

MINUTES
WEBER COUNTY COMMISSION

Tuesday, March 27, 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 "Jim" H. Harvey, James Ebert and Kerry W. Gibson.

OTHER STAFF PRESENT: Lynn Taylor, of the County Clerk/Auditor's Office; Bryan Baron, Deputy County Attorney; and Fátima Fernelius, of the Clerk/Auditor's Office, who took minutes.

- A. WELCOME** – Chair Harvey
- B. INVOCATION** – Quinn Fowers
- C. PLEDGE OF ALLEGIANCE** – Shelly Halacy
- D. THOUGHT OF THE DAY** – Commissioner Gibson

E. PRESENTATION OF THE SEAL OF SERVICE AWARD TO SUNNY HAYES.

Ryan Cowan, of the Weber-Morgan Health Department, read the submitted peer nomination which said Ms. Hayes does a wonderful job fostering partnerships with community agencies and is an amazing health educator and promoter of our trail systems. Ms. Hayes thanked her department and spoke of her passion for trails which encourage people to stay healthy. The Commission presented her with a plaque & \$100 for her excellent work.

F. CONSENT ITEMS:

1. Warrants #1386-1394 and #426722-427003 in the amount of \$473,698.07.
 2. Purchase orders in the amount of \$134,843.69.
 3. Minutes for the meeting held on March 20, 2018.
 4. New business licenses.
 5. Request from Weber County Community Development Department to declare parcel numbers 23-020-0002 and 23-020-0003 as surplus property.
 6. Request from Weber County Community Development Department to declare parcel numbers 08-047-0011 and 08-047-0045 as surplus property.
 7. Retirement Agreement with Edward Troy Windsor.
 8. Approving standard contract form for the Surveyor's Office to access PLSS monuments on private property.
 9. Approving Polling Places for the 2018 Primary Election.
- Commissioner Ebert moved to approve the consent items; Commissioner Gibson seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

G. ACTION ITEMS:

1. APPROVAL OF THE WEBER COUNTY POLICY GOVERNING CAPITAL BUDGETS - POLICY 6.2.

Scott Parke, County Comptroller, stated that the Clerk/Auditor's Office has brought several policies before the Commission to help improve them and follow best practices. This policy will help the Clerk/Auditor establish a more formal process for providing recommendations to the Commission during the budget cycle. Any large project that the county is interested in will be vetted. The policy creates a committee comprised of various county offices and defines the scope. Mr. Parke addressed Commissioner Ebert's questions noting that the county is always looking to improve its processes. Commissioner Ebert said that projects now have to go through a very vetted process before going on the prioritization list and the county has worked on this for 18 months. John Bond, Treasurer, said that the committee has a great group of individuals with expertise. Commissioner Gibson expressed gratitude to Mr. Parke for the new accounting software, it has been a very positive step, and he appreciates bringing this group of financial experts together and the long term perspective. Commissioner Gibson moved to approve Weber County Policy 6.2; Commissioner Ebert seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

2. CONTRACT WITH THE UTAH DEPARTMENT OF NATURAL RESOURCES, DIVISION OF WILDLIFE RESOURCES, TO HELP CONTROL PHRAGMITES IN WETLAND AREAS THROUGHOUT THE COUNTY.

Taylor Christensen, of the County Weed Division, noted that the State will reimburse the county in this effort. Commissioner Ebert moved to approve the contract with the State of Utah to help control phragmites in wetland areas throughout the county; Commissioner Gibson seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

3. LOCAL TRANSPORTATION AGREEMENT WITH HARRISVILLE CITY FOR THE LARSEN LANE (PHASE 2) PROJECT.

Brooke Stewart, with Weber e.d.p., outlined the project. The City will contribute \$106,000 and is requesting \$597,000 from corridor preservation funds. This went before WACOG and the Commission in 12/2017. Commissioner Gibson moved to approve the Local Transportation Agreement with Harrisville City for the Larsen Lane (Phase 2) project; Commissioner Ebert seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

4. **LOCAL TRANSPORTATION AGREEMENT WITH HARRISVILLE CITY FOR TERMS RELATED TO 1100 NORTH PROJECT.**

Brooke Stewart, with Weber e.d.p., outlined the project. The City is requesting \$121,440 in corridor preservation funds and \$297,440 from sales tax. The project went before WACOG and the Commission. Commissioner Gibson moved to approve the Local Transportation Agreement with Harrisville City to establish terms related to the 1100 North project; Commissioner Ebert seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

5. **CONTRACT WITH DMW INDUSTRIES INC. FOR RENEWAL OF THE OGDEN MUSTANG CONTRACT.**

Todd Ferrario, County Ice Sheet and Parks & Recreation Division Director, presented this 5-year contract. Commissioner Gibson moved to approve the contract with DMW Industries Inc. for renewal of the Ogden Mustang contract; Commissioner Ebert seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

6. **CONTRACT WITH TRADERS ROW FOR CONCESSIONS AT FORT BUENAVENTURA.**

Todd Ferrario, County Ice Sheet and Parks & Recreation Division Director, presented this contract renewal. Commissioner Ebert moved to approve the contract with Traders Row for concessions at Fort Buenaventura; Commissioner Gibson seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

7. **CONTRACT WITH OGDEN FRIENDS OF ACOUSTIC MUSIC FOR THE 12TH ANNUAL OFOAM MUSIC FESTIVAL.**

Todd Ferrario, County Ice Sheet and Parks & Recreation Division Director, presented this contract renewal. Commissioner Gibson moved to approve the contract with Ogden Friends of Acoustic Music for the 12th Annual OFOAM Music Festival; Commissioner Ebert seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

8. **CONTRACT WITH THE STATE OF UTAH, DEPARTMENT OF WILDLIFE RESOURCES, FOR DWR HUNTER EDUCATION INSTRUCTOR TRAINING.**

Jennifer Graham, with County Parks & Recreation, presented this contract. Commissioner Ebert moved to approve the contract with the State of Utah, Department of Wildlife Resources, for DWR hunter education instructor training; Commissioner Gibson seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

9. **FIRST READING OF AN ORDINANCE GOVERNING PARKING.**

Steffani Ebert, with the County Sheriff's Office, presented the request to move certain sections from Title 32 and to incorporate them into Title 42-4 that is more appropriately related to parking. Commissioner Gibson moved to approve the first reading of an ordinance governing parking; Commissioner Ebert seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

10. **CONTRACT WITH SHAWN CONDIE TO PROVIDE LEGAL COUNSEL TO INDIGENT PEOPLE.**

Mike Bouwhis, Indigent Defense Coordinator, presented this contract, which will expire in 12/31/2019. Commissioner Ebert moved to approve the contract with Shawn Condie to provide legal counsel to indigent individuals; Commissioner Gibson seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

11. **CURATORIAL SERVICE AGREEMENT WITH AMPED, INC. D/B/A AMPED ARTS TO AID IN MANAGING ART EXHIBITS IN WEBER CENTER.**

This item was held.

H. PUBLIC COMMENTS: Virginia Reza, of Ogden, asked for the committee members for item G.1 and the contract for item G.10 and the commissioners informed her how to obtain that information, including that it is online as part of the county's transparency objectives.

I. ADJOURN

Commissioner Gibson moved to adjourn at 11:00 a.m.; Commissioner Ebert seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

Attest:

James "Jim" H. Harvey, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor

3/27/2018

**AGREEMENT FOR INDIGENT DEFENSE ATTORNEY
DISTRICT COURT**

This Agreement is made effective the 1st day of April, 2018, by and between Weber County, a body politic of the State of Utah, hereinafter referred to as "County," and Shawn Condie, 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, 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 indigent persons in the Second District Court when appointed by the Court;

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

1. Attorney agrees to provide competent legal counsel to any person charged with a felony or a misdemeanor who appears at the arraignment calendar sessions in the court Attorney is assigned to and who is deemed by the court to be indigent, as well as those indigent persons assigned to Attorney at video arraignments. Attorney will represent indigent defendants in all matters before the court including scheduling conferences, all hearings and trials, and all other matters required to ensure adequate representation including but not limited to probation violations hearings and restitution hearings.
2. 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.
3. If Attorney is not Rule 8 qualified, Attorney shall make reasonable efforts to become Rule 8 qualified.
4. 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.
5. 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.

6. 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.
7. 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.
8. 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.
9. 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.
10. Attorney shall submit to the Coordinating Attorney and to the County 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.
11. 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.
12. County agrees that if Attorney is asked to represent a defendant in a capital defense case which could result in the death penalty, a separate contract would be crafted to handle compensation.
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 April 1, 2018 through December 31, 2019.
17. County agrees to pay Attorney the following amounts annually:

| Basis for Amount | Amount |
|--------------------------|-----------------|
| District Court Calendars | \$60,600 |
| | |
| | |
| Total | \$60,600 |

Payment shall be made to the Attorney in equal monthly installments of \$5,050.00 per month. The first installment is due before the end of April 2018 and a like sum on the last day of each month thereafter through December 31, 2019.

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. 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.
23. 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.
24. 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.
25. 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.
26. 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.
27. 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.
28. This Agreement may not be assigned by Attorney. Attorney is an independent contractor and shall not act as an agent for County.

29. 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.
30. 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. A copy of said motion or application shall be provided to the Civil Division at the time said motion or application is submitted to the court. 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.
31. Attorney or County may terminate this Agreement without cause upon sixty days written notice to the other Party.
32. 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.
33. 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 this Agreement.
34. Any notice required by this agreement shall be given in writing addressed to the following unless otherwise designated in writing.

FOR THE COUNTY:

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

FOR THE ATTORNEY:

Cordie Law Firm, PLLC
3856 Washington Blvd.
Ogden, UT 84403

35. 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.
36. In the event that Attorney files a Notice of Appeal to the Utah Court of Appeals and/or the Utah Supreme Court, Attorney shall immediately, but not later than ten (10) days thereafter, contact the Coordinating Attorney to transition and turn over all relevant records within Attorney's possession or control as necessary in the interests of justice and as requested by Appellate Counsel.
37. This Agreement can be changed, modified, or amended only by written agreement of the Parties.
38. 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.
39. 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.
40. 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

Date Harvey


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

ATTEST:


Ricky Hatch, CPA
Weber County

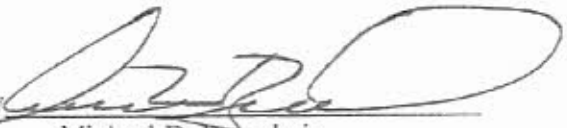
ATTORNEY

INDIGENT DEFENSE COORDINATOR

By 

~~Sean~~ Condie
Shawn

Date 03/20/18

By 

Michael D. Bouwhuis

Date 3/21/18