

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

Tuesday, March 25, 2014 - 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, Chair, Jan M. Zogmaister and Matthew G Bell.

**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. PLEDGE OF ALLEGIANCE** – Sylvia Salsbury

**C. THOUGHT OF THE DAY** – Commissioner Bell

**D. PRESENTATION: INTRODUCTION-NEW FOREST SERVICE DISTRICT RANGER & FOREST SERVICE UPDATE**

Robert Sanchez, Forest Service District Ranger, introduced himself and asked for the commissioners' continued input about how the county and the Forest Service can continue to work together and stay engaged. Mr. Sanchez noted that currently there is proposal for a cabin rental program in the Uinta-Wasatch-Cache National Forest and they are seeking comments. The commissioners expressed appreciation for the county's relationship with the Forest Service.

**E. CONSENT ITEMS:**

1. Purchase Orders for \$711,586.42
2. Ratify Warrants #307320 -#307508 for \$773,305.12 dated March 18, 2014
3. Warrants #307509 - #307714 for \$726,924.25
4. Minutes for the meeting held on March 11, 2014
5. New business licenses
6. Ratify a new beer license
7. ACH payment to US Bank for \$75,305.13 for purchasing card transactions made through 3/17/2014
8. Set public hearing for 4/15/2014, 10 a.m., to consider rezoning property at approximately 156 N. & State Road 158 (extending from Ogden City water treatment plant, easterly to Pineview caretaker's house) from Forest 40 (F-40) Zone to Forest Residential-1 (FR-1) Zone to create 1 building lot & put into place development standards that are more compatible with relatively smaller lots

Commissioner Bell moved to approve the consent items; Commissioner Zogmaister seconded, all voting aye.

**F. ACTION ITEMS:**

**1. DISCUSSION TO APPROVE AN ACCESS EASEMENT FOR THE PAS DE CALAIS SUBDIVISION**

Jared Andersen, County Engineer, showed area maps. The petitioner, Matthew Rasmussen, plans to subdivide his landlocked property into two lots and is requesting access across the county's property. There is one access easement on the road that Uintah Highlands Water & Sewer Improvement District (the District) has obtained. Currently the county has a berm on the backside of the detention pond. Mr. Rasmussen's proposal included moving the property line and giving the county a small triangular piece of property that would help the county's interests. He would maintain a berm on his property. Chair Gibson asked if there is a benefit to the county in getting the triangular piece of property and Mr. Anderson said that currently the backside of the berm is on Mr. Rasmussen's property. It would be an extensive process to move the berm.

Mr. Rasmussen stated today that the east of his property is extremely steep, in most cases above 25% grade. The lower portion of the land is inaccessible by standard vehicles. He would like to give the county additional land to maintain its development at the retention pond that handles overflow water from some springs and heavy storms. Mr. Rasmussen had a document from 9/2008 that he said was obtained by the chair of the District, which was subsequent to the District's decommissioning of the reservoir that was on that property. He said that that Uintah Highlands' easement is a non-exclusive prescriptive easement and he requested the same consideration.

Commissioner Bell asked when he purchased the property and Mr. Rasmussen responded that his family purchased it around 1983. Commissioner Bell stated that they could have built a road on the side of Melanie Lane, although it would have been expensive. He asked why the Rasmussens knowingly purchased landlocked property and how they planned to access it. Mr. Rasmussen said that they just loved the property and a dying neighbor needed to sell it. Commissioner Bell noted that the District was using the access to provide services for many years before they obtained legal access. He also noted that for some reason past commissions have not wished to move forward and he wants to do a lot more research to feel comfortable.

Mr. Rasmussen clarified that this is the first time he has formally approached the Commission for access, but that in the past he had spoken with the former County Engineer and a former staff with County Property Management. He said that the District obtained the prescriptive easement after the decommissioning of the reservoir with the intent to convert the property to residential use. He feels that it is a legal precedent. He said that recently Commissioner Bell had urged him to redesign the easement, in which case he seemed to indicate being amenable to giving Mr. Rasmussen approval. Commissioner Bell stated that during that conversation they had discussed putting the road on the other side, however, that the road is not there and the only change made by Mr. Rasmussen was that he moved the road where it comes in to the Uintah Highlands road (on the corner of 2900 East and Melanie Lane) where they have an easement from the county. Mr. Rasmussen agreed but stated that it increased the length of the road 40-80 feet. Commissioner Bell noted that if he had moved the road to the other side it would have been shorter. Mr. Rasmussen said that the county needs the berm to protect its interests and that it would be costly and problematic for the engineers to move it. He said that county staff had unanimously recommended approval and that he has followed the best practices. He understands that people are upset because the open space is going away, which in the aforementioned meeting a few people showed interest in purchasing some of that property for that purpose but have subsequently recanted.

Richard Reeve, Attorney retained by Carol Browning (an adjoining property owner), to speak to this matter, said that his client respects the petitioner's private property rights if the project is designed correctly and takes into account the unique characteristics of the land. There are issues/characteristics of the land, which need to be addressed. Mr. Reeve stated that it is an unusual for the county to give county property to a private developer and this should be looked at very carefully. While Weber Code §108-7-31 addresses related issues such as soil, topography and boundary issues, it states that, "financial adversity is not an issue that can be considered in determining whether or not it is appropriate to grant an access easement." There are practical and feasible alternatives to access the property such as off of the hillside (although expensive), and there is also a vacant lot off of 2900 East that currently is for sale and is flat and would be an easy and quick access point to the property. This is a former pond bed with unusual soil characteristics. There are many natural springs and a lot of water run-off through this area. This area has a history of land and mud slides, thus, any road or disruption of property needs to be done very carefully with the right data in hand. His client's concern is that the right data has not been acquired such as geotechnical

analysis of the land, water impacts/run-off issues, and retention issues that will need to be resolved to protect the interests of the downhill property owners.

Mr. Reeve's client urges the commissioners to carefully look at this issue, request the necessary data and studies and make sure the other property owners' rights are protected. Mr. Reeve addressed Commissioner Bell's question stating that it is a downward slope to the Browning property and any removal of the berm or shoreline area created by the pond will allow water to go downhill easier.

Blaine Brough, with Uintah Highlands Improvement District, stated that the District would like to be assured that any changes/improvements made to the property will not diminish its access.

Commissioner Zogmaister noted that a lot of the concerns being raised are regarding the petitioner's future plans for the development, which she believes is not normally done at this stage. She said that after obtaining access he can move forward with the development process, including the research, analysis, etc. Mr. Andersen concurred and that is the reason why only the access easement is being presented at this time; it would not be prudent for the petitioner to get a long list of studies done without first obtaining access. He agrees that they have to evaluate what happens on that property very carefully.

Sean Wilkinson, County Planning Division Director, stated that the Western Weber Planning Commission made a recommendation for approval of this subdivision to the County Commission with some conditions, the major one is obtaining access first, and also that all of the other agency requirements will need to be addressed. All of the studies and information will have to be in place and be approved before it comes before the County Commission for final subdivision approval.

Commissioner Zogmaister hesitates to not grant access if it is feasible and if there is a need on the side of the citizens because of where the road comes in and because of the berm and retention pond. The county has clearly stated that it prefers to have that piece of property to have proper access. She said that it is not unusual to work with landowners regarding finding access and noted that the county is not looking at removing any requirements from the development process. She said the process needs to be strictly followed so that the results are good for the property owners and the potential new development. Mr. Reeve said that the relevant code requires review of certain issues such as unusual soil, topography, and property boundary issues, in connection with this request. He said that additional issues will be brought under a different code section that requires different sets of analysis.

Mr. Reeve said that whenever a new road is constructed and disrupts the property, an analysis needs to be done. He requests an analysis specifically of the road and its impact on the property owners. Mr. Reeve said that it is a dirt road and he does not believe it is an acceptable road for a subdivision. He noted that the petitioner is considering both a slight change of location and a great change in the improvement of the road, which will disrupt the current use of that road, surrounding property, and that impact needs to be analyzed. This is not taking away the petitioner's property rights; it is protecting the property rights of the other property owners. He said that the county should not be in the business of bailing people out of bad investments, if there are feasible and practical options available. Chair Gibson concurred with the last statement recognizing that the county has a need regarding the retention pond. Mr. Wilkinson addressed Chair Gibson's question stating that this is a special access exception and can be granted for flag lots, property that does not have frontage or for property that has frontage but will access it at a location other than across the front lot line, which is the case for the Uintah Highlands piece of property. It has frontage on Melanie Lane but it is not used due to the steep grade.

Commissioner Zogmaister asked if all of the studies on the road have to be completed in order to grant this easement. Mr. Andersen's opinion is that the access is needed first in order to know if they can move forward (start the process of where the road will be located, its design, grading, geotechnical report, the water impacts, etc.). Mr. Andersen addressed Commissioner Bell's question stating that the easement width would be the same as was granted the District. The location may have to change somewhat depending on the results of the studies in order to build the road correctly and to standard. Mr. Andersen said he would look into the road width but believes it would not vary much.

Rick Browning, Carol Browning's son, stated that he had a stack of letters regarding the needed hydrological information, which does exist at this time. As an engineer, he said that there would need to be retention walls, hydrological surveys, etc., and that it does not make sense to take the retaining wall down now because it would affect the properties that would be constructed on the property. The community wants this done properly and they would like to have the pertinent information before moving forward because it is all needed information to make informed decisions. He feels there is not enough information on the impacts that this right of way contributes.

Mr. Rasmussen wished to correct Mr. Reeve's comment stating that the Commission would not be giving any county property to a private builder but would gain about 4500 square feet of property, which defends the county's interest. He said that there have not been any hydrological issues on this property. There is a manmade stream that passes remotely through one of the corners of the property and carries through the Browning property. The development that was done in the property above his was done with very extensive studies and guidelines and will also be done on his property. His development is being done as sensitively as possibly with strong scrutiny of the county and following all RE-20 zoning laws. Mr. Rasmussen said that he will place any home that he develops as far east as possible and the road design was done so that some open space is preserved.

Mr. Wilson read the following from County Code stating that these are the conditions that may be considered: "Based on substantial evidence, it shall be shown that it is unfeasible or impractical to extend a street to serve such lot/parcel. Financial adversity shall not be considered; however, circumstances that may support an approval of a private right-of-way/access easement as access to a lot/parcel may include but not be limited to unusual soil, topographic, or property boundary conditions." Mr. Wilson said that if the road cannot be extended, the county can look at granting another easement and look at the stated criteria to see if that is a better location for it. Chair Gibson understood that the county has the legal authority to grant this petition and Mr. Wilson concurred. Mr. Wilson noted that further development issues always follow, that not all issues can be solved today and the developers takes some risks.

Commissioner Bell moved to deny the petition. It died for lack of a second. Commissioner Bell moved to put this item on hold for a couple of weeks to do further study; Commissioner Zogmaister seconded on condition that this item is brought back in a timely manner, preferably in the next meeting. Chair Gibson concurred with not postponing this item too long. He expressed confidence that staff has looked at this very thoroughly. All voted aye.

## **2. CONTRACT WITH PICTOMETRY TO ACQUIRE AERIAL PHOTOGRAPHY TO SUPPORT THE REVIEW OF PHYSICAL CHARACTERISTICS AS REQUIRED BY UTAH STATUTE – CONTRACT C2014-44**

John Ulibarri, County Assessor, stated that because the county entered into a multi-year contract, it received a 10% discount on flights. This contract is for three flights over 6 years.

Commissioner Zogmaister moved to approve Contract C2014-44 with Pictometry to acquire aerial photography; Commissioner Bell seconded, all voting aye.

3. **CONTRACT WITH STEPHANIE LINDSEY TO HOLD THE SPIKERS HIGH SCHOOL RODEO AT THE GOLDEN SPIKE EVENT CENTER ON APRIL 4, 2014 – CONTRACT C2014-45**
4. **CONTRACT WITH JANN KING TO HOLD THE DOUBLE HIGH SCHOOL RODEO AT THE GOLDEN SPIKE EVENT CENTER ON APRIL 5, 2014 – CONTRACT C2014-46**

Jennifer Graham, County Recreation Facilities Director, presented these two contracts together. Commissioner Bell moved to approve Contract C2014-45 with Stephanie Lindsey to hold the Spikers High School Rodeo on 4/4/2014 and Contract C2014-46 with Jann King to hold the Double High School Rodeo on 4/5/2014 at the GSEC; Commissioner Zogmaister seconded, all voting aye.

5. **RESOLUTION APPOINTING A MEMBER TO THE ARENA BOARD – RESOLUTION 12-2014**

Jennifer Graham, County Recreation Facilities Director, noted that there are two vacancies and presented one name at this time. Ms. Galvez was interviewed by Executive Committee members. Commissioner Zogmaister moved to adopt Resolution 12-2014, appointing Lisa Galvez to the Arena Board to fill the remaining of an open term, which expires 12/31/2014; Commissioner Bell seconded. Roll Call Vote:

Commissioner Bell .....	aye
Commissioner Zogmaister .....	aye
Chair Gibson .....	aye

6. **CONTRACT WITH WINTERSET CONCERT EVENTS – KAHUNA BEACH PARTY PERFORMANCE AT THE 2014 WEBER COUNTY FAIR – CONTRACT C2014-47**

Jan Wilson, with the County Fair, presented this contract. Commissioner Bell moved to approve Contract C2014-47 with Winterset Concert Events – Kahuna Beach Party performance at the 2014 Weber County Fair; Commissioner Zogmaister seconded, all voting aye.

7. **CONTRACT WITH HARRIS COMPANY TO REPLACE THE COOLING TOWER ON THE WEBER CENTER AND ALL WORK ASSOCIATED WITH THE REPLACEMENT – CONTRACT C2014-48**

Nate Pierce, County Operations Department Director, stated that this year's bid came in lower than anticipated over a year ago of about \$100,000, which amount had been put in the budget. This contract is for \$44,579.00.

Commissioner Zogmaister moved to approve Contract C2014-48 with Harris Company to replace the cooling tower on the Weber Center and all work associated with the replacement; Commissioner Bell seconded, all voting aye.

8. **APPROVAL FOR THE DEPARTMENT OF OPERATIONS TO USE CIP FUNDS FOR A NEW PROJECT (WEBER CENTER RESTROOM IMPROVEMENTS)**

Nate Pierce, County Operations Department Director, referred to the above contract stating that the county will use the remaining amount of about \$55,000 to replace fixtures at the Weber Center, which are in need of repair. Funds for both of these types of improvements are recovered at 30% with the partners in the Condominium Association agreement for common area charges.

Commissioner Bell moved to approve the use of CIP Funds by the Department of Operations for the Weber Center restroom improvements project; Commissioner Zogmaister seconded, all voting aye.

**9. CONTRACT WITH KLEINFELDER FOR ENGINEERING SERVICES FOR THE WEBER COUNTY LANDFILL CLOSURE – CONTRACT C2014-49**

Nate Pierce, County Operations Department Director, noted that the county has agreements with the Environmental Protection Agency relating to the landfill closure and conducts studies to ensure that the closure is being properly managed. Kleinfelder will conduct engineering services relating to methane emissions.

Commissioner Bell moved to approve Contract C2014-49 with Kleinfelder for engineering services for the Weber County Landfill closure; Commissioner Zogmaister seconded, all voting aye.

**10. CONTRACT AMENDMENT WITH CALDWELL RICHARDS SORENSON (CRS) CONSULTING ENGINEERS FOR THE WEBER COUNTY EMERGENCY STORM WATER PROJECT CONSTRUCTION MANAGEMENT CONTRACT – CONTRACT C2014-50**

Jared Andersen, County Engineer, presented this contract amendment for additional EWP work, mainly for bank protection projects at three sites.

Commissioner Zogmaister moved to approve Contract C2014-50, contract amendment with Caldwell Richards Sorenson Consulting Engineers for the Weber County Emergency Storm Water Project Construction Management Contract; Commissioner Bell seconded, all voting aye.

**11. INTERLOCAL AGREEMENT WITH NORTH OGDEN CITY DESIGNATING THE CITY AS THE APPROVAL AUTHORITY FOR PROPERTY IN UNINCORPORATED WEBER COUNTY LOCATED AT APPROXIMATELY 1850 NORTH WASHINGTON BOULEVARD – CONTRACT C2014-51**

Sean Wilkinson, County Planning Division Director, showed an area map. The city approached the county requesting this agreement for the property where the old Country Boy Dairy commercial building is located (1850 N. Washington Blvd.-the front property) and which lost its non-conforming commercial status. This item is for the front piece of property, which will now be in the city; the agriculture piece in the rear will remain in unincorporated Weber County. The lot lines are not changing. The property owner has been working with the city. The property is currently being annexed into the city, which has requested to be the approval authority for site plans, building permits, etc.

Commissioner Bell moved to approve Contract C2014-51, Interlocal Agreement with North Ogden City designating the city as the approval authority for property in unincorporated Weber County at approximately 1850 North Washington Blvd.; Commissioner Zogmaister seconded, all voting aye.

**12. CONTRACT WITH THE UTAH DEPARTMENT OF TRANSPORTATION (UDOT) TO ESTABLISH FUNDING TERMS AND CONDITIONS FOR PROJECT No S-0108(29)10 SR-108; CLOSE 3500 W. ACCESS, SAFETY SPOT IMPROVEMENT PROJECT – CONTRACT C2014-52**

Douglas Larsen, Weber Economic Development Partnership Director, showed an area map and stated that this is for the partial closure of 3500 West due to safety concerns. A primary concern as Wasatch Area Council of Governments (WACOG) and the county worked through this was to ensure that the business on the west side of 3500 West had sufficient access and access will remain off of Midland Drive. There will also be a secondary access off of 3500 W. to that business. The county will provide a total of \$900,000 to this \$1 million project. These funds will come from \$330,000 from the corridor preservation funds and \$570,000 from the third quarter percent sales tax. UDOT will provide the remainder.

Commissioner Bell moved to approve Contract C2014-52 with UDOT to establish funding terms and conditions for Project No S-0108(29)10 SR-108; Close 3500 W. Access, Safety Spot Improvement Project; Commissioner Zogmaister seconded, all voting aye.

**13. RESOLUTION APPOINTING A MEMBER TO THE WEBER COUNTY LIBRARY BOARD OF TRUSTEES – RESOLUTION 13-2014**

Commissioner Zogmaister outlined the process that has been followed for the past 15+ years to fill Library Board vacancies, which includes posting, followed by review by the Library Board and interviewing of the top six applicants. She noted that there had been very good discussion about the applicants and there was criteria for selecting them because it is important that they bring certain skill sets to the Library Board. She noted that this is a critical time due to the extensive current library construction projects. Three applications were submitted to the County Commission with a recommendation from the Library Board to consider in the order of choice: Charles Trentleman, Kathleen B. Jensen and Joe H Richie. The Commission had requested all the applications, which had been provided. She expressed thanks to all who applied and had been very impressed with the quality of applicants.

Chair Gibson noted that it is within the commissioners' purview to select any applicant they deem appropriate. He invited any of the applicants to address the commission and no comments were offered. Commissioner Bell recommended appointing Brent Innes. Commissioner Zogmaister could not support that because he was not even in the top six applicants and stated that she respects the work and process of the Library Board. The other two commissioners said that they also respect it. Commissioner Zogmaister asked if out of respect for their recommendations they would nominate someone out of the top 3. Chair Gibson said that they could nominate anyone they wished, that there are many quality applicants. Commissioner Bell felt that the opportunity to serve should be passed around so that others can have that opportunity.

Commissioner Bell moved to adopt Resolution 13-2014 appointing Brent Innes to the Weber County Library Board of Trustees with a term expiring 6/30/2018; Chair Gibson seconded; Commissioner Zogmaister said that as the Library Board discussed each name they pointed out what skill sets that individual could bring to this Board and the knowledge each could bring during this construction period. She asked the commissioners to elaborate on the person they were nominating. Commissioner Bell said that Mr. Innes lives in the unincorporated area Weber County and most current members are from Ogden, one is from Ogden Valley and one from Roy City, and that Mr. Innes would be a good voice on the Board.

Roll Call Vote:

Commissioner Bell .....	aye
Commissioner Zogmaister.....	nay
Chair Gibson.....	aye

**G. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, APRIL 1, 2014, 10 A.M.**

**H. PUBLIC COMMENTS:**

Kathy Gambles, of South Ogden, appreciates the seriousness with which the commissioners take their jobs. She read the mottos on the wall behind them. She celebrates the beautiful, stellar example of all of all of those statements that the Weber County Library is and the incredible job they have done over the years and continue to do. She honors the wisdom to allow that good strong leadership. She said that it is unfortunate to dilute the Library Board, to not allow that quality thinking to go forward that honors and respects all of the county, to not see what the Library Board is doing and how fortunate it would be to keep all of that in place. There was applause by those in attendance.

Chair Gibson said that people could not be disparaging or say that it is diluting a library board just because someone does not think the same way, that there was an appropriate vote taken based upon the majority of the Commission deciding how to move forward and how they wish to be represented on this Board. Ms. Gambles apologized stating that it was unfortunate that this what the chair got out of what she said.

Scott Spencer, of the Weber County Library, said that today the Commission had chosen an applicant not recommended in the top three by the Library Board of Directors. He asked if there is going to be a change in the selection process and if the county commissioners are going to receive the applications and appoint the directors themselves. Chair Gibson said that the selection process has not changed—the Library Board reviews the applications and sends the Commission their top three choices and the Commission makes the appointments, even if the person did not apply.

Evelyn Bertilson, with Friends of the Library, said that there has been a change of precedent and it upsets the Friends of the Library that the Commission chose someone other than the well established precedent.

Chair Gibson said that it is a heavy responsibility as commissioners to stand before the people for election and to have to defend their actions, which is what the process is about. It makes good sense that all of the commissioner take that responsibility seriously and are doing their best to represent each member of our community.

#### **I. ADJOURN**

Commissioner Bell moved to adjourn at 11:58 a.m.; Commissioner Zogmaister seconded, all voting aye.

Attest:

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Kerry W. Gibson, Chair  
Weber County Commission

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Ricky D. Hatch, CPA  
Weber County Clerk/Auditor