

MINUTES
WEBER COUNTY COMMISSION WORK SESSION
Wednesday, October 10, 2018 - 6:00 p.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 Scott K. Jenkins.

OTHER STAFF PRESENT: Sean Wilkinson, County Community Development Director; Bryan Baron, Deputy County Attorney; and Fátima Fernelius, of the Clerk/Auditor's Office, who took minutes.

PLEDGE OF ALLEGIANCE – Bill Ross

WORK SESSION TO DISCUSS AND GATHER OGDEN CANYON RESIDENT INPUT ON AGING INFRASTRUCTURE, SERVICE NEEDS OR DESIRES, AND OPTIONS FOR PROVIDING CERTAIN SERVICES.

Chair Harvey noted that staff from various county departments and from the State were present and that he had asked Commissioner Jenkins to lead tonight's discussion. The Commission's invitation to bring Ogden Canyon residents together tonight for discussion was an effort to be proactive and see if they could be of assistance on issues arising in the canyon relating to failing water systems and two bridges on private property because these are complex issues with huge expenses, and to offer some options. There are two different groups in the canyon—the ones on the road side of the river and those who have to cross a bridge (68%) to access their properties. The county has no standing—it does not own the bridges and has no responsibility for them nor for water systems or road maintenance on private roads. However, there is a way that government could help—there are funds available to replace some of those bridges and low cost loans to help replace waterlines. A special service district could be started for the canyon with a monthly fee to allow them to put money away to solve these types of issues, and once the district is running, application could be made for loans for bridge repairs, etc., and then after a year or so there would be a transition into a local service district and the residents would have total control. The county does not want to be in this long term. It could help facilitate the organization for this to get them started. The commissioners repeatedly said that it is totally up to the residents to decide.

About a month ago Becky Nix, Bridge Management Engineer for the Department of Transportation (UDOT), called and met with the county about the red bridge (for Idlewild), which is near failing (has critical timber issues, cracking in the steel, corrosion, etc.). If it was a public bridge it would be condemned now. Since it is a private bridge, UDOT said that it needed to be watched closely. The silver bridge for Wildwood also has issues (mostly needs timber replacement). The county was told 1-2 weeks ago that it was ready to be condemned, but in the meantime after refiguring it, Ms. Nix said that it is not as dire as initially thought. Other railroad-type bridges in the canyon are failing, and today, according to the County Engineer's best guess to replace one of those bridges, would cost \$300,000-\$350,000. If the county applied for a matching loan, there are federal funds available (for public structures) at 93% that would not have to be repaid, and a 7% match from local entities. The water systems' low interest loans would be at almost no interest to be paid off over time. The county wanted to present these options to the residents. Ms. Nix said that UDOT just received the load rating back on the Wildwood bridge for which they initially gave a low load rating. It is now to be posted at 23 tons, taking a lot of the restrictions off; the steel structure is in decent shape. The major concerns with that structure are the timbers which need to be addressed right away. For the current federal funding that is available it is about 5-6 years out to get that funding (and so applications cannot be submitted for 1-2 years). Wildwood also has water issues. The county had contacted Ogden City, which has taken the position that they have no responsibility down that canyon beyond the main waterline. Commissioner Jenkins stated that this is opposite of any other water district standing—typically they run the waterline to the meter in—but Ogden has refused to do anything.

--Norm Knudsen said that the bridges are a concern and there are very serious water issues in the canyon. He referred to the recent fire in the canyon. They do not have fire hydrants and this needs to be addressed, the residents need some safety. They should not have to depend on what water can be brought in a truck.

--Craig Peery, lives in Peery Camp and their old railroad bridge has been there since about 1940. Ms. Nix said that UDOT inspects any publicly-owned structure over 20 ft. every two years, that most bridges in the canyon are marked as private, including the one into Peery Camp, and the two that UDOT found recently not marked private go into Wildwood and Idlewild. She said that it came down to whether or not it is a privately owned or public structure and UDOT is not strictly treating these two as 100% public due to ownership ambiguity, otherwise they would have made stricter recommendations.

--Tiffany Burton asked if there are records to determine whether the Wildwood bridge is private or public. Commissioner Jenkins said that the county researched the Wildwood bridge and found that Utah Power and Light put it in. There is not a lot of historical information on other bridges. If they are private, the county should be taxing them but had not.

--Kristen Mitchell asked for the total cost to replace both bridges, for expected failure timelines, and if financing is available if they remain private. Ms. Nix said that the cost was complex/depended on variables. Life expectancy for Idlewild's bridge could be 6 months-1 year for timber replacement and needs close monitoring, and it could be 20-30 years for Wildwood's bridge. She restated that to qualify for State or federal funding it has to be a public structure.

--Ed Macner stated that there are problems with falling rocks on the east bank in the Fairmont area and that the State needs to repair that. Residents can hear the vibration from the large trailer trucks on State Road 39, of which there has been an increase. From the Fairmont bridge the deterioration is visible. If that fails and the road falls, it impacts their bridge.

--Mike Rypien said that Ogden City made many promises to residents for water and then walked away.

--Hal Lee lives across the river and stated that the residents have substantial challenges. He is very much in favor of the Commission's proposition.

--Mr. Peery said that residents have maintained privacy of the bridge, of the 100+ year old camp, and of the water system, and they like it that way. They do not want public access through there. He is concerned that if they start a service district and paying fees that it will open the door to some government entity and proportionately lose control of the land. He asked if they could opt out and Commissioner Jenkins responded absolutely, that the goal is for the residents to have jurisdiction. Bryan Baron, Deputy County Attorney, does not see how a district would open the door to additional government intrusion; the district's sole function is to provide services and residents can decide which ones they want. He reaffirmed that it could start out initially as a special service district where the commissioners would act as the governing board to get things running and then the intent would be to turn that over to the local residents and have it become a local district where local residents would be on the board and have total control. He stated that if the land was made public the local residents could not restrict access anymore on the bridges that are dedicated to the public.

--Troy Herold is in favor of creating some type of district. In the 12 years they've owned their property they've had costly water issues three separate times. He asked that if a district was created and it was decided to replace bridges as needed and they became public would they then have to include the roadways as well. When one crosses the Fairmont bridge it goes right into Mr. Knutsen's and Fairmont Subdivision property, which is private. Mr. Baron believes that they could dedicate a portion of the road retaining the remainder as private property and just dedicating the bridge to the public.

--Edward Hewitt feels it is in the long-term best interest of the canyon to have an entity to help because of the expense and asked how canyon residents would be involved in the governance of the district before it becomes a local district. Commissioner Jenkins said it would be as it is now, residents could use all contacting methods, the Commission would be the interim government holding regular meetings for them, and as soon as possible a local district would be created. The commissioners could delegate certain authority to an advisory board made up of local residents. Mr. Hewitt asked if dedications could be done piece meal as repairs would be needed in the district. Ms. Nix said that the only reason to dub them as public is to receive federal or State grants. Mr. Baron clarified that a district is a political subdivision of the State and would have restrictions on the way it could use the funding. A district would not be able to maintain privately owned bridges. He does not foresee a problem dedicating the bridges as needs arise.

--Dylan Kearl is somewhat in favor of a special service district. She has had a huge safety concerns with people setting up for wedding/family photos taking the whole bridge over and drivers not seeing them in time. Once the bridge became public, they could not tell those people that they cannot to set up to take photos on the bridge.

Commissioner Jenkins said that if there was a district, it would have to be able to come onto the properties to handle the specified services, and that a bank account would be created, the county would deposit the money, and the residents would be the only ones with access. Ms. Kearl said that they have been trying to deal with the waterline issue since 2005. The State had been resistant to let residents replace their lines even if they paid themselves, they wanted a government entity to manage it, and the City refuses to do anything. Commissioner Jenkins said that the State Water Quality had informed the county that the waterline was failing and encouraged the county to handle it, but the county has no standing. She asked the commissioners to consider just making the bridges public and keep the lanes private. She said that residents have been participants in the trail issue and when the City tried to pass an eminent domain bill hidden in UDOT's bill, they went to the legislature and stopped it. They got together and created a committee with a representative from each grove and came up with seven different trail alternatives, which they presented to the City and UDOT, but because it wasn't the City's way, it got stopped. Some trails that the City wanted were going to be literally in people's driveways. She expressed strong concern that if residents gave ownership of their lanes and property, that the City would be just waiting to condemn their property for a trail, and they had no guarantee that the county would turn the property back over to them either. Commissioner Ebert reiterated that the only reason the county is talking about initially starting with a special service district is because that process is much shorter than for a local district and some community members have a time crunch for the bridges. Mr. Baron said that the advantage to having the county help out here is that this can be jump-started with a resolution instead of having to go through the petition process to create a local district. Something could be written in the resolution to indicate how long the county would be maintaining the special services district but he was not sure if that would be legally binding, but it would create a record of the Commission's intent.

Marie Green lives across the red bridge/Idlewild bridge and asked how to get a copy of the bridge's failing assessment because she paints it about every couple of years and it looks good to her and Ms. Nix referred her to the State GRAMA process. A load rating has not been done because there was not as much question on public vs. private on this bridge. Ms. Green stated that it is a private bridge, that it states that in their land documents. Like others, she is leery of government because most residents have had nasty experiences with [city] government that results in screwed up deals for them. They

begged for fire hydrants when the waterline was put in and even wanted to pay for them themselves but were ignored by the City. The nearest one is at the Oaks but it is not reliable. She wondered about each grove becoming its own non-profit grove, apply for its own grant and maintain their privacy status without government interference. She is concerned that under a district, government could not get in there to plow nor keep up with the snow. Commissioner Jenkins said that they could group themselves and do their own districts.

Fred Schafer said that the State is doing the bridge in his backyard, coming within 30 ft. of his property. Ms. Nix responded to his question about bridge criteria, and said that there are design exceptions for narrower roads with application and outlined the review process. Commissioner Ebert noted that the State requires a specific entity to grant/loan for low or no interest loans prorated over a certain period and the residents would bond against the district to pay for projects.

Mary Jo Latulippe has lived in the Ogden Canyon for 78 years and there had been a question of whether they lived in the county or city when she became of school age. It was finally decided they were in the county. Her property was next to the train ticket office of the train that went to the Hermitage Hotel and the question arose about the road. The road where the train came up was designated not private property. There were two bridges there and they were told that it was not private and about 30 years later people built houses and then closed it off to the public. The county used to plow their road. She does not understand why people were ever allowed to build houses next to that road.

Mr. Knutsen said that 1 out of 3 residents would not get any benefit from being on a district for the bridges. Water is a major issue and fires are a huge concern. They already pay more for water than others pay in the City. The road is very congested and it's difficult to get on/off of it. Their bridge is posted no trespassing. The bridges are already a hazard, to make them public only increases the danger. Mr. Baron said that the county has no standing regarding water or fire there.

Mr. Hewitt asked if the special service district would have standing in those cases to prevent Ogden from moving forward with building trails or to file suit against them on the water issue. Mr. Baron did not believe that a district would have authority to prevent the City from putting in a trail, as residents they may be able sue the City, and he outlined how a local service district could be set up.

Melissa Mitts lives over the red bridge and said that as a community they have come up with a way to fix their bridge and this could be taken off the table. Her deep concern with a district is that the canyon would become like a homeowner association and someone else would decide if their bridge would be public or private.

Keith Rounkles asked if the public had a say about UDOT's plan about condemning their property. The newspaper had said it would be a widening project all the way up the canyon, and that's what he thought tonight's meeting was about. Ms. Nix said that the bridge to his property was started as a project because UDOT recognized deficiencies, thus there was bridge replacement and widening to standards, but she did not believe they were widening the roadway associated with it, and UDOT was doing bridge preservation treatments on two other bridges.

Ms. Kearl said that residents were all a little surprised by this meeting and had come with different expectations. Wildwood residents have information on the waterline, because they have been fighting for the waterline, that maybe others were not aware of. She asked that the residents have a private meeting and then maybe come back to the county. Chair Harvey said that the City put in two waterlines in the canyon with particular valves, that there are some deficiencies in those water systems, that there are questions as to who owns the infrastructure between their pipe and the residents' meters, etc.

Rick Kearl asked if the width of Wildwood bridge, as a public bridge, would have a load rating and width increase or would it remain 12 ft. and Ms. Nix said that the residents would need to maintain a posted sign for load capacity and they could propose a width deviation standard and work with UDOT's project manager. Mr. Kearl liked having different districts because not everyone needed the same services. He recognized that the Commission was trying to expedite this because it might be harder for the residents to organize on their own. As everyone has said tonight, the city promised new waterlines to everyone in the canyon but put in new lines to those who live right on Canyon Road but if the line had to cross a bridge, the residents did not receive anything. This included fire hydrants, the city was going to put them either on the other side of the bridge or next to the bridge but decided not to. He stated as others had that the City short changed all those who live on the bridge side of the river. Commissioner Ebert noted that by breaking out into many districts they lose economies of scale and more people will have to do more things specific to the districts, hire part-time or have different people doing their books, different companies collecting their fees, etc. John Bond, County Treasurer, had mentioned creating a special taxing district for the entire canyon. Mr. Baron noted that a district could form special assessment areas depending on need and that a district can either collect a fee or a tax. Mr. Kearl expressed appreciation to the Commission for bringing the residents together for this discussion.

Mike Bachman thanked Commissioner Jenkins for fighting for the residents with the City. He said that the city had not handled the water system right in the canyon from the beginning, they did not bed it in, it will leak and has already flooded his whole property once. At his house they put a waterline three feet from the meter and put a foot of plastic pipe and then \$375 worth of fittings to adapt it to the 100-year old pipe. He said that all the way down the canyon they only replaced 2-3 feet of the old pipe, therefore, they do not have good water, and that they were screwed over and supports creating a district there. Mr. Baron stated that a fee has to be reasonably related to the cost of the services being provided and the district would have to go through an analysis.

Mr. Herold noted residents' concerns if easements, lanes, etc., for the waterlines needed to be made public if the district took ownership of waterlines. This question needed to be researched. He would like to meet together as neighbors. Ms. Kearl has canyon residents' email addresses and keeps people apprised of what's going on, and will leave letters at everyone's houses as was done before. Previously they had selected a representative from each grove and from the canyon businesses. If they create a district, she would like to have a representative elected to the board from each grove.

Mr. Peery said that it was disingenuous for the commissioners to say that they did not have an agenda but to suggest more government. He said that they could likely solve these problems among themselves without government interference. Commissioner Jenkins stated that if they wanted to do that, the Commission welcomed it.

Mr. Rypien expressed appreciation to the commissioners for taking the time to listen to them stating that they have not been heard by the City. When the City put in the waterline, he spoke to the engineer and offered to pay for a fire hydrant while the trench was open and the engineer said yes, but then Mr. Moffett, of Ogden City Utilities, said no. They ran the fire hydrant six houses down across six driveways but could have put it in the middle to serve around his area. He feels like he has been chasing his tail forever with the City; he has been to every related City meeting but there's been no follow through and he expressed frustration. He would appreciate knowing the city's plans for the road and trail but the residents cannot get that information.

Scott Mendoza thanked the commissioners, and other county staff present—Bryan Baron, Deputy County Attorney, Sean Wilkinson, County Community Development Director, Joe Hadley, of County Roads, Bill Ross—for caring so much about the county residents, for extending a hand and offering to help. He hopes they continue to consider something that can help the canyon residents, and hopes that they will excuse some of the negative comments made tonight because it appears that not everyone completely understood how genuine the hand they were putting out really is. He also hopes that the forcefulness of the City in the past does not take away from this process. There was applause from the residents.

The meeting then adjourned and residents broke into groups to continue specific discussions on their bridges and water issues. Ms. Nix was available for questions.