

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

Tuesday, November 7, 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: 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 Ebert

B. MOMENT OF SILENCE

C. PLEDGE OF ALLEGIANCE – Michele Elliott

D. THOUGHT OF THE DAY – Commissioner Gibson

E. PRESENTATIONS:

1. **SEAL OF SERVICE AWARD TO DANIEL STRINGHAM OF INFORMATION TECHNOLOGY DEPARTMENT**
Quinn Fowers, IT Department Director, read the nomination submitted by Mr. Stringham's peers, which stated that he is gracious and a great teammate with a great attitude. Mr. Stringham expressed thanks to the team. The commissioners expressed gratitude to Mr. Stringham for his great example and dedication.
2. **PRESENTATION OF FIFTEENTH ANNUAL WEBER COUNTY COMMISSIONERS' FALL CHARITY CLASSIC PROCEEDS TO THIS YEAR'S SELECTED CHARITIES: CYSTIC FIBROSIS; RAPE AGGRESSION DEFENSE/RAD**
Laura Hadley, with Cystic Fibrosis, stated that every dollar goes to the program. The commissioners are grateful for their work and dedication and presented the program's representatives with a check for \$10,000.

County Sheriff Thompson introduced Emily Cox, the brainchild of RAD, Lori Randall (of the Sheriff's Office) and Loran Brumley (retired police officer), who are all very dedicated. There are a lot of related certifications. The team has a passion for the program and put a lot of themselves into it, even using their own money to obtain certifications. Sheriff Thompson noted that the equipment is expensive. He outlined the importance of RAD in our community. Ms. Cox stated that they do this program voluntarily and expressed thanks for the support. Ms. Randall pointed out that 1 in 3 women in Utah will be sexually abused in their lifetime and 1 in 4 women will be sexually assaulted before the age of 18, and on average sexual assault occurs every 2 minutes in the U.S. They brought many testimonials. Mr. Brumley spoke of the importance of this program, which he stated is a very powerful one. The commissioners thanked them.

3. **PRESENTATION OF THE 2017 ANNUAL WEBER COUNTY FOOD DRIVE.**
Shelly Halacy, of the Commission Office, presented the annual food drive kickoff. Sunny Hayes said that this year they are encouraging the donation of healthier products and she outlined some of the healthier choices and the needs in the community. Chair Ebert stated that the quality of life is impacted by health figures and appreciates this direction.

F. CONSENT ITEMS:

1. Warrants #1249-1252 and #422553-422702 in the amount of \$622,052.16.
2. Purchase orders in the amount of \$37,456.86.
3. Minutes for the meeting held on October 31, 2017.
4. ACH payment to US Bank for \$141,371.22 for purchasing card transactions through 10/25/2017.
5. Set public hearing for November 28, 2017, 6:00 p.m., to take public comment on a proposal to amend the County Code: Applicability (108-2-3) & Ogden Valley Recreation and Resort Zone (108-8-5 & 108-8-13) to allow the Land Use Authority to modify the applicability of certain provisions of the Land Use Code in the Ogden Valley Destination and Recreation Resort Zone, where a master plan has been approved.
6. Set the first public hearing date for November 14, 2017 to consider potential projects for which funding may be applied for under the CDBG program for 2018.

Commissioner Gibson moved to approve the consent items; Commissioner Harvey seconded.

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

G. ACTION ITEMS:

1. **RESOLUTION TO SUBMIT TO THE VOTERS THE QUESTION OF WHETHER A STUDY COMMITTEE SHOULD BE ESTABLISHED TO EVALUATE THE FORM OF GOVERNMENT.**

Sharon Holmstrom, of Eden, read that the undersigned were submitting an informal petition asking the Commission to draft a resolution to put the question on the ballot of whether a study committee should be appointed to consider and possibly recommend a change in the form of county government. She said that last November a group of interested citizens approached the Commission asking them to consider drafting a resolution to authorize a county-wide vote for said committee and the rationale was that many in the county feel underrepresented, that the current three-member commission form of government is problematic because it combines both legislative and executive branches and that by creating the resolution they could save the citizens the trouble of gathering signatures and perhaps save money for all concerned. The group, including the Ogden Valley GEM committee and the League of Women Voters, was composed of citizens who had done in-depth research of citizen opinion of the current system and desire to look at other forms of government. She said that nothing had come of those meetings and now there was a different reason for a legislative body resolution. They were concerned the petition effort was now driven by elected officials who by current statute have a weighty say in appointment of the first three members for the “appointment council.” State Senators and Representatives choose one member, County Commissioners one member, and petition sponsors one member, then those three members choose two more. She said it is difficult to see how the council would not be selected by a few elected officials with little input from ordinary residents who signed the petition, that at this time it seems moot to require a petition, especially if the outcome is a politically charged study committee rather than a broader swath of residents, and the ballot would give the public an opportunity to vote and for a clean and expeditious process without politicizing it.

Christopher Crockett, Deputy County Attorney, explained the process to adopt an optional plan under Utah law: A) 3-5 sponsors file a citizen-driven signed petition of 10% of the voters that voted in the last General Presidential Election. The Commission is then required by statute to set the matter, whether a study committee would be formed to evaluate the form of government at the next special election, and depending on the petition submittal date and certification by the County Clerk, it would either go on the June special election or a November election; or B) The county legislative body adopts a resolution requiring the question to be submitted on the ballot and then follow the process for the appropriate election. If the study committee is approved by the voters, a 5-member appointment council is created to select between 7-11 members to sit on a study committee who cannot be elected or employed public officials. The committee has up to a year to make a recommendation. A review process then begins and once that is completed, the process stops. If voters decide to adopt a new form of government, the county officers under that form of government will be selected at the following General Election.

Chair Ebert asked about the timeline when a petition with accompanying signatures is filed and Mr. Crockett said that the statute is somewhat vague but when it is filed, the other statutory requirements will have to be looked at for holding an election. There is a certain point in March or April where it would be impossible logistically to get the issue printed on the ballot and to satisfy other State law components and the issue may have to be on the November election.

Ms. Holmstrom addressed Commissioner Gibson’s questions. She said that she would not have been the presenter if several of the others had been available, that they came to this point collectively when Commissioner Gibson came out as a signatory on the petition, and that the climate was perhaps now amenable to having the Commission move on a resolution. Commissioner Gibson said that his answer was the same as when they had spoken a year or so ago about whether the Commission would adopt a resolution—that it should be a grassroots-driven event, and that it would seem inappropriate for the Commission to drive a process in which the Commission might appear to have an ulterior motive. He is not convinced that a change in the form of government is necessary in this case. He is convinced, however, that this should be driven by individuals that do not have skin in the game. Ms. Holmstrom said that the public’s perception when they consistently asked for this resolution was the opposite, that people want the resolution and not to have the citizens force them into it. Commissioner Gibson said that someone who claimed to have had a conversation with Ms. Holmstrom had told him that the reason she wanted to be the petitioner was to be the third member or to choose the third member. She does not want to be that member but feels the petition committee members would like to choose that person.

Mr. Crockett said that it is an important legal issue to raise as to the process for selecting who will sit on the appointment council for an appropriate petition: one selected by the State Representatives and Senators who have districts within the county, one by the county legislative body and one by the petition sponsors, and those three select the other two. The resolution statutory process is unclear as to how that the third member gets selected if there is no petition, and the county is communicating with the Lt. Governor's Office. This would not become an issue until after the voters determine whether to form a study committee.

Chair Ebert asked what would be the cost of a special election and Ricky Hatch, County Clerk/Auditor, responded that it would be \$130,000-\$150,000. There is a very good chance that there will be a Primary Election next year, however, if certain parts of the county do not have a Primary, then it would have a direct cost.

Chair Ebert invited public comments and following is a summary:

North Ogden Mayor Brent Taylor, a petitioner, expressed concern with the Commission trying to silence a petition that had broad support from almost every city as well as half of the legislators, many former county and State officials and citizens. He said that citizens are happy to collect the signatures, that he was concerned that the petition coming before the Commission would have the net effect of ending a sincere petition and putting control of the appointment of the study committee into the hands of the Commission, and that the cost is specious as there will likely be a Primary Election. He said that this petition process would get thousands of residents involved. He asked the Commission to respect the will of the people and right to petition and not undertake the resolution and put the Commission solely in charge of this process.

Terri McCulloch, President of the Weber County League of Women Voters, stated that this topic had been covered for years, they believe that the citizens deserve the right to choose the type of county government, and their study was available online. They had come to the Commission asking them to support this and put the question on the ballot, and she said they had been turned away, and she questioned why.

Oscar Mata, of Ogden, said that he was part of the Weber County Forward group and petitioner who filed with the County Clerk's Office. He said there had been talk about this petition as a means to force the Commission's hand, but this was not true, however, people should be forcing the Commission and not the other way around. He said that this was citizen-led and hoped the Commission would support it.

Pleasant View Mayor Toby Mileski requested that the Commission let the people's voice be heard on this petition that would create fairness in forming the committee. He expressed concern that there may have been retribution against Commissioner Gibson for his support on this.

Marcia White, said that about 8,600 people signed the petition, which should signal the citizen engagement.

Roy City Mayor Willard Cragun feels that with wider County Commission representation people may feel better represented, and he suggested moving forward and letting the people decide.

Lori Brinkerhoff, of the Hooper City council, said that she did not feel there was anything sinister in having this placed on the agenda. She supports women/minorities having greater representation on the board.

Richard Hyer, of the Ogden City council, expressed frustration with the form of government, that mixing legislative and administrative roles can be difficult to balance, that the county does not have distinct represented areas, and that the commissioners have great benefits packages but should step back for an organic movement.

The commissioners reiterated throughout the meeting that they do not oppose studying a new form of government and have never tried to silence anyone. They want this to be a purely grassroots movement and are committed to the process. Commissioner Harvey's was concerned with the potential associated cost of \$130,000-\$180,000 for a special election—as a steward for the taxpayer he has a fiduciary responsibility. Chair Ebert stated that getting people involved is extremely important. He explained that a resolution could go forward and when the signatures come in, the petition process takes precedence. He is committed to move forward with putting the question on the ballot at a fiscally responsible time and does not need to have someone he knows to be on the study group. There had been some concern about the Commission adopting a resolution and he asked Christopher Crockett, Deputy County Attorney, to respond to the claim made that if the resolution was adopted today it would stop any group's ability to continue a petition drive. Mr. Crockett stated that it would not stop the ability to file a petition. On the reverse, a citizen-filed petition prevents a resolution from being adopted for two years or until the question is resolved

or the matter has been pending for two years with no action. The law is nebulous on which would supersede if a resolution was adopted to start the process and the original petition was submitted with signatures. There is no ambiguity on the process on the petition side. If the voters approve the study committee, at some point a determination will have to be made as to how to move forward as it is not currently clear. Voters deserve to push for legislative change to provide more clarity on the process.

Commissioner Gibson felt that more people would have been present today had they known of this agenda item and expressed concern about taking action on an item that was put on the agenda 24 hours ago, that he saw the language this morning, and that the public had not had opportunity to vet it. He asked what was the point to go down a path that is confusing at best, especially when there is a group of individuals willing to move forward with the process as already outlined. He reiterated the need for clarification for selecting the third member if there is no petition. Commissioner Harvey was aware of a group actively seeking for a change of government for a year or so and another group that will be coming forward. He asked for a peaceable outcome and for all non-elected officials wanting to move the petition forward to meet as a group and see if collectively they can come up with suggestions to proceed with a resolution or put together another petition. He is concerned with time and does not want to spend any more taxpayer money. Chair Ebert said that there is a feeling that the Commission is somehow trying to create a last minute agenda and trying to circumvent public support and be the drivers as to how this is put forth. He stressed that if through the resolution direction the commission somehow is in control of that third appointment he is committed to have both petition groups handle that appointment. He stated that this is not based upon a benefits package, political power or any such thing. Ms. Holmstrom said that the petitioners are elected officials and there is a large list of community members. She feels it is a good idea to ask the question of the community members not the elected officials who put the petition forward and to get the non-elected citizens together. Commissioner Harvey moved to table the resolution providing that the group of non-elected individuals who want to be petitioners meet collectively to have more outreach/grassroots efforts and that this matter be closed by December 19 to come to some type of remedy, and if not, they can come back and request a resolution. If the original petitioners are not amenable to this, there are a few weeks to gather signatures. Chair Ebert seconded.

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

2. CONTRACT WITH COPPER CANYON BUILDINGS, INC., TO REPLACE ROOF ON WEBER COUNTY ICE SHEET.

Todd Ferrario, County Ice Sheet & Parks & Recreation Division Director, stated that this went out to bid. The low bid was \$217,000. It was rebid and the low bid was \$130,000 with the same warranty.

Commissioner Harvey moved to approve the contract with Copper Canyon Buildings, Inc., to replace the roof on the Weber County Ice Sheet; Commissioner Gibson seconded.

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

3. CONTRACT WITH STANLEY CONSULTANTS FOR CONSTRUCTION MANAGEMENT SERVICES AT THE NORDIC VALLEY LANDSLIDE REPAIR PROJECT.

Jared Andersen, County Engineer, presented this contract with Stanley Consultants.

Commissioner Gibson moved to approve the contract with Stanley Consultants for construction management services at the Nordic Valley landslide repair project; Commissioner Harvey seconded.

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

4. CONTRACT WITH WARDELL BROTHERS FOR CONSTRUCTION SERVICES AT THE NORDIC VALLEY LANDSLIDE REPAIR PROJECT.

Jared Andersen, County Engineer, presented this contract with Wardell Brothers.

Commissioner Harvey moved to approve the contract with Wardell Brothers for construction services at the Nordic Valley landslide repair project; Commissioner Gibson seconded.

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

5. CONTRACT WITH C.E. BUTTERS FOR CONSTRUCTION SERVICES AT EWP BANK PROTECTION PROJECT.

Jared Andersen, County Engineer, stated that C.E. Butters had been the original contractor for the EWP work about 4-5 years ago.

Commissioner Gibson moved to approve the contract with C.E. Butters for construction services for the EWP bank protection project; Commissioner Harvey seconded.

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

6. **CONTRACT WITH ROBINSON CONSTRUCTION FOR CONSTRUCTION SERVICES AT EWP DEBRIS REMOVAL PROJECT.**

Jared Andersen, County Engineer, stated that Robinson has very specific equipment that not many in the State have for this project.

Commissioner Harvey moved to approve the contract with Robinson Construction for construction services at the EWP debris removal project; Commissioner Gibson seconded.

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

7. **CONTRACT WITH CRS CONSULTING ENGINEERS FOR CONSTRUCTION MANAGEMENT SERVICES AT THE EWP BANK PROTECTION AND DEBRIS REMOVAL PROJECTS.**

Jared Andersen, County Engineer, presented this contract.

Commissioner Gibson moved to approve the contract with CRS Consulting Engineers for construction management services at the EWP bank protection and debris removal projects; Commissioner Harvey seconded.

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

8. **DECLARE PARCEL NUMBER 01-039-0048 AS SURPLUS PROPERTY.**

9. **DECLARE PARCEL NUMBERS 04-044-0017 AND 04-044-0018 AS SURPLUS PROPERTY.**

Sean Wilkinson, County Community Development Director, presented these items together. Item G.8 is a small right-of-way in Ogden City and the Ogden Community Foundation would like to purchase it.

Commissioner Gibson moved to declare parcel #s 01-039-0048, 04-044-0017 and 04-044-0018 as surplus property; Commissioner Harvey seconded.

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

10. **INTERLOCAL AGREEMENT WITH NORTH OGDEN CITY ALLOWING CITY TO BECOME LAND USE & BUILDING PERMIT AUTHORITY FOR PROPERTY LOCATED IN UNINCORPORATED WEBER COUNTY CURRENTLY IN THE PROCESS OF BEING ANNEXED INTO CITY (2521 N. MOUNTAIN ROAD, PARCEL #17-084-0005).**

Sean Wilkinson, County Community Development Director, stated that these are pieces of property in unincorporated Weber County that are being annexed into the City.

Commissioner Harvey moved to approve the Interlocal Agreements with North Ogden City allowing the City to become the land use and building permit authority for property located in unincorporated Weber County that is currently in the process of being annexed into the City (2521 N. Mountain Road, Parcel #17-084-0005); Commissioner Gibson seconded.

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

11. **INTERLOCAL AGREEMENT WITH NORTH OGDEN CITY ALLOWING CITY TO BECOME THE LAND USE & BUILDING PERMIT AUTHORITY FOR PROPERTY LOCATED IN UNINCORPORATED WEBER COUNTY CURRENTLY IN THE PROCESS OF BEING ANNEXED INTO CITY (744 EAST 1700 NORTH, PARCEL #11-003-0026).**

Sean Wilkinson, County Community Development Director, stated that this item is similar to item G.10.

Commissioner Harvey moved to approve the Interlocal Agreement with North Ogden City allowing the City to become the land use and building permit authority for property located in unincorporated Weber County that is currently in the process of being annexed into the City (744 East 1700 North, Parcel #11-003-0026); Commissioner Gibson seconded.

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

12. **REQUEST FOR CONTRACT WITH WADMAN CORP FOR RV HOOKUP IMPROVEMENTS AT GOLDEN SPIKE EVENT CENTER.**

This item was held.

H. PUBLIC COMMENTS: None

I. ADJOURN

Commissioner Harvey moved to adjourn at 12:22 p.m.; Commissioner Gibson seconded.

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

Attest:

James Ebert, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor