

**MINUTES**  
**WEBER COUNTY COMMISSION**  
Tuesday, August 25, 2020 - 10:00 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:** Gage Froerer, James "Jim" H. Harvey, and Scott K. Jenkins

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

**A. WELCOME** - Chair Froerer

**B. PLEDGE OF ALLEGIANCE** - Marty Smith

**C. INVOCATION** - Commissioner Harvey

**D. THOUGHT OF THE DAY** - Chair Froerer

**E. PUBLIC COMMENTS:** None

**F. CONSENT ITEMS:**

1. Warrants #2991-3023 & #452108-452351 for \$3,056,379.12 & #451638-452107 for \$7,337,000.00
2. Purchase orders for \$125,785.01
3. Minutes for the meeting held on August 18, 2020
4. Retirement Agreements with the following: Jennifer Gaskill; Brent Christenson
5. Amendments to policy governing distribution of CARES ACT funds to small businesses under Weber CARES Grant Program
6. Adoption of Cares Act Amendment to Weber County Corp. Flexible Benefits Plan – Resolution 25-2020
7. Surplus cubicle pieces from Weber County Elections

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

**G. ACTION ITEMS:**

**1. BEE INSPECTION REPORT & CONTRACT WITH REX WESTON FOR BEE INSPECTION SERVICES**

Marty Smith, Culture Parks and Recreation Department Director, stated that this contract is coordinated through the USU Extension, that the term goes through 2022 with two 1-year options to renew, and the \$2,168.00/year is included in the county's contribution to the Extension. Cody Zesiger, with USU Extension, reported that as of May there were 117 registered apiaries and about 1,200 migratory hives to support agriculture operations. For a number of years bees have been facing a number of pathogens that can destroy the colony. Apiary programs are one of the oldest in the State—over 100 years old. He presented Mr. Weston's qualifications.

Commissioner Jenkins moved to approve the contract with Rex Weston for Bee Inspection Services; Commissioner Harvey seconded.

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

**2. APPROVAL OF A \$36,873.60 DONATION OF "PROP 1 FUNDS" TO TRAILS FOUNDATION OF NORTHERN UTAH FOR ASPHALT MAINTENANCE ON THE PINEVIEW LOOP TRAIL (FOR SECTIONS OF 2200 N. 5500 E. & 1900 N.)**

Sean Wilkinson, County Community Development Director, stated that this is the fifth donation request this year. There are \$77,396.40 remaining for the year of the original \$200,000 budgeted for pathway maintenance.

Commissioner Jenkins moved to approve the \$36,873.60 donation of "Prop 1 Funds" to the Trails Foundation of Northern Utah for asphalt maintenance on the Pineview Loop Trail; Commissioner Harvey seconded.

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

**3. REQUEST ON ACTION ON EXPIRATION OF ORDINANCE FOR TEMPORARY RELIEF FROM BUSINESS PERSONAL PROPERTY TAX PENALTIES & INTEREST DUE TO COVID-19 PANDEMIC & WAIVER OF ACCRUED PENALTIES & INTEREST**

This item was held.

**4. INTERLOCAL AGREEMENT WITH THE STATE OF UTAH FOR THE WEBER COUNTY SHERIFF'S OFFICE TO SUPPLY SECURITY TO THE ADMINISTRATIVE OFFICE OF THE COURTS BUILDING AND BAILIFF SERVICES AT THE OGDEN SECOND DISTRICT COURT HOUSE AND THE SECOND DISTRICT JUVENILE COURTHOUSE**

Joshua Marigoni, of the Sheriff's Office, presented this statutory annual contract. The State pays a portion of the cost and will pay \$738,372 from 7/1-6/30/2021 but the county spends about \$1.1 million. This is a Legislature item, which allocates some money to counties. Commissioner Jenkins was not aware that the county was subsidizing to this level and Commissioner Harvey wanted to know why it costs our county's taxpayers money to have a State court. The commissioners said that this needs to be an action item at the next legislative session.

Commissioner Harvey moved to approve the Interlocal Agreement with the State of Utah for the Weber County Sheriff's Office to provide security to the Administrative Office of the Courts Building and bailiff services at the Ogden Second District Court House and Second District Juvenile Courthouse; Commissioner Jenkins seconded.

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

**H. PUBLIC HEARING:**

1.

Commissioner Harvey moved to adjourn the public meeting and convene the public hearing; Commissioner Jenkins seconded.

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

**2. PUBLIC HEARING CONSIDER AND TAKE ACTION ON A PROPOSAL TO REZONE APPROXIMATELY 15 ACRES OF LAND LOCATED AT 4706 E. 2650 N. FROM AV-3 TO EITHER MV-1 OR CV-2**

Charles Ewert, of the County Planning Division, showed area maps, commercial locations and village areas, images from the General Plan on architectural standards, alternative zoning options, etc., for this applicant-driven proposal for the Eden Boat and RV Storage, but which has other component proposals that may need consideration—the County Roads Shed property, which currently is operating like a manufacturing property and which would be best to rezone from AV-3 to MV-1 (county-driven) and the rezoning of two adjacent residential properties to CV-2 to be consistent with the new proposed zones (county-driven, landowners supported).

The applicant is requesting rezoning about 4½ acres at the end of Clark Lane (2650 N.) in the Eden Town Village, which is adjacent to County Roads Sheds, to the North Fork of the Ogden River, and to the east of the property are two residential properties plus the applicant's. Over a year ago the applicant requested a concrete batch operation there, which was denied. Mr. Ewert said that there is a big need for area storage units. The MV-1 and CV-2 allow storage units, but the latter is by conditional use permit, and they both offer a wide variety of uses that would not necessarily be compatible with what is currently in the area or what may be desirable by the public or the General Plan and simply changing the zone may result in unpredictable land uses and/or poorly controlled development patterns that may have unnecessary negative effects on the community. In order to constrain the use, it is important to enter into a development agreement (agreement).

The property is down in a bowl and hard to see from most locations, except from a couple of houses on the hill, and may be good for a use that tends to be unsightly. Staff's recommended option to the Planning Commission was the MV-1 Zone because it is not known exactly where the CV-2 Zone will go as it develops in the future. New village areas are being considered. The CV-2 might go away and creating more CV-2 rezoning complicates things, but also may be a worthwhile compromise. Mr. Ewert showed the applicant's general site layout and landscape plan stating that the applicant is proposing to preserve as much of the native vegetation as possible and anything he moves on the hillside will be replanted. To the west is part of the riparian corridor of North Fork. He pointed out the three larger storage buildings in the development's center; the applicant is proposing to make them look like large barns with a barnyard feel. There will be no one onsite; it will be a self-operating site. The applicant has agreed to provide some type of an 8-foot visual barrier between the residential uses and the facility. A primary concern of the Planning Commission was invasive aquatic species brought to the site by boats, as the property is adjacent to the river, and those getting into the lake/reservoir. At the work session, the person who oversees the State's invasive species program was not too concerned, and his primary recommendation was that any kind of drainage facility onsite catch the water and guide it to a storage facility away from the river until it evaporates. The county is asking the applicant to provide by the front entrance a cleanout area, the posting of signs there for people not to bring wet decontaminated boats to store at the site nor to bring RVs with affluent, and this is to be written into the agreement.

The Planning Commission recommended denial 3-2 with two being concerned with the aquatic mussel issue. Mr. Ewert had dialogue with the two and if they had evidence to show that it was not an issue, their vote could have been different. Staff recommended approval of the rezone to the Planning Commission based on strict findings, including design standards, working with DWR on aquatic mussel issues and working with the Eden Water Works on their wellhead protection area. A provision is needed in the agreement that this is not to have any impact on the drinking water and to work with Eden Water. Part of the property is in Zone 4 of a well that is right adjacent and Eden Water was pleased because a use like the proposal is not as intensive on contamination sources as other types of uses like homes, etc. Mr. Ewert asked that if the Commission was comfortable with approving the rezone, that this be tabled to a date certain in two weeks because staff is still working with the applicant on finalizing the agreement standards; they need Commission direction on those. He said that the applicant is willing to secure a trail corridor, and it is in the county's plan to pickup the trail from River Drive to N. Ogden Canyon Road, thereby connecting four parks. He and the applicant are working on the odd intersection configuration of Highway 162 going to Clark Lane, which can become an issue with big vehicles with trailers, and may at some point need improvement. County Engineering had recommended a provision in the agreement for a traffic study at certain intervals to know at which point the site's traffic is creating demand for intersection reconfiguration. The applicant has contacted the School District, which is happy for that dialogue. There is no evidence to the Clark Lane's construction standard and County Engineering asked the applicant to check it in a few locations because of the future additional traffic. Commissioner Jenkins said that the road is good enough for the county's heavy loaded trucks and the county's property lessee to the south with its heavy tractor trailers. Mr. Ewert said that there was flexibility with a rezone. The fire chief may want fire sprinklers in each commercial building, particularly on that riparian corridor, and if there is no hydrant in the area that the agreement request the applicant to install it. Commissioner Jenkins asked if the county and its lessee should participate in that because there is a higher chance of them needing it; Mr. Ewert agreed.

Staff had asked the applicant to provide photo inventory of trees on the riparian corridor, for no outdoor storage, and for at least a 6-yard dumpster onsite, and for this to be included in the agreement. Mr. Ewert said that the applicant is willing to put murals on the more exposed building facades and it would be written in the agreement that the county strongly encourages it. The applicant can reach out to Ogden Valley Starry Nights, which is focusing on agricultural buildings for visual impact in the community.

Architectural standards are to ensure a decent appearance from the outside and to be included in the agreement. Mr. Ewert addressed Chair Froerer's question about this proposal fitting in with the plan for New Town Eden stating that there is no plan yet but anticipates that to come before the Commission for final decision by the end of the year. Chair Froerer supports storage units off of main highways and Mr. Ewert said that staff has had several different work sessions with both Planning Commissions and they support that idea.

3. **PUBLIC COMMENTS:**

Kimber McCafferty, previous owner of the subject property for 56 years, said that road base had been hauled in and the road to the Road Shed was compacted, that there was a bridge on the family farm but was removed because it would not support the weight of trucks, there is a hydrant right outside the county shop gate, and that it did not make sense to do a visual of existing trees because a windstorm a few months back quickly took down three trees next to her house. She said that no one wanted to buy her house because it looks out to the county shop, with continuous dust and trucks, that the Planning Commission should not have the right to dictate what happens on her property, and that newcomers stifle what the long time residents can do with their land.

Pat McCafferty, the subject land owner, said that he is fed up with politics and being told what to do with his land, that his wife's health is impacting them both because of the dust due to the county not meeting the clean air act at the county shop and breaking many other serious regulations including mishandling of contaminants, of which he has many photos. Just today he watched the county's loader pickup dust and dump it into a truck, a daily occurrence, that the county is responsible for the violations that happen at its leased property next door for a snow cat operation. He feels that the proposal is the best thing could happen in the area and of lowest impact.

Kody Holker, applicant, via zoom, is willing to give the bike path, the hydrant, and tree preservation, and said that currently directly adjacent to the county shop there is an inferior storage operation with outdoor storage, that he wants equal treatment under the law and asked for approval with a CV-2 rezone, without delay.

A member of the Wright family, via zoom, asked Mr. Ewert how he could feel that the MV-1 was acceptable, because based on the 2014 Ogden Valley maximum zoning density study, he had said that the Valley cannot support an MV-1 Zone, so how could it support 215 CV-2 zones, and the Jr. High School abuts the subject property and she asked what zone it is in and if the rezone can happen based on the school's zoning. A lot of time, effort, and money was spent on the Ogden Valley General Plan and if the county is not going to abide by it, why did they go through that. She said that the applicant purchased the property knowing it was agricultural, AV-3, and the commissioners need to decide carefully. Chair Froerer noted that the subject property was originally zoned A-1.

Tiana H., via zoom, said that although a storage facility is needed, lodging is needed more, that a hotel is allowed in the CV-2, and the best decision should be given to the residents down there and keep the Valley pristine. The county should clean up its shop property. Mr. Holker responded that he would like to put a hotel down there but the Water District expressed concerns. High density is not allowed without a water treatment facility, and with the well head they do not want a lot of leach field activity from a lot of residents in that area.

Kirk Langford, via zoom, said that he sympathizes with the property owner across the street from the unregulated industrial enterprise, that the Planning Commission vote was 4-3, that the primary drive in not allowing the rezone was to see if there may be a better use for the property, not to stop development, and that before making a decision with unintended consequences to rezone that the Commission take the time to figure out what to do with the commercial property behind the Maverick, including building a package sewer plant. He'd like to see something more compatible with the river and with the whole community and still allow the applicant's property rights.

Lee Schussman, via zoom, urged the Commission not to rezone the whole area to MV-1 at this time because it has many uses not consistent with what is desired for that area, further damaging those who live there, and it would remain with the property in perpetuity. Many of the hundreds of protests for the cement batch plant are still applicable today. He is concerned with health/safety issues of such a zone next to a school. He is affiliated with an air quality monitoring group. The air pollution is increasing in the Valley, it is often worse than is known, and it often stays localized for days/weeks until dispersed by wind. He had sent all the data from the Utah Physicians Report on air pollution and health research in 2018, which shows that putting a polluting industry next to a school is detrimental to children with asthma. A large Utah study showed that when 100,000 people had even short term exposure lasting only a few days, they showed increases in serious respiratory infections.

Mr. Ewert stated that there were additional comments in the commissioners' inbox which were still coming in today, and suggested they may want to review them before making a decision. He responded to questions raised in this meeting, including that he had looked through the 2014 report on the maximum density study regarding the comment that the Valley cannot support any more manufacturing but could not find anything on it and would be happy to speak with the commenter, that lodging in that area will not work without a sewer system, and that the applicant acquiring the 15-acre parcel is coincidental with the 15-acres being rezoned. The rezone for the applicant's property is only on the east side of the river and is for 4½ acres and would be 100% covered by the development agreement, which does not allow those uses and only the applicant's request. The remaining acreage of that 15-acre parcel is the county property and the adjacent residential property. The remaining parcel on the other side of the river stays in the AV-3 Zone. He asked the commissioners to guide staff on whether they preferred the MV-1 or CV-2, and he assumed they would want the MV-1 for the county property.

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

5. **ACTION ON PUBLIC HEARING:  
REQUEST ON H.2-REZONE APPROXIMATELY 15 ACRES FROM AV-3 TO EITHER MV-1 OR CV-2**

Commissioner Jenkins liked the rezone proposal and if he had to live in that area he would want to live next to a well kept storage facility. During the week there is little and generally quiet traffic, and he strongly agrees that it fits the area.

Commissioner Jenkins moved to approve the CV-2 rezone with a development agreement; Commissioner Harvey liked a lot of what was presented and to support the Planning Commission but still had questions on their vote, and said that the Commission had asked the applicant to go back and get another vote from the Planning Commission but it was not done. He is not in favor of a gravel or similar operation next to a school or to the water source. Commissioner Harvey likes the CV-2 Zone because it is a good use for the area and moved to delay the decision with time certain until Sept 22, 2020. Chair Froerer seconded, agreeing a great deal with Commissioner Jenkins' comments that the county, by zoning ordinances, created this issue for the applicant by virtue of having an MV-1 use across the street, that this is to rezone about 4½ acres versus 15 acres, which gives those who like alternative uses to come forward between now and 9/22/2020 to either make an agreement with the owners and/or come up with other suggestions. He supports the idea of a contiguous use for CV-2 next to the MV-1, he recommended that the County Planning Division also address the county's parcel at that time, and stated that the intent is not to "slow cook" the applicant but to look forward to a CV-2 and not the MV-1 Zone (the other two commissioners agreed with the CV-2 zoning), and that the decision would be for storage units with a development agreement and wanted to ensure that the applicant has adequate time to review that agreement, and directed County Planning to come up with the basics of that development agreement to make sure there is an understanding before 9/22/2020. Commissioner Harvey said these were exactly his thoughts. Commissioner Jenkins wanted people to know that he was not necessarily in favor of a gravel pit, that he feels that they are "slow cooking" the applicant a little bit, and that it is time to finish the New Town plan in the Valley.  
Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

**I. COMMISSIONER COMMENTS: --**

**J. ADJOURN**

Commissioner Jenkins moved to adjourn at 12:17 p.m.; Commissioner Harvey seconded.  
Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

Attest:

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Gage Froerer, Chair  
Weber County Commission

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Ricky D. Hatch, CPA  
Weber County Clerk/Auditor