### **MINUTES** WEBER COUNTY COMMISSION

Tuesday, May 25, 2021 – 10:05 a.m.

Via Zoom meeting + at Weber Center, 2380 Washington Blvd., Ogden, UT

In accordance with the requirements of Utah Code Section 52-4-203, the County Clerk records in the minutes the names of all persons who 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, Gage Froerer, and Scott K. Jenkins.

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

- **A. WELCOME** Chair Harvey
- B. PLEDGE OF ALLEGIANCE Charles Ewert
- C. INVOCATION Rick Grover
  D. THOUGHT OF THE DAY Chair Harvey

- Ratify warrants #3865-3866 & #458719-458870 & #84 in the amount of \$1,403,696.14 dated 5/18/2021 Warrants #3887-3927 & #45887-459141 & #89-90 in the amount of \$3,286,106.12
- Purchase orders in the amount of \$1,803,938.41
- Minutes for the meeting held on May 11, 2021 Retirement Agreement with Kristin Jorgensen
- A new business license

- A new business itemse
   Surplus a stackable chair and an HP LaserJet printer from the Weber-Morgan Health Department
   Unanimous request from the Weber County Tax Review Committee to approve the 2021 tax sale extension request for Juan Espinoza on parcel numbers 04-040-0042 & 04-040-0043
   Unanimous request from the Weber County Tax Review Committee to approve the 2021 tax sale extension request for Keith & Shane Bitton on parcel number 09-086-0037
- 10. Contract with Utah Dept. of Health to house a state-owned cold storage trailer on County Sheriff's Office property 11. RAMP contracts for projects approved on March 2<sup>nd</sup>:

Boys & Girls Club-Create @ the Club 2021

Onstage Ogden-2021 Season

Ogden Dinosaur Park/Museum-Education/Technology

Ogden Dinosaur Park & Museum-Animatronics

Youth Impact-Impacting Arts Program
Treehouse Children's Museum-Cover to Cover
Treehouse Children's Museum-Planting Seeds

South Ogden City-Club Heights Park Phase 2 South Ogden City-S. Ogden Days Entertainment

Weber State University Foundation-Theater Screens Weber State University Foundation-String Project

Hooper City-Park Benches

Hooper City-Historical Markers

Hooper City-Playground

West Haven City-Rodeo

Project Success Coalition-Festival

Farr West City-Triangle Playground

Hooper City-Pavilion

Farr West City-Pickleball Courts Good Company Theatre-2021 Season

Trails Foundation of Northern Utah-Trail Maintenance/Building Ogden Friends of Acoustic Music-Ogden Music Festival 2021 Ogden Friends of Acoustic Music-Dia De Los Muertos Concert

Ogden Friends of Acoustic Music-Instrument Project Washington Terrace City-Horseshoe Pits Lighting Washington Terrace City-Park Trees Restoration Mountain Arts & Music-Solar System Garden

Commissioner Jenkins moved to approve the consent items; Commissioner Froerer seconded. Commissioner Froerer – aye; Commissioner Jenkins – aye; Chair Harvey – aye

### **G.** ACTION ITEMS:

1. RESOLUTION APPOINTING MEMBERS TO OGDEN VALLEY PLANNING COMMISSION – RESOLUTION 20-2021

Rick Grover, County Planning Division Director, noted that there were two vacancies. The commissioners and Mr. Grover stated that there were seven well qualified applicants.

Commissioner Froerer moved to adopt Resolution 20-2021 appointing Trevor Shuman and Justin Torman to the Ogden Valley Planning Commission; Commissioner Jenkins seconded.

Commissioner Froerer – ave; Commissioner Jenkins – ave; Chair Harvey – ave

2. PIONEERING AGREEMENT FOR AN OVERSIZED SEWER LIFT STATION ASSOCIATED WITH THE TAYLOR LANDING CLUSTER SUBDIVISION

This item was held.

3. AMENDED CONTRACT WITH GRAPHIC HOUSE LLC FOR THE ENGINEERING, FABRICATION, DELIVERY, AND INSTALLATION OF THE OGDEN VALLEY WAYFINDING SIGNAGE (PHASE 1)

Scott Perkes, of the County Planning Division, stated that this was simply to include legal counsel's minor amendments and that the vendor was happy to accommodate this and had already executed the contract. Commissioner Froerer moved to approve the amended contract with Graphic House LLC for the engineering, fabrication, delivery, and installation of the Ogden Valley Wayfinding Signage (Phase 1); Commissioner Jenkins seconded.

Commissioner Froerer – aye; Commissioner Jenkins – aye; Chair Harvey – aye

### 4. STANDARD OPERATION & MAINTENANCE PROCEDURES FOR WEBER COUNTY EMERGENCY WATERSHED PROTECTION PROJECT, LITTLE WEBER CUTOFF INTAKE STRUCTURE TO BE OPERATED & MAINTAINED BY COUNTY

Gary Myers, County Engineer, stated that construction began in about 2014 and has been finalized. This gives the county operation/maintenance guidelines to minimize impacts. Mr. Myers addressed Commissioner Jenkins questions referring to the contract on who decides when to open the gates, including that before opening them that the Emergency Management Director will work with the Commission. Commissioner Jenkins moved to approve the Standard Operation and Maintenance Procedures for the Weber County Emergency Watershed Protection Project, Little Weber Cutoff intake structure to be operated and maintained by Weber County; Commissioner Froerer seconded. Commissioner Froerer – aye; Commissioner Jenkins – aye; Chair Harvey – aye

### 5. CONTRACT WITH XPRESS SOLUTIONS, INC. FOR ONLINE BILL PAY SERVICES

Lynelle Jensen, of the County Treasurer's Office, stated that the county needs a new online payment system for its sewer customers. Xpress Solutions (based in Utah), was selected. Other departments may also be able to use their services.

Commissioner Jenkins moved to approve the contract with Xpress Solutions, Inc. for online bill pay services; Commissioner Froerer seconded.

Commissioner Froerer – aye; Commissioner Jenkins – aye; Chair Harvey – aye

#### H. PUBLIC HEARINGS

1. Commissioner Froerer moved to adjourn the public meeting and convene the public hearings; Commissioner Jenkins seconded.

Commissioner Froerer – aye; Commissioner Jenkins – aye; Chair Harvey – aye

# 2. Public hearing to consider & take action on a request to amend the Weber County zone map to rezone approximately 5.0 acres from the CVR-1 and CV-2 zones to the FR-3 Zone at approximately 947 East Highway 39

Charles Ewert, of the County Planning Division, showed area maps including current zoning, indicating the applicant's 3.22 acre property and an adjacent parcel owned by the Snowbasin Company, along Highway 39 at the intersection of the Old Snowbasin Road. The subject property is zoned CVR-1, the same as the property across the street. This zone allows many uses including hotels, condos, condo-tels, recreation resorts and lodges. Staff had spoken with the Snowbasin Company about the proposed Forest Residential-3 rezoning to provide the same rezoning for the adjacent property because it would be the most consistent zoning for the area. The Snowbasin Company owners were fine with the proposed zoning. The applicant, Todd Meyers, was asking FR-3 zoning, the heaviest intensity of the county's Forest Residential Zones, which are intended to essentially be a sister zone to the CVR-1 Zone and be in proximity to resort areas to provide housing for those areas. The FR-3 Zone is primarily more residential, but has many similarities to the CVR-1, including similar site development standards, and across the board 20 dwelling units/acre could potentially be obtained in both zones, however, Mr. Meyers had informed Mr. Ewert that they were only able to obtain enough sewer connections for 13 units. The applicant did not wish to pursue CVR-1 zoning primarily because of sewer connection issues. The applicant's proposal could be done under the current zone (i.e., as 13 recreational lodges, or with 1 or 2 recreational lodges with 11 or 12 residential homes), that the layout of the proposal was not likely to change under either zone. He pointed out that subdivision of the land was scheduled for preliminary subdivision review at tonight's Ogden Valley Planning Commission meeting, and whether or not the rezone was approved, Mr. Meyers planned to move forward with subdividing the land.

Mr. Ewert showed the layout plan that the Planning Commission had seen. They had expressed concern with the homes being too close to Highway 39, and that it did not include adequate parking. Mr. Meyers had since proposed a slightly different layout, which Mr. Ewert showed that included removing the big cul de sac and replacing it with a hammerhead turnaround allowed moving the lots away from the road, putting in a detention/stormwater basin, and spreading the homes out a little bit more to fit an RV or two trailers. He noted primary community concerns, including increased density, which was about double the density from the adjacent subdivision with a cul de sac and also quite a bit more density from development going up the hill on Old Snowbasin Road. Current zoning allows that density amount, if not more, if there was more sewer capacity in either zone. The applicant had stated to Mr. Ewert that they would like to keep the site looking as residential as possible and to be sold as such. Another point of concern from the community seemed to be that the FR-3 Zone allows short-term rentals. Mr. Ewert pointed out that both of these zones allow short-term rentals. Review of the CVR-1 Zone for a commercial use would require site development standards, design review, etc., which would not be required for a residential zone.

Staff believed, after working with Mr. Meyers and in developing the proposed short-term rental ordinance over the past year or so, that there were some rules in that ordinance proposal that could be applied to this particular project and would work very well in this development. In speaking with Mr. Meyers and some of the neighbors, it was felt that this might be a really good pilot program for some of those standards. The neighbors' primary concern about short-term rentals was parking, and the County Commission had expressed the same concern during its recent work session. The interior development roads will all be private and Mr. Ewert had suggested that the developer design them correctly so that people with boats, RVs/large vehicles would not be more likely to park them on Highway 39 and Old Snowbasin Road. He said that Mr. Meyers was sensitive to this concern and staff had worked with him to agree that each one of these lots would have eight parking spaces with at least one of those to be tandem and have the ability to pull a boat, trailer or RV onto the parcel instead of parking on the street or diverting parking onto neighboring residential neighborhoods. Mr. Meyers had shown staff designs and they had eight sleeping bedrooms in each of the buildings with at least one parking space per bedroom. Mr. Meyers had also proposed other parking spaces in the conceptual design. Another big concern was the short-term rental complex's operations and management having 13 different owners, and Mr. Meyers was fine with the county's proposed short-term rental ordinance language requiring single operations and management by the forming of an HOA that would contract a management company with the requirement that someone would be onsite within one hour of a call about an issue. The proposed short-term rental ordinance has penalties for noncompliance, ultimately with possible license revocation for repeat offenses.

(Commissioner Froerer was excused for a short period of time during this item and returned during item H3.)

The Planning Commission forwarded a positive recommendation to the County Commission for the rezone with a contract stipulating that none of the landowners could apply for short-term rental operations. Mr. Meyers really desired short-term rentals and had thus far been willing to comply with the strict regulations that the county had been contemplating in the proposed ordinance. Mr. Ewert provide three options to the Commission: A) To follow the Planning Commission's recommendation, adding an agreement stating that there would be no short-term rentals; B) If the Commission would rather enable short-term rentals in this development, a development agreement would need to be crafted to include the following staff considerations: 1) That there be an authorized agent, operations standards, and enforcement provisions and penalties from the recently drafted Short-Term Rental Ordinance; 2) The agreement should require that the entire development be managed by a single management company for maintenance, operations, and enforcement of short-term rentals; 3) The agreement should have a conceptual layout of the development to guide that development; 4) The agreement should have a landscape plan that illustrated berming of adjacent residential uses, proposed vegetation, and watering methods. In working with a neighboring HOA, Mr. Meyers suggested trying to hide/tuck away the development from adjacent homes as much as possible; 5) The agreement should provide for the authorization and governance of an alternative access for the proposed private shared drive (it was terminal and smaller than the standard street, about 20 ft. wide). Mr. Ewert stated that it did not make sense for the county to maintain it, and that the narrower street allows moving homes away from some property lines in order to create the berms; and 6) There could be an agreement with the county authorizing short-term rentals as a conditional use permit for each lot proposed to be used as such; and Option C) The Commission could deny the rezone, supported by reasonable findings.

Mr. Meyers, with CW Land Company, of Centerville, sincerely thanked the professional planning staff. He said that there was strong communication in last week's work session that he should take a good look at parking; he had subsequently met with planning staff. He agreed with no street parking and having no parking signs, stating that there would be a 2-car garage/house, that the driveway would be 25 feet, that on the side of the house there would be a driveway going to another three stalls, and also 11 stalls in the common area parking. By removing the cul de sac and replacing it with the hammerhead design, each of those straight ends created a spot for snow storage and about eight more overall stalls for parking during summer months. Mr. Ewert showed CW Urban's proposed designs indicating that they mostly had 3-car garages. There was concern early on by neighbors that the applicant would do lockouts, but the Short-Term Rental proposed ordinance, as well as the applicant, did not recommend lockouts. Mr. Meyers added that if the rezone was not approved, that he would go with the existing zone, and although it affected a couple of building codes, it was reasonable. His preference was the rezone application before the Commission with short-term rentals, and entering into a development agreement with language from the proposed Short-term Rentals Ordinance to address the adverse effects as a requirement. Mr. Ewert addressed the commissioners' questions stating that the FR-3 Zone required minimum 8 feet side offsets. Chair Harvey expressed concern with the small amount of side and front offsets, stating that it would be difficult to throw snow that far, and he would prefer some sort of apron on the third driveway. Mr. Ewert said that the county would want to require larger side offsets through the development agreement to provide parking. Commissioner Jenkins' concerns were about putting a lot of density in there and also with the street's narrowness. Mr. Ewert stated that the law change can come with an agreement and equitable consideration from both parties.

### 3. Public hearing to discuss, take comment, & potentially take action on an applicant initiated proposal to amend M-3 zone to add shooting range & training course as an allowed use

The applicant was not present. Charles Ewert, of the County Planning Division, stated that there was allowance for shotgun shooting ranges in a couple of zones but none for rifle shooting. Due to the intensity of other allowed uses in the M-3 Zone, a shooting range could generally fit harmoniously as long as adequate safety measures were taken to protect from detrimental effects; mitigation could include construction of an errant bullet containment system, regular site cleanup, proper drainage, fire suppression system, and vegetation management. The Western Weber Planning Commission recommended approval with the addition of a shooting range employee/operator to be present during shooting. Commissioner Jenkins felt highly conflicted on private rights and said that to create a commercial rifle range out west not what was being planned out west, and that there are other ranges available. Chair Harvey preferred shooting in a controlled environment such as this and supported the Planning Commission's recommendation. Commissioner Froerer agreed with putting the shooting range in this zone and have better control. Commissioner Jenkins noted that there would be people building around there. Mr. Ewert said that the proposal called for an outdoor range but there will be berms around the range and a bullet containment system.

# 4. Public hearing to discuss, take comment, and potentially take action on a county-initiated proposal to amend the subdivision ordinance to better address culinary and secondary water provisions

Charles Ewert, of the County Planning Division, stated that this item had been in the works for three years, and time was taken during the pandemic to target trouble spots with the current ordinance and to consider the different view points of all the stakeholders. There was much discussion with different water entities of both secondary and culinary water, with an effort of not only creating an ordinance that applies to a developer to provide water in certain compliant ways but also having an ordinance that brings the expectations of water entities into some common path to create consistency in water infrastructure. The primary objective had been to protect culinary water resources, and secondary water was an incidental discussion point. There were a number of culinary water entities that were giving will-serve letters to developers on condition that they not use any culinary water outside, but governing that had become a huge challenge. Hooper Irrigation had submitted an application to change code and discussion ensued on providing secondary water. The new proposal requires connecting if within 50 feet per lot in subdivisions of an existing culinary system. It is the same standard for secondary systems. If outside of that proximity, they can create their own systems. If doing so, and they are within the proposed expansion area of an existing entity, the entity must be created according to that entity's standards. The intention is not to create many small private companies in perpetuity. If creating one's own shared water system/community water system, there is opportunity to access by private well. There is a stipulation that a developer must get approval for each well from the State engineer all at the same time in order for the engineer to see the full impacts. Commissioner Froerer supported the proposed change, noting that he had a lot of discussion with water providers in the Ogden Valley and Commissioner Jenkins with providers out west. This ordinance gives flexibility and encourages water wise landscaping. Commissioner Jenkins also supported this. He stated the need for primary water districts to understand their responsibility and for the county to ensure that they have this code.

## 5. Public hearing to discuss, take comment, and potentially take action on a county initiated proposal to amend the subdivision ordinance to allow or require private streets in certain circumstances

Charles Ewert, of the County Planning Division, stated that there was a current project in the Ogden Valley where the developer had planned for it to be on private streets but had not been aware that the county did not allow private streets (except in master planned developments). As County Planning and Engineering looked a the idea of having private streets, there was great discussion because they were a bit at odds. In planning the Ogden Valley General Plan there was not broad consensus among the public for support of a transportation master plan. One was proposed but there was much resistance to the idea, thus there wasn't much street connectivity even in the existing planning documents. Mr. Ewert said that in many years into the future the AV-3 zoning may not be able to exist due to population growth. If a successful transferable development rights program was implemented for the Valley, there would be areas of higher moved density and in time there would be a need for a street network. However, for most of the Valley there is one dwelling unit for every 3 acres minimum on the valley floor and it did not make sense to require public streets everywhere, and dead-end streets don't generally provide a public good. This ordinance proposed allowing the creation of private streets as long as there was a mechanism in place to preserve the county's possibility of creating a public street along that in the future. This would allow the county fee to the ground for possible connections—creating easements for the future.

### 6. Public Comments:

Ron Gleason, of unincorporated Weber County, said that recreation uses should be considered in private vs. public roads. More and more people use bicycles and other forms of transportation in the Ogden Valley, and people were trying to find alternatives to busy State roads. He said that when the Legacy Ranch road would go in, if it would be public, that many would use it to ride bicycles rather than to use the Old Snowbasin Road.

<u>Miranda Menzies</u>, addressed the culinary and secondary water ordinance, thanking Mr. Ewert and stating that while it may not be perfect, it is a huge improvement. She asked for the Commission's support of the ordinance, otherwise there would be continued problems with developers coming forward without clearing up the water issues.

<u>Paul Joyce</u>, commended Mr. Ewert's tremendous efforts on the complex water issues, which if approved today would be a huge win, but stated that the issue that he presented three years ago on the development where he lives was not addressed (and asked for continual iterations of the code): when there is no culinary provider and/or a well used for culinary water, yet there was access to secondary water, and where that secondary water could possibly be provided by pressurized infrastructure from ditch water.

Brynn Edwards, of Taylor, thanked Mr. Ewert, on his hard work, stating that there were a lot of meetings with the commissioners, etc., and that finally there was a good grasp on this code and moving in the right direction.

7.

Commissioner Jenkins moved to adjourn the public hearings and reconvene the public meeting; Commissioner Froerer seconded.

Commissioner Froerer – aye; Commissioner Jenkins – aye; Chair Harvey – aye

#### 8. ACTION ON PUBLIC HEARINGS:

### H2-REQUEST TO AMEND THE COUNTY ZONE MAP AT APPROXIMATELY 947 EAST HIGHWAY 39

Commissioner Froerer noted that the commissioners received a number of emails from concerned citizens urging them not to rezone this property, but this property had ben zoned for hotel/lodging for as long as he could remember and before the neighboring subdivision. Commissioner Jenkins reiterated that the only thing holding this to 13 units was connections to sewer. Additionally, that he respected the Planning Commission but they were for the rezone with no short-term rentals, which was the very reason for the request. Christopher Crockett, Deputy County Attorney, responded that the legislative body ultimately made the determination.

Commissioner Froerer moved to hold this item until such time as the developer and the county had opportunity to meet with members of the related community and see if they could arrive at an acceptable development agreement to both community and developer, and that county issues related to short-term rentals be addressed such as enforcement, parking, garbage, etc. This could be a model for short-term rentals. Otherwise, he would support Commissioner Jenkins' position and favor the zoning remaining. Commissioner Jenkins seconded, requesting comment from the developer and Chair Harvey first commented that he received many well thought out comments, that this was a change for the Valley, and he commended the developer for accommodating various items. Mr. Meyers felt that it was a quality meeting last Friday hosted by the Planning Division with three neighborhood representatives, and where it was brought up that these single family homes would have a price tag of about \$1.2 million. The applicant was committed to a quality neighborhood, a good reputation with the community, and agreed with a single management company over the HOA. He preferred Commissioner Froerer's motion and said that they would work together on preparing the development agreement, otherwise his second option was for his request to be denied and he would build under the existing zone. Mr. Crockett asked if there was anything that prevented the applicant from proceeding simultaneously with the application before the Planning Commission tonight on subdividing and Mr. Ewert said no, that all of the CVR-1 Zone provisions could be met and the FR-1 only changed the uses.

Commissioner Froerer – aye; Commissioner Jenkins – aye; Chair Harvey – aye

H3-AMEND M-3 ZONE TO ADD SHOOTING RANGE & TRAINING COURSE AS ALLOWED USE – ORDINANCE 2021-16 Commissioner Froerer moved to adopt Ordinance 2021-16 to allow the use of a gun range and training course by conditional use permit in the Manufacturing M-3 Zone; Commissioner Harvey seconded. Commissioner Froerer – aye; Commissioner Jenkins – nay; Chair Harvey – aye

## H4-AMEND SUBDIVISION ORDINANCE REGARDING CULINARY/SECONDARY WATER PROVISIONS – ORDINANCE 2021-17

Commissioner Jenkins understood that this ordinance did not cover absolutely everything but agreed that it was considerably better than it had been and was a work in progress.

Commissioner Jenkins moved to adopt Ordinance 2021-17, an amendment to the culinary and secondary water requirement for a subdivision; Commissioner Froerer seconded.

Commissioner Froerer – aye; Commissioner Jenkins – aye; Chair Harvey – aye

H5-AMEND THE SUBDIVISION ORDINANCE REGARDING PRIVATE STREETS - ORDINANCE 2021-18

Commissioner Froerer moved to adopt Ordinance 2021-18 amending the subdivision ordinance to allow or require private streets in certain circumstances; Commissioner Jenkins seconded. Commissioner Froerer – aye; Commissioner Jenkins – aye; Chair Harvey – aye

**E. PUBLIC COMMENTS:** 

Ron Gleason, of Eden, said that the Forest Service had a proposal to move a helipad from Morgan County Airport to the Ogden Valley on Highway 39 at the bottom of Trappers Loop, where they own 12 acres on the Valley floor at 5,000 feet. He asked if the Commission was aware of this project, it they had been able to give input, and if the Forest Service was allowed to do what they wanted regardless of local ordinances, including the one calling for no heliports below 6,300 feet. Across from the subject property there are equestrian facilities, a recreational field, and commercial and residential areas that would be very close to the heliport.

<u>Victoria Dortzbach</u>, of Ogden, said that she was an American State National per Title 8, Section §1101(a)(21), (23), therefore enjoyed limited diplomatic immunity, as were many in the room, and they were not subjects to government and were not municipal servants. She cited Article 1 of the International Covenant on civil and political rights (all people have the right of self determination) and told the commissioners of the hierarchy of law, that government was fiction, and corporate bylaws that conflicted with supreme law were null and void. That people were taking dominion over the air, land, and water and were here today with the intent to educate their public servants and the people on the fraud perpetrated on the American people by a de facto government. She said that the second declaration of independence, "allegedly signed by President Donald Trump on July 4, 2020 to the New Republic of the United States" was a 7-page document that 11 people would read from for the next 33 minutes.

<u>June Reese</u>, of Harrisville, read a portion of the second declaration of independence. <u>Jennifer Pennington</u>, of South Ogden, read a portion of the second declaration of independence.

- I. COMMISSIONER COMMENTS: None.
- J. ADJOURN

Commissioner Jenkins moved to adjourn at 12:33 a.m.; Commissioner Froerer seconded. Commissioner Froerer – ave: Commissioner Jenkins – ave: Chair Harvey – ave

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