

MINUTES
WEBER COUNTY COMMISSION
Tuesday, December 8, 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** - Tammy Aydelotte
- C. **INVOCATION** - Commissioner Harvey
- D. **THOUGHT OF THE DAY** - Commissioner Jenkins
- E. **PUBLIC COMMENTS:** None

F. CONSENT ITEMS:

- 1. Warrants #3305 - 3332 and #454953 - 455178 in the amount of \$2,123,928.47
- 2. Purchase orders in the amount of \$131,020.11
- 3. Minutes for the meetings held on November 10 and 24, 2020 and December 1, 2020
- 4. ACH payment to US Bank in the amount of \$157,731.65
- 5. Surplus from County Fleet: 2002 Peterbuilt Transport; 1989 International Transport; 1996 Volvo dump truck

Commissioner Jenkins moved to approve the consent items, less the warrant for WS Acquisitions; Commissioner Harvey seconded.

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

Commissioner Harvey moved to approve the WS Acquisition item; Chair Froerer seconded.

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

G. ACTION ITEMS:

- 1. **REQUEST FOR FINAL READING OF AN ORDINANCE TO UPDATE THE PUBLISHED RATES FOR THE USE OF THEATER FACILITIES, SERVICES AND EQUIPMENT FOR PEERY'S EGYPTIAN THEATER**

Cassie Bybee, Ogden Eccles Conference Center General Manager, noted that the Conference Center ordinance only had the first reading and she would like to present these two ordinances combined next week.

Commissioner Harvey moved to hold this item; Commissioner Jenkins seconded.

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

- 2. **FIRST READING OF ORDINANCE AMENDING SOLID WASTE FEES FOR THE CONSTRUCTION & DEMOLITION LANDFILL**

Sean Wilkinson, County Community Development Director, stated that this is to increase the tipping fee at this landfill from \$16/ton to \$18/ton and to create a separate fee for tires. with a rim diameter greater than 24.5 inches, to \$25.00/ton.

Commissioner Jenkins moved to approve the first reading of an ordinance amending fees for the Construction and Demolition (C&D) Landfill (Sec 16-2-9 Solid Waste Fees); Commissioner Harvey seconded.

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

- 3. **CONTRACT WITH VORTEX OPTICS FOR PROMOTION OF ARCHERY PARK IN EXCHANGE FOR PROMOTION OF THEIR BUSINESS**

Todd Ferrario, County Ice Sheet and Parks & Recreation Division Director, stated that this is part of the partnership package and is mostly for product from them and for Vortex Optics to market county events.

Commissioner Harvey moved to approve the contract with Vortex Optics for promotion of the Archery Park in exchange for promotion of their business; Commissioner Jenkins seconded.

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

- 4. **INTERLOCAL AGREEMENT WITH MORGAN COUNTY FOR THE PROVISION OF HUMAN RESOURCES SERVICES**

Emily Wilde, of Human Resources, stated that Morgan County will pay Weber County \$1,500/month, increasing on January 1, 2022 by 2%. Commissioner Harvey stated that Weber County is not subsidizing these services.

Commissioner Harvey moved to approve the Interlocal Agreement with Morgan County for the provision of Human Resources services; Commissioner Jenkins seconded.

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

- 5. **CONTRACT WITH INTERMOUNTAIN HEALTH CARE – MCKAY-DEE HOSPITAL FOR CARES ACT FUNDING**

John Bond, County Treasurer, stated that the county will grant up to \$850,000 to McKay-Dee from Coronavirus Relief Funds for allowable expenditures.

Commissioner Harvey moved to approve the contract with Intermountain Health Care, McKay Dee Hospital, for CARES Act funding; Commissioner Jenkins seconded.

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

H. PUBLIC HEARINGS:

- 1.

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

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

2. **PUBLIC HEARING REGARDING A COUNTY-INITIATED PROPOSAL TO AMEND VARIOUS ZONES TO REMOVE THE USE OF CONFERENCE CENTER FROM ZONES THAT ARE PRIMARILY RESIDENTIAL IN NATURE, AND PROVIDE ADDITIONAL CLARIFYING LANGUAGE AS MAY BE NECESSARY. THIS AMENDMENT MAY AFFECT THE FOLLOWING ZONES: DRR-1, F-5, F-10, F-40, CVR-1, FR-1, FV-3 & FR-3**

Scott Perkes, of the County Planning Division, stated that this item is specifically for land in the FV-3 and FR-1 zones, which are primarily residential. The Ogden Valley Planning Commission unanimously recommended approval. The conference center had been paired with an education center in the ordinance and the latter will be removed as well; there is already an education institution use listed as conditional on both ordinances.

3. **PUBLIC HEARING REGARDING A COUNTY-INITIATED PROPOSAL TO AMEND SECTIONS 101-2, 104-3, 104-5, 104-6, 104-8, 104-9, 104-10, 104-12, 104-13, 104-14, 104-15, 104-16, 104-17, 108-8, 108-15, 108-19, 108-21 & 102-5, REGARDING ACCESSORY DWELLING UNITS (ADUs) & AMENDMENTS TO RELEVANT SECTIONS OF COUNTY LAND USE CODE**

Tammy Aydelotte, of the County Planning Division, stated that this item is to allow for ADUs in any zone where a single family residence is permitted and omitting accessory apartments and allowing ADUs. Currently the ordinance allows for accessory apartments as a conditional use in all of these residential zones. The county's population is anticipated to increase by 60% by 2060, and this is an attempt to provide affordable housing. Parking sections and definitions were amended and ADUs were added in the listed zones as permitted uses. This was presented to both planning commissions, which recommended approval. The Ogden Valley Planning Commission (OVPC) forwarded its recommendation specifically with the TDR requirement—their General Plan does not allow any new density. Chair Froerer expressed strong concern with requiring twice the acreage for the Ogden Valley (Valley); it should be the same as the lower valley. Ms. Aydelotte said that there was not much information on communities that allow for ADUs that also have a TDR requirement. This proposal was an attempt to stay within the Ogden Valley General Plan (OVGP) and still allow ADUs. TDRs were recently discussed in a work session.

Ms. Aydelotte said that adjustments to this proposal were made based on the planning commissions' input. The Western Weber Planning Commission (WWPC) was seeking larger parameters for footprint size. In this proposal there easily is potential for a 4,500 square foot ADU, and she said that perhaps a density unit needed to be redefined. Charles Ewert, of County Planning, responded to Chair Froerer's concern stating that the impact of an ADU is a little more than a standard single family dwelling because there is another family involved. Putting a cap on the ADU size would reduce impacts. The original proposal was to stick with the current accessory apartment ordinance, which is that the ADU not be greater than 40% of the primary dwelling. There is a size allowance for existing accessory apartments of 800 sq. feet. The WWPC discussion included that there are a lot of homes in the Uintah Highlands area, etc., that are very large and allowing an accessory dwelling on the same property/attached or not, that is bigger than 800 sq. feet, will provide an affordable housing option to larger families. The WWPC wanted to see those numbers pushed up, and the proposal to them was for no more than 1,500 sq. foot footprint, and Mr. Ewert said that research showed that about 2% of the population would capitalize on this, which seems small, but the OVGP states no new density and that ADUs should be addressed by TDRs. He noted that the plan is an advisory document. Today's proposal does not have the TDR component but the text at the end of the Commission packet contains the planning commissions' recommendations and shows the TDR component for comparison. Ms. Aydelotte added that the proposal states that no short term rentals are allowed in the main or accessory dwelling.

Ms. Aydelotte addressed Commissioner Jenkins' question on the number of parking spaces for ADUs stating that the current ordinance allows two parking spaces for dwellings and two parking spaces for an ADU, however, if the dwelling unit is smaller than 800 feet, they are allowed one space. He supports this as long as parking is off the street and suggested that perhaps the driveway could be a few feet longer to park the vehicles one behind the other. Mr. Ewert stated that the WWPC felt that if the ADU is 800 sq. feet or less there probably would not be many cars, but staff sees more than two cars on average/family in the U.S. The other two commissioners agreed with Commissioner Jenkins on this. Mr. Ewert suggested language on the parking table to state two parking spaces. Ms. Aydelotte and Mr. Ewert addressed Commissioner Harvey's questions regarding impacts to existing septic systems and barn heights for barns converted to ADUs—requirements include obtaining approval from the sanitary sewer authority, and the proposal allows for a barn to be converted to an ADU on a parcel greater than ½ acre with the zone's height requirement. There are a lot of barns without building permits due to the agricultural exemption. The Health Department is aware of this proposal and informed Ms. Aydelotte that many septic systems are sized larger in anticipation of possible residential use expansion. There is language to the proposed ordinance, that has not been made part of this proposal, which states that an existing dwelling unit, lawfully established at least 5 years prior to the date of application for an accessory dwelling unit, may be converted to an ADU and is exempt from the standards. Commissioner Harvey would recommend amending unit to "structure" on that drafted-only language.

4. **PUBLIC COMMENTS:**

Gary Myers agrees with the structure being established at least 5 years prior, as currently drafted. Jan Fullmer, of Eden, wished to present facts as to why TDRs have to be included in this ADU proposal. If TDRs, one of the most important part of the OVGP, are not in this amendment, it does not support the OVGP since it can really increase the number of dwelling units beyond the 1 per 3 acres used to project the Valley population growth in the OVGP. She outlined the significant amount of time and money spent by the county to develop the OVGP. TDRs were included in the plan to ensure that property owner/development rights were respected, compensated, and would allow for more clustered development to preserve open space, which contributes to the recreation element. A formal process is still needed to address

TDRs and she had contacted Mr. Ewert on this because he had mentioned their use during the review of storage units behind the Jr. High School. If TDRs are kept in this ordinance, it may further help develop the TDR process and determine the market value. A public presentation is scheduled for 12/17/2020 by the DNR regarding the Utah Geological Survey's study requested by the county in 2017 on the availability of water resource to meet the projected growth, and also potential changes to water right policies in the Valley. Wolf Creek Water & Sewer had notified the county on July 9, 2020 that they cannot commit to provide any water for new development and asked why would the county potentially increase the density/number of dwelling units in the Valley beyond the 1 per 3 acres when it is not yet known if there is sufficient water to support even the current dwelling units. In 2011 the county contracted with a consultant to study wastewater in the Valley, and the county just spent money again for a similar study, and she asked whether there were any recommendations from that study that may have been implemented. She referred to the information before the Commission from the Weber-Morgan Health Department stating that since 2012 approximately 500 approvals were granted for onsite wastewater treatments. When the OVGPs was developed, residents did not want the 1997 crisis when development rights changed from 1 to 3 acres; there were problems with having a home on 1-acre with a wastewater treatment and a well. The Health Department determines its approval on onsite wastewater treatment facilities based on sleeping capacity, not necessarily the bedrooms. She asked if ADUs will use existing onsite wastewater treatment facilities approved for the primary residence or require a new one. She recommended waiting to take action until we find out if the Valley sources of water can support the projected growth. Chair Froerer said that the county cannot require TDRs when there is no mechanism in place. Commissioner Jenkins said that the county has contracted with Weber Basin, which is receiving a federal grant to line the upper irrigation canal that goes across the Valley's northeast side, to do a study on available culinary/secondary water and anticipates they will start in the Valley in January. The county is in the middle of doing another wastewater study because it wants the emerging technology; they were impressed with Wolf Creek's—it can put a lot of capacity in a very small area and is conducive to the OVGPs's small village areas. He believes that everything Ms. Fullmer is asking is being addressed, except TDRs.

Miranda Menzies, of Eden, personally speaking, said that the supply of ground water is very complex. In certain areas of the Valley water is available but not in others; it is a matter of geology. The compactness of Wolf Creek's sewer plant is partly due to the area's geology allowing operation of a rapid infiltration basin. TDRs are important and we need to find a way to get this into ordinance and possibly with a private-public partnership to create the market. A 4,500 sq. foot ADU is larger than many homes in the Valley (Summit's established a size of 4,000 sq. foot homes in the DRR-1 Zone). She asked the commissioners to revisit the size limit and make it 1,500 total floor area, and not the footprint size. Chair Froerer's opposition would go away if there was a marketplace for TDRs.

Shanna Francis, of Eden, of the OVPC, stated that they voted for ADUs but with TDRs and that to approve this without TDRs was to go around the density requirements that are very supported in the Valley. There is already a tool to address "mother-in-law" type apartments but to use a completely different unit that can be larger than the home on the property was cutting the size of lot requirement, unless there is a TDR. She implored not passing this until there is information on the water issues and not without TDRs. They've had a stable growth rate in the Valley for almost 20 years. All the growth has been for second homes/investment properties. If the commissioners are really interested in having affordable housing, they need to cap the number of short-term rentals to stabilize prices. There are many successful models across the nation on TDRs.

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

6. **ACTION ON PUBLIC HEARINGS:**
H.2-AMENDING VARIOUS ZONES TO REMOVE USE OF CONFERENCE CENTER FROM ZONES THAT ARE PRIMARILY RESIDENTIAL IN NATURE, & ADDITIONAL CLARIFYING LANGUAGE – ORDINANCE 2020-20

Commissioner Harvey moved to adopt Ordinance 2020-20 regarding a county-initiated proposal to amend various zones to remove the use of conference center from zones that are primarily residential in nature, and provide additional clarifying language as may be necessary. This amendment may affect the following zones: DRR-1, F-5, F-10, F-40, CVR-1, FR-1, FV-3, FR-3; Commissioner Jenkins seconded.
Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye

H.3-REQUEST ON PROPOSAL TO AMEND THE LISTED SECTIONS REGARDING ACCESSORY DWELLING UNITS AND AMENDMENTS TO RELEVANT SECTIONS OF THE WEBER COUNTY LAND USE CODE

Commissioner Jenkins moved to hold this item for a week or two for further review of accessory dwelling units; Commissioner Harvey seconded. Commissioner Jenkins amended his motion to continue the hearing on December 22 and Commissioner Harvey seconded.
Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye

- I. **COMMISSIONER COMMENTS:** Commissioner Jenkins thanked those who commented and will seriously consider them.
J. **ADJOURN**

Commissioner Jenkins moved to adjourn at 11:33 a.m.; Commissioner Harvey seconded.
Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye

Attest:

Gage Froerer, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor