

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

Tuesday, December 8, 2015 - 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 Fernelius, of the Clerk/Auditor's Office, who took minutes.

A. WELCOME – Chair Gibson

B. INVOCATION – Chair Gibson

C. PLEDGE OF ALLEGIANCE – Sheriff Thompson

D. THOUGHT OF THE DAY – Commissioner Bell

E. CONSENT ITEMS:

1. Purchase orders for \$375,422.78
2. Warrants #327552-#327726 for ~~\$668,858.90~~ \$688,858.90
3. Minutes for the meeting held on December 1, 2015
4. New business licenses
5. Set public hearing for December 22, 2015, 10 a.m., on request (ZTA 2015-03) to amend Land Use Code, Section 101-1-7 (Definitions); Title 104, Chapter 29 (Ogden Valley Destination & Recreation Resort Zone); Title 108, Chapter 1 (Design Review); Title 108, Chapter 2 (Ogden Valley Architectural, Landscape & Screening Design Standards); Title 108, Chapter 8 (Parking & Loading Space, Vehicle Traffic, & Access Regulations); Title 108, Chapter 19 (Accessory Apartments); Title 110, Chapter 2 (Ogden Valley Signs)
6. Set public hearing for December 22, 2015, to discuss amendments to the operating and capital budgets of Weber County for the 2015 calendar year
7. Final approval for Mallard Springs Subdivision (21 lots) including a \$397,192.39 financial guarantee for subdivision improvements, & the County Survey Monumentation Improvement Agreement
8. Administrative application regarding a Farm Stay and Development Agreement as part of an approved conditional use permit for Agri-tourism operation—the Dancing Moose Farms Art & Ecology Center (Dailey Family Ltd. Partnership) – Contract C2015-405
9. Administrative application regarding a Farm Stay and Development Agreement as part of an approved conditional use permit request for an Agri-tourism operation known as Renaissance Farms (Juan/Ingrid Sanchez) – Contract C2015-406

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

F. ACTION ITEMS:

1. **RIGHT-OF-WAY CONTRACT WITH GLENN/KELLI NELSON, PARCEL 104, FOR THE 3500 W. PROJECT – CONTRACT C2015-407**

Jared Andersen, County Engineer, briefly presented this contract.

Commissioner Ebert moved to approve Contract C2015-407, right-of-way contract with Glenn/Kelli Nelson, parcel 104, for the 3500 W. project; Commissioner Bell seconded.
Commissioner Ebert – aye; Commissioner Bell – aye; Chair Gibson – aye

2. **FIRST READING OF A PROPOSED AMENDED ROADS ORDINANCE**

Jared Anderson, County Engineer, presented the amendment: in the acquisition of private property for public use, an amount up to \$2,500 over the initial appraised value of the private property may be negotiated in lieu of a second appraisal as an administrative settlement.

Commissioner Ebert moved to approve the first reading of a proposed amended Roads Ordinance; Commissioner Bell seconded.
Commissioner Ebert – aye; Commissioner Bell – aye; Chair Gibson – aye

4.14

3. **FIRST READING OF AN ORDINANCE ENACTING THE COUNTY OPTION SALES AND USE TAX FOR HIGHWAYS AND PUBLIC TRANSIT, AUTHORIZED BY 2015 HB 362**

Douglas Larsen, Weber County Economic Development Partnership Director, stated that the 2015 HB 362 included enacting §59-12-2219 authorizing counties to impose a new sales and use tax. The Commission submitted an opinion question to the registered voters at the 11/2015 general election and the majority voted in favor of the ¼ cent sales and use tax for highways and public transit. It will become effective 4/1/2016.

Commissioner Bell moved to approve the first reading of an ordinance enacting the county option sales and use tax for highways and public transit, authorized by 2015 HB 362; Commissioner Ebert seconded.

Commissioner Ebert – aye; Commissioner Bell – aye; Chair Gibson – aye

G. PUBLIC COMMENTS:

Sandy Crossland, Ogden resident, stated that a staff report would be presented to the Planning Commission tonight requesting a conditional use permit (CUP) for a private park in Waterfall Canyon. She wanted to alert the commissioners of problems in the presentation of that report—that there is a conflict between a landowner's right to exclude the public and a public right of prescriptive easement. She stated that the land owner purchased this property fully aware of public use and that public use predated the proposed park; this is noted in the CUP analysis. However, staff, in its summary review and recommendation adopts language saying that the applicant plans to continue to allow non-paying visitors to visit the property, which she said is a clear expression of a landowner's right to exclude the public, it is a plan by choice, and the people on the property are reduced to non-paying visitors. She expressed that it is important for the Commission to realize that this statement can only be made by extinguishing a prescriptive easement right. Using the property would be the applicant's non-paying visitors, paying clients, and the general public who use it based on the prescriptive easement right. She said a huge problem would be created when this is presented with the language that has been adopted as part of the analysis, and is used by county staff in its report: it no longer even expresses an interest by the public. She recommends having staff revisit this in light of this information and perhaps change the language to make sure the county does not negate a public right. The right to extinguish a prescriptive easement only happens through a court procedure. The commissioners encouraged people to attend the Planning Commission meeting and said that there will be related discussion with legal counsel.

H. ASSIGN PLEDGE OF ALLEGIANCE FOR MEETING ON TUESDAY, DECEMBER 8, 2015, 10 A.M.

I. CLOSED SESSION TO DISCUSS STRATEGY RELATING TO PENDING OR IMMINENT LITIGATION AND STRATEGY RELATING TO THE PURCHASE OR SALE OF PROPERTY

Commissioner Ebert moved to convene a closed execution session to discuss strategy relating to pending or imminent litigation and strategy relating to purchase or sale of property; Commissioner Bell seconded.

Commissioner Ebert – aye; Commissioner Bell – aye; Chair Gibson – aye

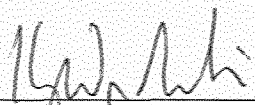
There was no action taken on the closed executive session.

J. ADJOURN


Commissioner Ebert moved to adjourn at 11:15 a.m.; Commissioner Bell 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