

MINUTES
WEBER COUNTY COMMISSION

Tuesday, February 13, 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 H. "Jim" Harvey, Kerry W. Gibson and James Ebert.

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** – Ron Gibson
- C. **PLEDGE OF ALLEGIANCE** – Jan Wilson
- D. **THOUGHT OF THE DAY** – Chair Harvey

E. PRESENTATIONS:

1. PRESENTATION OF THE OPENING CEREMONIES OF WEBER COUNTY OLYMPICS.

Commissioner Ebert noted that the 2018 Winter Olympics in South Korea just started and the county is having its own Olympics that highlight teambuilding and service that we have in Weber County. Sarah Swan, Administrative Services Director, stated that each county department is to create its own country/flag. Candis Warren showed the County Elections country flag. Events will be held throughout the week.

2. PRESENTATION FROM WEBER COUNTY FARM BUREAU ON ECONOMIC IMPACT OF AGRICULTURE IN WEBER COUNTY.

Allen Berrett, Weber County Farm Bureau President, stated that there are 408 High School students in the Future Farmers of America program and introduced one of those students, Korianne Gibson, who very passionately cited the FAA creed. There are acres of agricultural land going out of production to build homes and if development is done correctly both can prosper. The agricultural demand/need for what we grow only continues to increase. Mr. Berrett spoke of the economic value (\$350 million) of agriculture in our community. Ron Gibson, Utah Farm Bureau Federation President, stated that we have a unique opportunity in Weber County to work together and maintain a culture that we so desperately need, and that we will not succeed if we do not implement innovative ways to ensure that agriculture can stay in business here. He is very concerned with our dairy operations as development builds up around them. The reason farmers are leaving our community is due to economic pressures and development pressures put a chokehold on what they can do. He stated that if we let agriculture go, we will never have a chance to get it back. He pointed out the culture value that agriculture brings to our counties. The commissioners support and want to strengthen agriculture. Commissioner Gibson is very proud of his daughter, Korianne, who in the 9th grade memorized the lengthy FFA creed, and who is deeply committed to the cause.

3. CRA PRESENTATION FROM OGDEN CITY.

Brandon Cooper, Ogden City Deputy Director of Community & Economic Development, noted the presence of Ogden Mayor Caldwell and other staff, an indication of the importance of today's discussion. Mr. Cooper spoke about Community Reinvestment Agencies (CRAs) and specifically about their newest redevelopment area, the Adams Community Reinvestment Project Area. The 2015 study showed that property values associated with a CRA grew three times faster than non CRA areas. He outlined the Adams CRA process, which included public input, development objectives, the initiative to stabilize and revitalize the City, and the public benefit. Before an Agency may collect any project area funds, it must obtain consent of each taxing entity that is party to an Interlocal agreement. The City entered into an Interlocal agreement with their CRA to contribute \$2.5 million over 25 years to these projects and the School District passed an agreement to contribute \$5.7 million. Today's item is to seek an agreement with the county for \$2.4 million participation.

F. CONSENT ITEMS:

- 1. Warrants #1344-1345 and #425488-425658 in the amount of \$2,970,272.35.
- 2. Purchase orders in the amount of \$319,928.05.
- 3. Minutes for the meeting held on February 6, 2018.
- 4. ACH payment to US Bank for \$186,351.29 for purchasing card transactions through 1/25/2018.
- 5. New business licenses.
- 6. Request from the Weber County Tax Review Committee to waive the 2013 delinquent tax of \$71.07, along with penalty of \$10.00 and interest of \$22.75 (parcel #05-126-0076).

Commissioner Gibson moved to approve the consent items; Commissioner Ebert seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

G. ACTION ITEMS:

1. REQUEST FROM THE WEBER COUNTY TAX REVIEW COMMITTEE FOR APPROVAL TO REFUND \$894.13 TO DAVID T. SHUPE, PARCEL NUMBER 22-101-0001 DUE TO COUNTY ERROR.

Joe Olsen, of the County Assessor's Office, on behalf of the Tax Review Committee (Committee), stated that through the 2017 Board of Equalization (BOE) a factual error (on square footage calculation) was identified. The valuation for 2017 has been handled. Mr. Shupe then requested the county to review prior years to identify value based on corrected square footage and refund on the difference. The Committee reviewed the item and referenced Judicial Code 78B-2-307, which has been adopted by the Commission. It states that an action may be brought within four years and gives the Commission the ability to review and possibly refund for previous years. Based on that information, the Committee identified and recommend a refund of \$894.13. Mr. Shupe attended that meeting, where there was discussion about property information being available to the public, as well as the responsibility of property owners.

Mr. Shupe, of Liberty, said that there was a county error and because the county made the error, it cost him money and the true amount is more than the refund amount. The error occurred in 1998 and he wanted the county to pay him back, that the interest amount was not included, and he asked where was the county's penalty for over assessing him. He referred to the motto in the Commission Chambers stating that they had lost his confidence. He understands the statute of limitation of four years but said they should change it, he questioned if he was being treated fairly and referenced stealing/theft by the county for 18 years. Commissioner Ebert noted that stealing/theft is an intentional act. Mr. Shupe said that his data was still not correct on the county's webpage and Mr. Ulibarri explained that it is correct on the record but it is updated on the webpage in May after the rolls close. Mr. Shupe offered some solutions (i.e., pay back the over assessed amount from 1998-present, plus interest & penalties, prorate his taxes to account for the difference over the next 1-5 years to equal the over assessment, give his family a larger say on how their tax dollars are spent, file a claim against the county's indemnity policy).

John Ulibarri, County Assessor, said that unfortunately errors happen once in a while. In this case the county has sent valuation notices since 1998 where Mr. Shupe has had an opportunity to file an appeal. In 2017 the county found and notified him of the error. With his office's current structure, they have to be somewhat reliant on property owners to be cognizant of their property value and property characteristics. Properties' characteristics have been posted on the webpage since the late 2000s. To be more exact on every single property it would require a huge budget around \$20-\$22 million and the question is that impact to the public. Commissioner Gibson noted that the code is a State, not county, statute and the county has to uphold it.

Courtlan Erickson, Deputy County Attorney, noted that under State law if someone waits 1, 2 or 3 years to appeal their tax assessment, it is too late because those are supposed to be handled each year at the BOE. There is an exception to consider an adjustment of the paid taxes that allows counties authority to grant a refund if they determine that the best human interest, the best interest of the State and of the county are served. The only statute of limitation that the courts have recognized is the 4-year catch-all statute of limitations, 78B-2-307. If the county was to go beyond that there would be no legal basis for cut off at a certain period. It is four years and has been the county's policy. Mr. Erickson addressed Commissioner Ebert's questions stating that from his limited research, that Salt Lake County's policy is similar to ours, that some counties generally use the 1-year BOE process with a few using the exception, and the main legal consideration would be equal treatment of equal situations and the lack of a statute of limitations. Mr. Erickson felt that the indemnity insurance does not apply in this situation. Speaking of equality, Commissioner Gibson said that the Commission is constrained on what they can do. Mr. Shupe suggested they file a claim with UCIP and that in some cases exceptions should be made. Commissioner Gibson asked for Mr. Shupe's official request and he replied that he has not been able to obtain the exact dollar amount but that \$894.14 divided by 4 and multiplied by 18 would be \$4,023.59 without interest/penalties, in addition to paying for his time. Mr. Olsen explained that there have been several CAMA appraisal assessment systems over the years and they have the ability to go back to 2010 to identify what the value would have been with the corresponding taxes and had provided it to Mr. Shupe. He had spoken with several counties and reiterated that this is a Board of Equalization issue. In the State, the application deadline for the BOE is September 15. The Legislature determined that if there is a factual error, the county can go until March 31 of the following year. If the property owner files timely, many counties look at the 1-year reach back. Commissioner Ebert said that the county applies the statute as liberally as possible to go back four years.

Commissioner Ebert moved to approve the Tax Review Committee's recommendation to refund \$894.13 to David T. Shupe, Parcel #22-101-0001 due to a county error; Commissioner Gibson seconded.

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

2. RESOLUTION APPOINTING MEMBERS TO THE TOURISM TAX ADVISORY BOARD – RESOLUTION 13-2018.

Stacy Skeen, of the Commission Office, stated that three members’ terms have expired and the recommendation is to reappoint them for four years.

Commissioner Ebert moved to adopt Resolution 13-2018 appointing Jennifer Graham, Marty Smith and Sara Toliver to the Tourism Tax Advisory Board with terms expiring 12/31/2020; Commissioner Gibson seconded. Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

3. RESOLUTION APPOINTING MEMBERS TO THE WEBER COUNTY FAIR BOARD – RESOLUTION 14-2018.

Jan Wilson, with the County Fair, presented the board’s recommendations.

Commissioner Ebert moved to adopt Resolution 14-2018 appointing Larry Hansen (term expiring 12/31/2021), Bruce Higley (term expiring 12/31/2021) and Jean Potokar (term expiring 12/31/2018) to the Tourism Tax Advisory Board; Commissioner Gibson seconded.

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

4. OPERATING AND FINANCIAL PLAN MODIFICATION TO THE LAW ENFORCEMENT AGREEMENT WITH THE U.S. FOREST SERVICE.

Steffani Ebert, with the County Sheriff’s Office, stated that there has been no change in the amount the Sheriff’s Office has been receiving for patrolling the roads/campgrounds in Forest Service areas. It was \$60,000, decreased to \$54,000 and then to \$48,000 for the past 3-4 years.

Commissioner Gibson moved to approve the Operating and Financial Plan modification to the law enforcement agreement with the U.S. Forest Service; Chair Harvey seconded.

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

5. REAL ESTATE PURCHASE & SALE AGREEMENT WITH BREITEN ANDERSON FOR PARCEL #02-042-0007.

Sean Wilkinson, County Community Development Director, stated that Breiten Anderson desired to purchase this parcel that the county obtained at the 2014 tax sale. A letter of opinion from a licensed real estate broker states the value at \$21,000.

Commissioner Gibson moved to approve the Real Estate Purchase & Sale Agreement with Breiten Anderson for Parcel Number 02-042-0007; Commissioner Ebert seconded.

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

H. PUBLIC COMMENTS: Amber Gallegos, said that her family was evacuated from their Riverdale home on 11/2017 due to a landslide in the backyard, which is now very wide. Water is pouring out from all sides of her hill. She said the geologist had stated that it will take all three homes at the top, including her street, 600 W. One farm below was destroyed and another is threatened, along with Union Pacific Railroad property, a main sewer line, a main stormwater drain and a Weber Basin culinary waterline. She believed that this issue had been transferred to the county level last week when Riverdale City Council voted to declare an emergency. She said they are stuck in limbo, making a mortgage payment, and their utilities have been shut off. Riverdale had plans to only monitor it. The drillers told her they hit water at 50 ft. under the street and generally it should be at 100-200 ft. Washington Terrace reported to the Division of Water Rights a 20% culinary water loss (38 million gallons unaccounted for) in 2015 and 28% water loss (75 million gallons) for 2016. They need help to find where the water is coming from. The slide is 30 ft. from her home. This has been financially devastating. The commissioners expressed sympathy for what is happening. Sean Wilkinson, County Community Development Director, stated that the county is having conversations with the City, has sent out its survey crews to help monitor how the landslide is moving and County Emergency Management has been to the site and offered help but it was declined. Jared Andersen, County Engineer, said that this is out of the county’s jurisdiction but he and Mr. Peterson went to the site as quickly as possible when it occurred on Sunday and they are still discussing what the county can do, if anything. The Clerk/Auditor’s Office, received a resolution from the City proclaiming a local emergency. Commissioner Ebert believes the declaration starts a process to obtain federal dollars.

I. ADJOURN

Commissioner Ebert moved to adjourn at 12:17 a.m.; Commissioner Gibson seconded.

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

Attest:

James H. “Jim” Harvey, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor