

**MINUTES**  
**WEBER COUNTY COMMISSION**

Tuesday, July 28, 2020 - 10:00 a.m.

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

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:** Gage Froerer, James "Jim" H. Harvey, and Scott K. Jenkins

**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 Froerer
- B. PLEDGE OF ALLEGIANCE** - Ashton Wilson
- C. INVOCATION** - Bryan Baron
- D. THOUGHT OF THE DAY** - Commissioner Harvey
- E. PUBLIC COMMENTS:** None

**F. CONSENT ITEMS:**

1. Warrants #2920-2944 and #451009-451216 in the amount of \$3,493,544.61
2. Purchase orders in the amount \$159,851.07
3. Minutes for the meeting held on July 21, 2020
4. New business licenses
5. Declare parcel numbers 19-025-0012 and 19-025-0057 as surplus real property
6. A \$25,730 donation of "Prop 1 Funds" to Trails Foundation of Northern Utah for maintenance of trails in North Fork Park
7. First amendment to a Tower Lease Agreement with Verizon Wireless

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

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

**G. ACTION ITEMS:**

4. **GRANT AGREEMENT WITH THE INDIGENT DEFENSE COMMISSION PROVIDING WEBER COUNTY WITH FUNDING TO INCREASE AND IMPROVE DEFENSE SERVICES TO INDIGENT DEFENDANTS**

Bryan Baron, Deputy County Attorney, noted that the county received \$129,000 and was able to hire an administrative assistant to assist the Indigent Defense Coordinator, Michael Bouwhuis, to hire an attorney to take some of Mr. Bouwhuis' cases so he can better focus on administrative work and to have more funding for the specialty attorneys.

Commissioner Harvey moved to approve the Grant Agreement with the Indigent Defense Commission providing the county with funding to increase/improve defense services to indigent defendants; Commissioner Jenkins seconded.

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

3. **CONTRACT WITH SHAWN SMITH FOR AN INDIGENT DEFENSE ATTORNEY**

Bryan Baron, Deputy County Attorney, stated that this was put out to bid and the interviewing committee recommended Mr. Smith, who was hired with the indigent defense funding received in item G.4.

Commissioner Harvey moved to approve the contract with Shawn Smith for an indigent defense attorney; Commissioner Jenkins seconded.

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

2. **AMENDED CONTRACT WITH FRANCISCO ROMAN FOR AN INDIGENT DEFENSE ATTORNEY**

Bryan Baron, Deputy County Attorney, stated that Mr. Roman, who had a full contract, needed to go to half.

Commissioner Jenkins moved to approve the amended contract with Francisco Roman for an indigent defense attorney; Commissioner Harvey seconded.

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

1. **AMENDED CONTRACT WITH GAGE CROWTHER TO PROVIDE LEGAL SERVICES TO INDIGENT DEFENDANTS AND TAKE ON THE RESPONSIBILITY OF DRUG COURT**

Bryan Baron, Deputy County Attorney, said that Mr. Crowther will take Mr. Roman's calendar and also cover drug court.

Commissioner Jenkins moved to approve the amended contract with Gage Crowther to provide legal services to indigent defendants and take on the responsibility of drug court; Commissioner Harvey seconded.

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

5. **RESOLUTION APPOINTING COMMISSIONER SCOTT JENKINS TO THE WEBER-MORGAN LOCAL HOMELESS COORDINATING COUNCIL – RESOLUTION 21-2020**

Danielle Stephens, Housing and Homeless Systems Sustainability Coordinator for the Center of Excellence, said that the Center works very closely with Commissioner Jenkins to facilitate our Local Homeless Coordinating Council, and she gave a comprehensive overview of their significant efforts.

Commissioner Harvey moved to adopt Resolution 21-2020 appointing Commissioner Scott Jenkins to the Weber-Morgan Local Homeless Coordinating Council; Chair Froerer seconded.

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

6. **UPDATED WEBER COUNTY SPORTS COMPLEX 2020 ICE TIME USE AGREEMENT & INVOICE**

Mariko Rollins, with the County Ice Sheet, worked with the County Attorney's office to update this agreement. Commissioner Harvey moved to approve the updated Weber County Sports Complex 2020 Ice Time Use Agreement and invoice; Commissioner Jenkins seconded.  
Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

7. **CONTRACT WITH OGDEN MUSTANGS HOCKEY TEAM FOR CONTRACTED ICE TIME, GAME PROTOCOL, LOCKER ROOM AND BUSINESS OFFICE LEASE AGREEMENT**

Mariko Rollins, with the County Ice Sheet, presented this contract. Commissioner Harvey moved to approve the contract with the Ogden Mustangs Hockey Team for contracted ice time, game protocol, locker room and Business Office Lease Agreement; Commissioner Jenkins seconded.  
Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

8. **CONTRACT WITH UTAH YOUTH RODEO ASSOCIATION FOR UTAH YOUTH RODEO AT 2020 WEBER COUNTY UNFAIR**

Ashton Wilson, County Fair Director, presented this contract. Commissioner Harvey moved to approve the contract with Utah Youth Rodeo Association to hold the Utah Youth Rodeo at the 2020 Weber County Unfair; Commissioner Jenkins seconded.  
Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

9. **CONTRACT WITH HANNAH NICCOLI FOR A JR. LIVESTOCK JUDGE AT THE 2020 WEBER COUNTY UNFAIR**

Ashton Wilson, County Fair Director, presented this contract. Commissioner Harvey moved to approve the contract with Hannah Niccoli for a Jr. Livestock Judge at the 2020 Weber County Unfair; Commissioner Jenkins seconded.  
Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

10. **CONTRACT WITH TSE ENTERTAINMENT TO HAVE TRACY BYRD AS ENTERTAINMENT AT THE 2020 WEBER COUNTY UNFAIR**

Ashton Wilson, County Fair Director, presented this contract for \$32,000. Commissioner Harvey moved to approve the contract with TSE Entertainment to have Tracy Byrd as entertainment at the 2020 Weber County Unfair; Commissioner Jenkins seconded.  
Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

11. **SPONSORSHIP AGREEMENT WITH BAKCOU**

Todd Ferrario, County Ice Sheet and Parks & Recreation Division Director, stated that Bakcou, a local eBike company, wants to help promote the archery park and the county will give them space to demo their product at the archery park. This agreement is for over \$150,000 over 10 years and Bakcou will bring at least three industry events to the facility, will give away two bikes retailing \$5,000 each as promotional items for events at the archery park, and along with their partners, will provide swag for participants. Commissioner Harvey moved to approve the Sponsorship Agreement with Bakcou; Commissioner Jenkins seconded.  
Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

**H. PUBLIC HEARING:**

1.

Commissioner Jenkins moved to adjourn the public meeting & convene the hearing; Commissioner Harvey seconded.  
Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

2. **PUBLIC HEARING TO CONSIDER & TAKE ACTION ON A REQUEST TO AMEND THE WEBER COUNTY ZONE MAP TO REZONE APPROXIMATELY 4.59 ACRES FROM RE-15 ZONE TO R-1-12 AT APPROXIMATELY 6224 S 2225 E, OGDEN**

Charles Ewert, of the County Planning Division, presented this request by Moore Homes in the Uintah Highlands area including current and proposed zoning maps and indicating a couple of nearby zoning pockets of R-1-10 and one of the R-2 zones, and a conceptual subdivision layout (from Moore Homes). The difference between the RE-15 and R-1-12 zones is about a 2,000 square foot buildable area. The general plan that governs the area was adopted in 1970 and shows the subject property slated for low density residential, defined in that plan as properties with lot sizes between 8,000-15,000 square feet. He said that the request is in compliance with that plan. The subject lot is currently part of the Highlands Bluff Estates Subdivision. Staff's presentation to the Western Weber Planning Commission had included a full analysis of the area including traffic circulation, land uses, the potential of other properties developing, and recommended R-1-10 zoning but it was denied about a year ago. On June 9, 2020, the Planning Commission recommended approval of the R-1-12 rezone without additional considerations.

Randy Moore, applicant, said that this application was first submitted many months ago and felt there had been misconceptions about the quality and size of the future homes but anticipates the lots will be about \$200,000 and the custom homes between \$550,000-\$700,000. The property is currently zoned RE-15. He had requested the R-1-10 zoning based on zoning granted on nearby property, but it was denied by the County Commission.

Mr. Moore said that the R-1-10 Zone requires 10,000 sq. ft. lots with 80 ft. width minimums and the R-1-12 requires 12,000 sq. ft. lots and now favors the R-1-12 because of the 90 ft. widths. He requested 12 lots, averaging .33 acres (some are 16,000-20,000 sq. ft.), stating that surrounding homes average .36 acres, and that it be based on the submitted conceptual road design and not stubbing the road connecting to the adjacent property to the east. He said he did not see the need for it nor the public requirement, that adjacent landowners would not want it, and requested that it remain a cul de sac, that there is a road just to the north that connects to that access, there are two other streets, and it is easy to get from the west end of his property to the east with the existing roads. He said that adjoining landowners told him they see it as a hardship to have to continue that road. There had been talk about changing the road into a 4-way stop due to heavy traffic on the existing road; he does not see the need for it. School is not in session but he recently observed traffic on three different times and said that it was low and suggested installing two stop signs.

3. Public comments:

Barbara Lindley, adjacent resident to the subject property, spoke against this item. She asked if the commissioners had visited this property; they all had. One of her concerns is the current fire hazard—the property is completely fenced and Mr. Moore locked the gate, shut off the water and left, and now weeds are over a foot high, and very dry. They already had a fire in their area.

Steven Handley, via zoom meeting, said that his family has lived next to this property for four decades and he feels that this boils down to money for the company. This does not deserve special zoning; Mr. Moore bought the land knowing the zoning and does not care about the neighborhood—neighbors enjoyed the subject property as a park and at the critical time in this community when the pandemic hit, Mr. Moore locked it up.

Colton McSwain, (via zoom with an unintelligible connection), resides adjacent to the subject property and said that stubbing the road is unnecessary and supports the cul de sac (consistent in the area) and the neighbors he spoke with support them. The park was a great community feature and he hopes that farm animals are continued to be allowed.

Bruce Nelson, Uintah Highlands resident, spoke against this item stating that there are hundreds of acres of the RE-15 zone surrounding this property and he has not seen this occur before, that the applicant knew it was zoned RE-15 when he purchased it, which should remain. The access is an overriding issue—typically cul de sacs can only be so long, but the current access with this cul de sac has 15 homes and is huge, and now they are adding another cul de sac onto a cul de sac, which he has never seen. They are also adding 3-4 more lots to the cul de sac which is unsafe and can be seen on the applicant's design how difficult that cul des sac is. He mentioned fire access and snow removal issues. The county should allow what is already zoned, and for safety, should focus on the design of the access of a cul de sac into a cul de sac. When school is in session, that road is congested and like a freeway at peak times. This item was compared to the Uintah View Subdivision but that has a very short cul de sac, with access onto a boulevard, not a little weird entrance, and is surrounded by 8 property owners, not 15.

Merle Lindley, adjacent neighbor, spoke against this item stating that there weren't many residents present today due to the pandemic and it being a workday but the first meeting was packed, that residents will have to live with the Commission's decision, that there was a significant fire in their area and there is definitely a fire hazard today, that the water was shut off and the lot is fenced, which is very disturbing, and if the difference between the zonings is miniscule then why is the applicant intent to change it. The community very much opposes it.

Paul, resides around the corner from the proposal and requested that it be denied. The surrounding neighborhood is RE-15 and he said that these many homeowners have played by the rules building on minimum 15,000 sq. ft. lots and now this developer is requesting to change the rules to allow smaller lots, minimum of 12,000 sq. ft., and this would create an island smack in the middle of a huge RE-15 Zone. The RE-15 allows small farm animals and many neighbors have chickens that gives a rural atmosphere, which the R-1-12 does not. The developer is relying on the outdated plan from 50 years ago that recommends up to eight dwellings/acre, which he said is clearly a fantasy—currently the area is all built up with at least 1/3 acre lots, slightly less than three homes/acre. He hoped the commissioners would support their many constituents who oppose this change.

Camille Borklund, who lives by the park, opposes the rezone and said that this is not about the park anymore but about someone coming into their community and changing it just because they have money; they tried to save the park but it is about money. The applicant has heard their opinions multiple times but keeps coming back with rezoning requests and she hoped the commissioners could see how much their community cares and to not allow the rezone.

Janette Borklund, area resident who served on the Planning Commission, said that against her wishes she voted in favor of the R-1-12 zoning based on the 1970 adopted community plan, which would have been based on the 1960's census statistics. The expected development then was for small tract homes on small lots; it is not what happened and it was a master plan not a general plan (the State did not have regulations for entities to follow) and the plan sat on a shelf and development occurred with RE-15 zoning. The rezoning should be based on the plan and existing area development, which the residents are requesting. She opposes approving the road at this time—the whole subdivision needs to be considered carefully, with the road as part of the subdivision and not as part of the rezoning.

Mr. Ewert addressed Chair Froerer's questions stating that the 1970 general plan defined low density residential as about 3-8 units/acre. Trends have changed markedly since then and a rezoning challenge is not having a general plan to rely on with updated, accurate information, and this is one reason that staff took painstaking analysis of the entire Uintah Highlands area. Chair Froerer stated that it is time to revisit the general plan.

Julia Stephens said that this property was purchased with the RE-15 zone and when Mr. Moore said that it is a property taking by not rezoning, that is not the case, that the surrounding area is RE-15 and those homes are larger than the proposal, and by including additional homes it changes the layout of the surrounding area. The applicant referenced the property rezoned by Uintah Elementary School, but as already stated, that property is quite different from this one, and when the applicant said his average lot size was 0.36 that probably included the lots across from the school. To rezone it with smaller homes creates a precedent for the future. Traffic is a concern to her as a mother of elementary students during school hours, morning and afternoon traffic. It was stated at a Planning Commission that the road is too narrow but it needs to be looked at for that subdivision as a whole.

Jack Stephens, lives just above the subject property and stated that he has not heard a single person supporting this plan, that by the commissioners supporting this, which is against the entire community, is a slap in their face, that the applicant understood what he was purchasing. His expectation to change it is a precedent that should not be allowed. He said that Commissioner Harvey supported the residents because he grew up in the area and has a good understanding of the community, and he stressed that it is a big deal to them to go from RE-15 to R-1-12.

Angela's submitted statement was read by S. Halacy, of the Commission Office. She's concerned that if the county continues the pattern of allowing developers to rezone the small remaining area to be developed that developers will assume they can just rezone. The commissioners' decision will affect the future, as has happened with the two prior rezones there.

Mr. Moore said that no precedent was being set, that it is not uncommon to rezone and wanted to address Mr. Nelson's comments stating that the property that was rezoned two years ago two blocks away was zoned R-1-10 and did not destroy that area. If this property was to go in the general plan, they could have as many as 32 units. He said he spoke with a traffic engineer about the road design, that there would be an additional 12 homes, that to have a cul de sac or street go into a cul de sac was not uncommon, and they were not exceeding the State's fire code of 30 homes on one access. He wondered what traffic would have been like if the church had been built, that the change from R-1-10 to R-1-12 would be 1-2 lots, that population has tripled since 1970 and density in the general plan today would probably increase, that along the Wasatch Front smaller lots are common. He requested supporting the Planning Commission, and said that he has spoken with many residents who are in favor of this.

4.

Commissioner Jenkins moved to adjourn the hearing and reconvene the public meeting; Commissioner Harvey seconded. Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

5. **ACTION ON PUBLIC HEARING:**

**H.2.-REZONE APPROXIMATELY 4.59 ACRES FROM RE-15 ZONE TO R-1-12 (6224 S 2225 E) – ORDINANCE 2020-10**

Commissioner Harvey said that he has been onsite and has lived in the area his entire life. The applicant was asking to forgive that easement to get more lots and also asking to change to higher density. He asked what would the residents and county get in return, and it would be a poorly designed intersection going into a hairpin from a hairpin turn into a cul de sac, difficult for snowplows and fire safety. He is not opposed to the cul de sac. The applicant should maximize his investment but the county will incur expenses one day down the road to improve that intersection, and he pointed out on the map that 2225 East lines up completely with the road that continues on and that allowing it to go through would allow a 4-way stop sign and be safer; he prefers that this be done right the first time. He noted that Mr. Ewert had presented this with the road going through with the 50 year old plan. He could acquiesce without the road going through but then the only way he could support it would be with a 4-way intersection and recommended denial of this request. Referring to the other rezoning, he said that there was no opposition, but there is a lot on this request, and that the Planning Commission's recommendation was exactly the opposite of what it was in West Weber just a few weeks ago by going with higher density, and a new master plan needs to be created because they need tools to make consistent recommendations.

Commissioner Jenkins moved to adopt Ordinance 2020-10 amending the Weber County zoning map by rezoning approximately 4.59 acres from RE-15 zone to R-1-12 at approximately 6224 S 2225 E, that with prices increasing as they are it is within reason to rezone to R-1-12; Chair Froerer seconded stating that even though the plan is 50 years old and the trend is for higher density, that the low end of the recommendation is three units/acre and for the 12 homes it works out to be 2.66, that three units allow 13, almost 14 lots, and that the trend very much has to be considered today, and he supports the Planning Commission.

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

**I. COMMISSIONER COMMENTS:--**

**J. ADJOURN**

Commissioner Jenkins moved to adjourn at 11:57 a.m.; Commissioner Harvey seconded. Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

Attest:

\_\_\_\_\_  
Gage Froerer, Chair  
Weber County Commission

\_\_\_\_\_  
Ricky D. Hatch, CPA  
Weber County Clerk/Auditor