assigned to other contract attorneys when the court deems there is a conflict of interest preventing the other contract attorney from representing the client. Any such representation shall be at no additional cost to Weber County, with such assignments being made under the direction of the Coordinating Attorney.
  3. Attorney will cooperate in providing the Coordinating Attorney caseload information to enable the proper assembly of case statistics, including informing the Coordinating Attorney of any cases which have gone to trial. Attorney will submit a monthly summary of statistics to the Coordinating Attorney on a form approved by the Coordinating Attorney.
  4. Attorney will seek to identify potential conflicts or complaints that persons may have against Attorney and work diligently to avoid any complaints being lodged against Attorney, and will immediately communicate to the Coordinating Attorney any complaints that may be lodged by anyone against Attorney, and work diligently to resolve any such complaint.
  5. Attorney will cooperate in the implementation of a system for the collection from Attorney of files that are closed and the storage of such files in a location deemed appropriate.
  6. Attorney will assist in the development of a list of court approved investigators and expert witnesses and make diligent efforts to utilize only those investigators and expert witnesses found on such list. If Attorney feels it necessary to utilize an expert witness or investigator who is not on the approved list, Attorney agrees to first consult with the Coordinating Attorney before making any such request of the Court.



7. Attorney shall submit to the Coordinating Attorney an electronic copy of each and every motion, memoranda and appellate brief Attorney files. Attorney is not required to submit said copies prior to the respective due dates, but shall submit copies to the Coordinating Attorney as soon thereafter as is practicable. Attorney will not be required to submit copies of client court reports, or any other such reports, as approved by the Coordinating Attorney.
8. Attorney shall submit to the Coordinating Attorney an electronic copy of each request for transcripts, request for appointment of expert witness, or any other motion, request, or stipulation that will require payment by the County, and shall submit such copies simultaneously with the filing of the original documents with the Court. Attorney shall also work to ensure that such requests are necessary for case preparation.
9. If at any time Attorney's case load becomes sufficiently burdensome to create an ineffective assistance of counsel issue or could cause the attorney to be in violation of the Rules of Professional Conduct, Attorney shall immediately notify the Coordinating Attorney and determine a proper course of action to remedy the situation.
10. Attorney is expected to provide coverage for other contract attorneys when necessary and when Attorney is available to provide coverage. When possible, the attorneys should attempt to trade coverage at the time coverage is procured. When a simultaneous trade is not possible, the attorney whose calendar was covered should make reasonable efforts to reciprocate coverage for the attorney who covered for him/her upon request.

If the Coordinating Attorney determines that the attorney who provided coverage made reasonable efforts to procure coverage from the attorney for whom he/she provided coverage and the other attorney is unwilling or unable to provide coverage within six months of the original coverage having been provided, the covering attorney shall be compensated by the attorney who was covered the sum of \$250 for having provided coverage. This amount shall be deducted from the paycheck of the attorney whose calendar was covered and added to the paycheck of the covering attorney.

11. When Attorney will miss her regular court assignment due to trial, vacation, seminar, etc., she shall arrange with another contract attorney to cover Attorney's court. If Attorney fails to procure coverage and does not appear at her court assignment, the sum of \$600 shall be deducted from her pay and paid to the attorney[s] who provided coverage for Attorney (if, indeed, any is provided).
12. The term of this Agreement shall be from January 1, 2016 through December 31, 2018.





13. Weber County agrees to pay Attorney the sum of \$87,500 for service provided between January 1, 2016 and December 31, 2018, plus an additional \$300 annually to cover expenses associated with discovery. Payment shall be made to the Attorney in equal monthly installments of \$7,316.67 per month. The first installment is due before the end of January 2016 and a like sum on the last day of each month thereafter through December 31, 2018.
14. Attorney agrees to maintain professional malpractice insurance with limits of \$100,000 per person and an aggregate of \$300,000 and provide to Weber County evidence of the insurance. In addition, Attorney agrees to hold Weber County harmless from all damage, loss or injury it may suffer or be held liable for as a result of the conduct of Attorney.
15. Attorney agrees to abide by the rules of Professional Conduct of the American Bar Association, the Utah State Bar Association and the laws of the State of Utah, including but not necessarily limited to the provisions of Chapter 32 of Title 77, *Utah Code Ann.* (1953) as amended. Attorney agrees to keep abreast of all current legal trends and to that end shall maintain sufficient continuing professional education credits during the period of this agreement.
16. Throughout the term of this Agreement, Attorney agrees to maintain a bona fide office in Weber County, made available to the clients which she serves under the terms of this Agreement. Attorney agrees to be available and accessible to clients reasonably in advance of any hearing or trial, to make reasonable efforts to visit clients who are incarcerated, to return telephone calls as soon as reasonably possible, and to otherwise be reasonably accessible to all clients.
17. Attorney agrees to use her best efforts to avoid any conflicts of interest which would divide loyalty of defense counsel to the client. The parties, however, recognize that certain cases may arise where conflicts are of sufficient magnitude that the Attorney cannot represent the person charged. Conflicts of interest shall only be deemed to exist after a determination of the appointing Court.
18. Nothing in this agreement shall prohibit Attorney from representing private clients so long as the representation of private clients does not interfere with or create a conflict of interest in the representation of clients appointed under this agreement.
19. This Agreement may not be assigned by Attorney. Attorney is an independent contractor and shall not act as an agent for Weber County.
20. Weber County has established a separate indigent expense fund and will continue to fund the expense fund for the term of this Agreement. The expense fund may be used by all attorneys representing indigent defendants in Weber County. Appropriate expenses shall include, but shall not be limited to laboratory costs, transcripts, defense witness fees, and extraordinary investigator fees. Attorney will bear all other expenses in providing the services contemplated herein, including but not limited to, transportation, office, telephone, postage, copying and secretarial costs. While ensuring that Attorney's client receives an adequate



and reasonable defense, Attorney hereby agrees to use her best efforts to minimize the cost and expenses to be deducted from the fund.

Before any funds are expended, Attorney shall first consult with the Coordinating Attorney, and then shall make application for approval of expenses in the form of a written motion to the trial judge and shall specify the reasons for the expense. Payment for any expense incurred by the Attorney and not previously approved by the Court, or in excess of that approved by the Court, shall be the sole responsibility of the Attorney. In the event the total court approved expenses exhaust the expense fund for the year, the Attorney shall apply in writing to the Weber County Clerk/Auditor for approval of additional funds.

21. Attorney or County may terminate this Agreement without cause upon sixty (60) days written notice to the other party. This Agreement may also be terminated at any time for cause. Cause shall include but not be limited to a suspension or revocation of Attorney's license to practice law in the State of Utah, a breach of this Agreement or behavior which brings disrepute to other contract attorneys or to County. In the case of a breach or violation of a term of this Agreement, Attorney shall be given seven (7) calendar days to cure the breach or violation. Failure of the Attorney to cure the breach or violation within the specified period shall result in termination of this Agreement and the parties hereto agree that Weber County may award this contract to other legal counsel and deduct the costs from the compensation identified in Paragraph 13 of this Agreement.
22. Any notice required by this agreement shall be given in writing addressed to the following unless otherwise designated in writing.

FOR THE COUNTY:  
Weber County Attorney  
2380 Washington Blvd., Suite 230  
Ogden, UT 84401

FOR THE ATTORNEY:

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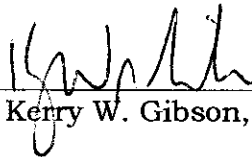
23. In the event this agreement is terminated or is not renewed, Attorney agrees to cooperate with his successor including the filing of all necessary pleadings for withdrawal and to deliver all applicable files, information and materials to the successor.
24. This Agreement can be changed, modified or amended only by written agreement of the parties hereto.
25. Attorney is an independent contractor and is responsible to pay any and all taxes and fees which may result from the compensation paid to Attorney pursuant to this Agreement.



- 26. This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.
- 27. This Agreement shall be governed by the laws of the State of Utah.

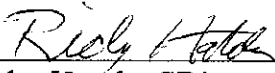
**IN WITNESS WHEREOF** the undersigned have affixed their respective signatures hereto the dates indicated below.

BOARD OF COUNTY COMMISSIONERS  
OF WEBER COUNTY


By   
Kerry W. Gibson, Chair

Commissioner Bell voted \_\_\_\_\_  
Commissioner Ebert voted \_\_\_\_\_  
Commissioner Gibson voted \_\_\_\_\_


ATTEST:

  
Ricky Hatch, CPA  
Weber County

ATTORNEY

By   
Jennifer Clark  
Date December 21, 2015  
*Jac*

INDIGENT DEFENSE COORDINATOR

By   
Michael D. Bouwhuis  
Date 1/4/16

