

MINUTES
WEBER COUNTY COMMISSION

Tuesday, January 5, 2021 – 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: James "Jim" H. Harvey, Gage Froerer, 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 - Commissioner Froerer

B. PLEDGE OF ALLEGIANCE - Commissioner Harvey

C. INVOCATION - Shelly Halacy

D. THOUGHT OF THE DAY - Commissioner Jenkins

E. PUBLIC COMMENTS: Paul Joyce, of Huntsville, had addressed the Commission about two years ago on the Ogden Valley's grave water issues, specifically culinary and secondary water requirements in the Land Use Code for new developments. The Commission had taken it seriously and held a work session, Charles Ewert, of County Planning, had contacted many of the major water companies' presidents who had listened to the people's concerns, and there was even a new draft of the code. He implored the Commission to finally do something as there was a direct impact to existing Valley citizens, stating that Land Use Codes were being interpreted inconsistently and the county was requiring only a very small fraction of the water to obtain subdivision approval, as with the subdivision on today's agenda, and this problem leaves people unknowingly in very bad situations. The commissioners stated that they take water issues and septic very seriously for the Valley and had commissioned sewer and water studies. This item was discussed in item G.3 below.

F. CONSENT ITEMS:

1. Ratify warrants #3389-3401 and #455666-455762 in the amount of \$3,740,903.45 dated December 29, 2020, and approval of warrants #3402-34018 and #455763-455853 in the amount of \$544,211.016
 2. Approval of 2020 purchase orders in the amount of \$15,217.11
 3. Approval of 2021 purchase orders in the amount of \$877,949.15
 4. Minutes for the meeting held on December 22, 2020
 5. A \$7,379.62 "Prop 1 Funds" donation to Trails Foundation of Northern Utah for trail bollards & project management costs
 6. Retirement agreements with the following: Larayne Olsen; Cheryl Potter; and Stephanie Tatton
- Commissioner Harvey moved to approve the consent items; Commissioner Jenkins seconded.
Commissioner Froerer – aye; Commissioner Jenkins – aye; Chair Harvey – aye

G. ACTION ITEMS:

1. APPOINTING CHAIR AND VICE CHAIR TO THE WEBER COUNTY COMMISSION

Commissioner Froerer thanked county staff and the other commissioners for their support as he chaired this past year. The county had significantly reduced debt and interest costs, the Center of Excellence was a bright light, economic development efforts had taken off even in difficult times, and the county's decisions were made based upon what is best for the citizens of Weber County.

Commissioner Froerer moved to appoint James H. Harvey as Chair of the Weber County Commission for 2021; Commissioner Jenkins seconded.

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

Commissioner Harvey moved to appoint Scott Jenkins as Vice Chair of the Weber County Commission; Commissioner Froerer seconded.

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

2. RESOLUTION APPOINTING BOARD MEMBERS TO THE OGDEN VALLEY PARK DISTRICT – RESOLUTION 1-2021

Stacy Skeen, of the Commission Office, said that four terms expired on 12/31/2020, that there was a midterm vacancy, five applications were received, and that she had contacted each one about fulfilling the midterm. Nick Froerer wished to fulfill that position.

Commissioner Froerer moved to adopt Resolution 1-2021 appointing Nicholas A. Froerer, to fulfill the midterm vacancy, Allison P. Ianniello, Christopher Allen, Michael S. Loud, and Mark A. Ferrin to the Ogden Valley Park District; Commissioner Jenkins seconded.

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

3. RATIFY THE FINAL APPROVAL OF SUNSHINE VALLEY ESTATES SUBDIVISION, PHASE 2, CONSISTING OF 7 LOTS IN FV-3 ZONE. THIS REQUEST INCLUDES ROAD DEDICATION AND AN IMPROVEMENT AGREEMENT

Tammy Aydelotte, of the County Planning Division, stated that the Land Use Code requires the applicant to submit proof of water for each lot within a subdivision. The applicant, Mr. Lowe, provided those documents from Weber Basin Water for this subdivision. County Planning tends to follow the culinary water company's recommendations regarding their requirements for secondary water.

Weber Basin has allowed for its leases to be used for irrigation water as well and typically their recommendation is that .55 of each acre foot of water be used for culinary purposes and .45 for irrigation. Most improvements had been installed for this development, and there was a lengthy approval process on a bridge over an ephemeral stream. County Planning recommended final approval with the condition that a well permit be obtained from the State prior to the recording. Commissioner Jenkins referred to the earlier public comments on water issues and Ms. Aydelotte said that the State does not mandate how much of one's lawn should be watered but typically water is leased in acre feet increments. The county Land Use Code does not mandate how much water one needs; Weber Basin outlines those recommendations.

Commissioner Jenkins said that the .45 acre foot allocated for irrigation was fine for an acre lot but did not irrigate a 3-acre lot's agricultural field behind the home. Rick Grover, County Planning Division Director, referred to the public comments today and reiterated that the county relies on Weber Basin and requires their recommendations per lot. Currently, the ordinance allows someone within an area that provides water to tie-in or to use the well system. Once the water and sewer studies are completed, the county should have more clarity and can then move forward with revising the code. Commissioner Froerer concurred that the county requires 1-acre foot for the subdivision lot, which typically is adequate for 1-acre. The issue occurred when the county changed zones and required 3-acre minimum lots in the Valley, and there is not adequate water for animals, agricultural fields, etc. The county created the problem and he does not agree that it should require someone to obtain outside stock water just because they have a 3-acre lot.

Chair Harvey understood that water rights usually transfer with the sale of property, that if someone bought 10 acres they would get 10 feet of water rights. The subject property owner bought a large portion of property and is then selling lots but only 1-acre feet of the water goes with each of the 7 lots. However, these are 3-acre minimum lots, and he asked what happened to the other 14 acre feet of water. Commissioner Jenkins said that the use of the property has changed and has caused this anomaly—the water associated with the property changed. The county is not requiring the transfer of culinary water shares attached to the property when someone connects to secondary water, and the transfer of irrigation water in the ditch is not following the property. Mr. Grover said that when there is an actual secondary water underground system in place, it must be extended. In this case where there is a well, they are allowed to meet the county's minimum requirements; the well can provide the secondary and culinary water options. Commissioner Jenkins said that someone without experience in irrigating large tracts of ground that purchases the required 3-acre minimum lot is then left with about 2½ acres that are not irrigated and ends up dry. Chair Harvey requested a follow-up work session in the next few weeks regarding these issues and Commissioner Jenkins also requested a copy of the report from earlier meetings. Commissioner Froerer said that this was a great discussion to have as the county looks at village concepts and density.

Commissioner Jenkins moved to move the agenda for next week unless they could get the answer to what happened to the water attached to this item; Commissioner Froerer seconded, but for time certain, and clarified that pertinent water is attached to the property and is required to be transferred, that stock water is not required to be transferred, and the issue is whether the county should require someone with a 7-lot subdivision to buy 21 shares of Weber Basin Water to adequately water that ground. It would be difficult to mandate infrastructure to irrigate the additional 2½ acres with the additional cost to water nonproductive ground, and to require additional water shares, the county would have to require a proven irrigation system, which is an overburden. Christopher Crockett, Deputy County Attorney, stated that there are two ways to transfer water rights—deed them or they come pertinent to the land. If future code changes are impending, they would not be relevant to this particular application; the county has to view this according to existing laws. Commissioner Froerer stated this was the reason he was hesitant to delay this item. Commissioner Jenkins said that one way that water follows the property is through time in the ditch and these 7 lots would not use their secondary shares any longer with the ditch company. Commissioner Froerer said it is important to know whether it is stock water or Weber Basin's and to look at how it will be delivered because without a delivery system and the county mandating one, it becomes very problematic. Commissioner Jenkins said that he may not agree with Commissioner Froerer about getting involved in the delivery side, but that this issue merited further discussion. Mr. Grover pointed out that the applicant meets current code. Commissioner Froerer said that the developer needs to provide secondary water for at least a grass area around the house, and it is a matter of extent. Mr. Grover said that current code does not specify how big that area needs to be and that there is supposed to be a recorded document with each lot showing how many shares are transferred. Shelly Halacy, of the County Commission Office, stated that this item was on the agenda for ratification, it had already been signed. Commissioner Jenkins withdrew his motion. Commissioner Froerer made a substitution motion to ratify the final approval of Sunshine Valley Estates Subdivision, Phase 2, consisting of 7 lots in the FV-3 Zone, with the road dedication and the improvement agreement; Commissioner Jenkins seconded.

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

4. **CONTRACT WITH THE DEPARTMENT OF JUSTICE (DOJ) FOR FEDERAL ASSISTANCE THROUGH THE CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING PROGRAM**

Julie Stoddard, of the County Sheriff's Office, stated that this will assist the Sheriff's Office with procuring personal protective equipment in caring for the inmates under the COVID-19 situation.

Commissioner Froerer moved to approve the contract with the Department of Justice for federal assistance through the Coronavirus Emergency Supplemental Funding Program; Commissioner Jenkins seconded.

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

H. COMMISSIONER COMMENTS: Chair Harvey is grateful to work and learn from the other two commissioners. He said that the Commission will run the county respecting people as everyone deserves to be respected, that the county has shown that it can do very hard things in 2020, and that it has been able to help residents.

I. CLOSED MEETING TO DISCUSS PENDING LITIGATION

Commissioner Froerer moved to convene the closed meeting to discuss pending litigation; Commissioner Jenkins seconded.

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

Commissioner Froerer moved to reconvene the regular meeting; Commissioner Jenkins seconded.

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

No action was taken on the closed meeting.

J. ADJOURN

Commissioner Jenkins moved to adjourn; Commissioner Froerer seconded.

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

Attest:

James H. Harvey, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor