

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

Tuesday, January 10, 2017 - 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 Ebert, Kerry W. Gibson, and Jim Harvey

**OTHER STAFF PRESENT:** David C. Wilson, Deputy County Attorney; Lynn D. Taylor, Chief Deputy, County Clerk/Auditor; and Fátima Fernelius, of the Clerk/Auditor's Office, who took minutes.

- A. WELCOME** – Chair Ebert Ebert
- B. INVOCATION** – Jennifer Graham
- C. PLEDGE OF ALLEGIANCE** – Duncan Olsen
- D. THOUGHT OF THE DAY** – Commissioner Harvey

**E. PRESENTATIONS:**

**1. PRESENTATION FROM UTAH DIVISION OF WILDLIFE RESOURCES OF PAYMENT IN LIEU OF TAXES CHECK**

Justin Dolling, Northern Region Supervisor, noted that the DWR owns/manages 16,000+ acres in Weber County and presented a PILT check for \$8,175.85.

**2. PRESENTATION ON SALVATION ARMY'S EFFORT IN FEEDING AND CLOTHING THOSE IN NEED IN WEBER COUNTY**

Captain Donald Warriner reported on some of the assistance provided to the underprivileged of Weber County by the Salvation Army, noting the enormity of the problem with homelessness/underprivileged and stating that the figures keep increasing by about 20%/year. Last year they gave out 6,800 sack lunches, 836 clothing vouchers, 3,662 food boxes, 100 furniture vouchers, 755 hygiene kits, and 37,000 breakfasts. They now serve in one day the number of breakfasts that they used to serve in one month to the homeless. They also gave out 4,000 Christmas gifts to children. The Salvation Army relies on support from the city, county and community. Commissioner Gibson said that he and Chair Ebert attended a gala in November and also met Captain Warriner's wife who is also very involved in the program; they were very impressed with the organization and its great service to the community.

**F. CONSENT ITEMS:**

- 1. Warrants #412883-#412900 in the amount of \$2,529,326.40
  - 2. Purchase orders in the amount of \$263,500.05
  - 3. Minutes for the meetings held on December 20, 2016 and January 3, 2016
  - 4. Set public hearing for January 24, 2017, 10 a.m., to consider & take action on a request to amend the side yard setbacks in the Ogden Valley Destination and Recreation Resort Zone (§104-29) in the Uniform Land Use Code of Weber County, Utah
  - 5. ACH payment to US Bank for \$127,252.80 for purchasing card transactions through December 26, 2016
- Commissioner Harvey moved to approve the consent items; Commissioner Gibson seconded.  
Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

**G. ACTION ITEMS:**

**1. CONTRACT WITH THE OGDEN-WEBER CONVENTION VISITORS BUREAU (CVB)**

Sara Toliver, CVB President, stated that the term of the contract is from January 1, 2017–December 31, 2020. Any budget amount changes will be done by amendments. Ms. Toliver said that the last two years have been banner years for the CVB. They have seen double digit increases for the last few years in tourism taxes. The commissioners expressed thanks to the amazing staff and the great job that they do.

Commissioner Gibson moved to approve the contract with the Ogden-Weber Convention Visitors Bureau; Commissioner Harvey seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

**2. PUBLIC DEFENDER CONTRACTS BY THE FOLLOWING ATTORNEYS AND INVESTIGATOR:**

<b>AMMON NELSON</b>	<b>JONATHAN HANKS</b>	<b>MICHAEL BOUWHUIS</b>
<b>ANDREW HEYWARD</b>	<b>JONATHAN PACE</b>	<b>RANDALL MARSHALL</b>
<b>CAROL MORTENSEN</b>	<b>LOGAN BUSHELL</b>	<b>RICHARD WILLIAMS</b>
<b>JAMES RETALICK</b>	<b>MARTIN GRAVIS</b>	<b>ROBERT BRUNSON</b>
<b>JASON WIDDISON</b>	<b>MARY ANNE ELLIS</b>	<b>SAMUEL NEWTON</b>
<b>JENNIFER CLARK</b>		

Bryan Baron, Deputy County Attorney, noted that the county has an obligation to provide these attorneys. Commissioner Harvey moved to approve the Public Defender contracts with the above listed attorneys and investigator; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

**3. RESOLUTION APPOINTING MEMBERS TO THE WEBER MOSQUITO ABATEMENT DISTRICT – RESOLUTION 1-2017**

Chair Ebert had been serving on this board for some time. Commissioner Harvey volunteered to serve.

Commissioner Gibson moved to adopt Resolution 1-2017 appointing Commissioner Harvey to the Weber Mosquito Abatement District; Chair Ebert seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

**4. RESOLUTION APPOINTING MEMBERS TO THE ARENA BOARD – RESOLUTION 2-2017**

Jennifer Graham, with County Culture, Parks & Recreation, presented the names forwarded by the board for appointment or reappointment.

Commissioner Harvey moved to adopt Resolution 2-2017 reappointing Julie Snowball, Rod Southwick (terms expiring 12/31/2010), and Tom Close (term expiring 12/31/2019) and to appoint Sheryl Cox (term expiring 12/31/2010) to the Arena Board; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

**5. CONTRACT WITH TRAX AV TO SUPPLY SOUND AT THE 2017 HOF WINTERFEST**

Jennifer Graham, with County Culture, Parks & Recreation, briefly presented this contract.

Commissioner Gibson moved to approve the contract with Trax AV to supply sound for the 2017 Hof German Winterfest; Commissioner Harvey seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

**6. CONTRACT WITH BROKEN HEART RODEO TO HOLD THE INTERMOUNTAIN ICEBREAKER HIGH SCHOOL INVITATIONAL RODEO AT THE GOLDEN SPIKE EVENT CENTER**

Jennifer Graham, with County Culture, Parks & Recreation, briefly presented this contract.

Commissioner Harvey moved to approve the contract with Broken Heart Rodeo to hold the Intermountain Icebreaker High School Invitational Rodeo at the Golden Spike Event Center; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

**7. CONTRACT WITH WORLD CHAMPIONSHIP CUTTER AND CHARIOT RACING ASSOCIATION TO HOLD THE WORLD CUTTER & CHARIOT RACING CHAMPIONSHIPS AT THE GOLDEN SPIKE EVENT CENTER**

Jennifer Graham, with County Culture, Parks & Recreation, briefly presented this 1-year contract.

Commissioner Gibson moved to approve the contract with World Championship Cutter and Chariot Racing Association to hold the World Cutter and Chariot Racing Championships at the Golden Spike Event Center; Commissioner Harvey seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

**8. RESOLUTION FOR THE INTERLOCAL AGREEMENT AMENDMENT WITH TAYLOR WEST WEBER WATER IMPROVEMENT DISTRICT ON THE 3500 WEST ROADWAY PROJECT – RESOLUTION 3-2017**

Jared Andersen, County Engineer, stated that the county and the District had entered into an interlocal agreement to coordinate work and share costs associated with a culinary waterline project along 3500 W. during the county's improvement of 3500 W. The original agreement was based on the applicable line items in the bid and this amendment is to formalize the reimbursement of all the change orders. Mr. Andersen stated that this is a great example of entities working together and both benefit. Chair Ebert noted that the contract specifies what each entity pays for and asked about a couple of small amounts under the county's responsibility. Mr. Andersen stated that those were costs the county would have been responsible for regardless of the utility's involvement. This is the same procedure used with each public utility in that area.

Commissioner Harvey moved to adopt Resolution 3-2017 approving the Interlocal Agreement Amendment with Taylor West Weber Water Improvement District on the 3500 West roadway project; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

**9. RIGHT-OF-WAY CONTRACT WITH JOSEPH F. GIORDANO FOR PARCEL 11 ON THE 12<sup>TH</sup> STREET ROADWAY PROJECT**

Jared Andersen, County Engineer, briefly presented this contract.

Commissioner Gibson moved to approve the right-of-way contract with Joseph F. Giordano for Parcel 11 on the 12<sup>th</sup> Street roadway project; Commissioner Harvey seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

**H. PUBLIC COMMENTS:**

Sylvia Salisbury, of Ogden, said that it is convenient to receive the election ballot early in the mail; however, early voting is a bad idea. Case in point: on October 28 FBI director James Comey announced that the bureau was looking into many more emails on the server that Hillary Clinton used. On that date, according to the New York Times 22 million American had already cast their votes. Ms. Salisbury stated that that figure is greater than any margin of victory of any U.S. President. She also stated that in a court case the jury is not allowed to cast a vote for innocence or guilt until after the full evidence has been presented and that voters should not be able to either. By law, Election Day is the first Tuesday following the first Monday in November on even years. She strongly believes that the law should be enforced and wanted to share these thoughts with the Commission.

**I. ADJOURN**

Commissioner Harvey moved to adjourn at 10:53 a.m.; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Commissioner Ebert – aye

Attest:

\_\_\_\_\_  
James Ebert, Chair  
Weber County Commission

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

5170011

1.10.17 ✓

**AGREEMENT FOR INDIGENT DEFENSE ATTORNEY  
JUVENILE COURT**

This Agreement is made effective the 1<sup>st</sup> day of January, 2017, 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." County and Attorney are sometimes referred to individually as "Party" and collectively as "Parties."

**WITNESSETH:**

**WHEREAS**, pursuant to Chapter 32 of Title 77, Utah Code Ann. (1953, as amended), 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, as amended) and other corresponding provisions and appellate court decisions, County has the obligation to provide legal counsel in abuse, neglect, and dependency proceedings; in termination of parental rights proceedings; and in delinquency and contempt proceedings; 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 paragraph one, two, and three below;

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

1. **Delinquency Representation:** Attorney agrees to provide competent legal counsel to any minor defendant where the court appoints the Attorney pursuant to Utah Code § 78A-6-1111(1)(e), and the minor defendant has been charged with a delinquent act be it felony, misdemeanor, status offense, or certification proceeding. Attorney shall represent such minor defendants in all matters before the court including but not limited to juvenile court probation violations hearings, order to show cause hearings, and restitution hearings.
  
2. **Child Welfare Representation:** Attorney agrees to represent and provide competent

legal counsel to any parent or legal guardian where the following criteria have been met:

- a. The parent or legal guardian is involved in an abuse, neglect, dependency, contempt, or termination of parental rights proceeding brought by the Utah Attorney General's Office for the Utah Division of Family Services pursuant to Utah Code § 78A-6-1111 et al;
  - b. The court has found that the parent or legal guardian is indigent pursuant to the statutory indigency guidelines; and
  - c. The court has appointed the Attorney to represent the parent or legal guardian.
3. **Private Termination Representation:** Attorney agrees to represent and provide competent legal counsel to any parent where the following criteria have been met:
- a. The parent is involved in a termination of parental rights proceeding that was brought by a private party;
  - b. The court has made a finding that failure to appoint counsel will result in a deprivation of due process;
  - c. The court has found that the parent is indigent pursuant to the statutory indigency guidelines; and
  - d. The court has appointed the Attorney to represent the parent.
4. 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.
5. Attorney agrees to be supervised by an attorney who has been hired by County to act as the coordinating attorney ("Coordinating Attorney") and to accept assignments from said Coordinating Attorney to cover specific court calendars and other hearings as necessary.
6. Attorney will provide the Coordinating Attorney with caseload information on a monthly basis on a form approved by the Coordinating Attorney including information about the cases which have gone to trial.
7. 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. Attorney 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.

8. Attorney will be responsible for scanning any paper files once they are closed and destroying the hard copy of the file. In the event that Attorney fails to scan closed paper files and destroy the hard copies, County may withhold the costs for doing so from Attorneys final paycheck. Attorney agrees to cooperate with Coordinating Attorney in transferring the digital copies of closed files to the Coordinating Attorney.
9. Attorney will assist Coordinating Attorney 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.
10. 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, unless requested by the Coordinating Attorney.
11. 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.
12. 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.
13. 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.

14. 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 \$250 by the attorney who was covered. This amount shall be deducted from the paycheck of the attorney whose calendar was covered and added to the paycheck of the covering attorney.
  
15. When Attorney will miss his/her regular court assignment due to trial, vacation, seminar, etc., Attorney shall arrange with another contract attorney to cover Attorney's court. If Attorney fails to procure coverage and does not appear at Attorney's court assignment, the sum of \$600 shall be deducted from Attorney's pay and paid to the attorney[s] who provided coverage for Attorney (if any is provided). The arrangement for court coverage shall be coordinated with the Coordinating Attorney.
  
16. The term of this Agreement shall be from January 1, 2017 through December 31, 2019.
  
17. County agrees to pay Attorney the following amounts annually:

Basis for Amount	Amount
Child Welfare Representation	\$84,641
Delinquency Representation	\$36,309
Child Welfare Drug Court	\$3,900
Additional Increase	\$2,148
<b>Total</b>	<b>\$126,998</b>

Payment shall be made to the Attorney in equal monthly installments of \$10,583.16 per month. The first installment is due before the end of January 2017 and a like sum on the last day of each month thereafter through December 31, 2019.

County agrees to pay Attorney at the rate of \$100 per hour for services provided in Private Termination Cases pursuant to paragraph three above. Attorney agrees to submit invoices for payment to the Civil Division of the Weber County Attorney's Office no

more than three months after the work detailed in the invoice was completed. County reserves the right to refuse payment for any work that was performed more than three months prior to the submission of the invoice.

18. Attorney's compensation is based on the number of years Attorney has practiced. County agrees to periodically increase the compensation to Attorney up to a maximum of 30 years.
19. Attorney agrees to maintain professional malpractice insurance with limits of \$100,000 per person and an aggregate of \$300,000 and provide to County evidence of the insurance. In addition, Attorney agrees to defend, indemnify, and hold County harmless from all damage, loss, or injury Attorney may suffer or be held liable for as a result of Attorney's conduct.
20. 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).
21. 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.
  - a. Attorney agrees to make reasonable efforts to attend at least 80% of the periodic public defender training/coordination meetings.
22. Throughout the term of this Agreement, Attorney agrees to maintain access to an office within Weber County where Attorney can meet with clients which Attorney 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.
23. Attorney agrees to use his/her best efforts to avoid any conflicts of interest which would divide loyalty of Attorney 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.

24. 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 County, with such assignments being made under the direction of the Coordinating Attorney.
25. 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.
26. Unless the fee is waived by the court based upon the client's financial condition, Attorney agrees to assist County in the continued implementation of a fee recovery program whereby Defendants receiving assistance of appointed counsel shall repay to County a portion of the expense thereof as a matter of restitution, based upon a schedule approved by the Weber County Commission.
27. This Agreement may not be assigned by Attorney. Attorney is an independent contractor and shall not act as an agent for County.
28. County has established an 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 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 his/her best efforts to minimize the cost and expenses to be deducted from the fund.
29. Before any of the expense 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.

30. Attorney or County may terminate this Agreement without cause upon sixty days written notice to the other Party.
31. This Agreement may 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.
32. In the case of a breach or violation of a term of this Agreement, Attorney shall be given seven 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. In the event this Agreement is terminated, the Parties agree that County may award this contract to other legal counsel and deduct the costs from the compensation identified in Paragraph 17 of this Agreement.
33. Any notice required by this agreement shall be given in writing addressed to the following unless otherwise designated in writing.

FOR THE COUNTY:

FOR THE ATTORNEY:

JENNIFER CLARK  
5829 S 1050 E.  
Ogden, UT 84405

Weber County Attorney  
2380 Washington Blvd., Suite 230  
Ogden, UT 84401

- 34. 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.
- 35. This Agreement can be changed, modified, or amended only by written agreement of the Parties.
- 36. 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.
- 37. 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.
- 38. This Agreement shall be governed by the laws of the State of Utah.

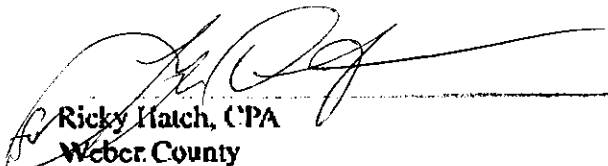
IN WITNESS WHEREOF the undersigned have affixed their respective signatures hereto the dates indicated below.

BOARD OF COUNTY COMMISSIONERS  
OF WEBER COUNTY

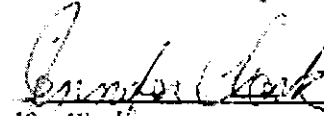
By  \_\_\_\_\_  
James Ebert, Chair

Commissioner Harvey voted	<input checked="" type="checkbox"/>
Commissioner Ebert voted	<input checked="" type="checkbox"/>
Commissioner Gibson voted	<input checked="" type="checkbox"/>


ATTEST:

 \_\_\_\_\_  
Ricky Hatch, CPA  
Weber County

ATTORNEY

By   
Jennifer Clark  
Date 12/30/16

INDIGENT DEFENSE COORDINATOR

By   
Michael D. Bouwhuis  
Date 12/30/16