

**MINUTES
OF THE BOARD OF COMMISSIONERS OF WEBER COUNTY**

Tuesday, January 29, 2013 - 10:00 a.m.

2380 Washington Blvd., Ogden, Utah

In accordance with the requirements of Utah Code Annotated Section 52-4-7(1)(d), the County Clerk records in the minutes the names of all citizens 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.

COMMISSIONERS PRESENT: Kerry W. Gibson, Chair, Jan M. Zogmaister and Matthew G Bell.

OTHERS PRESENT: Ricky D. Hatch, Clerk/Auditor; Chris Allred, Deputy County Attorney; and Fátima Fernelius, of the Clerk/Auditor's Office, who took minutes.

A. WELCOME – Chair Gibson

B. PLEDGE OF ALLEGIANCE – Paige Greenhalgh

C. THOUGHT OF THE DAY – Commissioner Bell

D. CONSENT ITEMS:

1. Purchase Orders for \$259,103.24.
2. Ratify Warrants #293859 - #294093 for \$2,075,745.14, for the date of January 15, 2013
3. Warrants #294287-#294540 for \$893,435.70
4. Minutes for the meeting held on January 22, 2013

Commissioner Bell moved to approve the consent items; Commissioner Zogmaister seconded, all voting aye.

E. ACTION ITEMS:

1. **CONTRACT WITH GOAL FOUNDATION TO PROVIDE GOAL WITH FUNDING FOR THE CALENDAR YEAR 2013 TO PROMOTE CERTAIN EVENTS IN WEBER COUNTY – CONTRACT C2013-24**

Dan Olsen, County Comptroller, stated that the county has contracted with GOAL since 2006. This contract is for \$60,000 and the funds come from the Transient Room Tax. The contract was presented a few weeks ago and after discussion it was decided to make it a 4-year contract, rather than an annual contract, and that GOAL make an end of year presentation to the Commission regarding how the funding was used. Commissioner Zogmaister asked about the activities that GOAL promoted and Kevin Burns, with GOAL, outlined some of the events which included Ogden Marathon, Hurt in the Dirt, various XTerra National Championships, Collegiate Cycling, a film festival, and Tour of Utah.

Commissioner Bell moved to approve Contract C2013-24 with the GOAL Foundation to provide GOAL with funding for the calendar year 2013 to promote certain events in Weber County; Commissioner Zogmaister seconded, all voting aye.

2. **CONTRACT WITH KANSAS STATE BANK OF MANHATTAN FOR A LONG-REACH EXCAVATOR THAT WILL BE USED ON THE FLOOD MITIGATION PROJECT – CONTRACT C2013-25**

Dan Olsen, County Comptroller, stated that a second excavator is needed for one year for the flood mitigation project in western Weber County. The county can rent a machine and the federal government will participate on those costs. This was bid out and Century Equipment was the lowest responsible bidder and it requires the county to enter into an agreement with Kansas Bank, but after one year the county can pay the balance on the loan (\$84,000) or, if the county chooses not to Century Equipment has agreed that they will make the final payment and take possession of the equipment. The contract includes a letter from Century stating that if the county chooses not to purchase the equipment that Century will. This is a 1-year contract at \$7,000/month with an interest rate of 6.485% for rental of the equipment. The federal government participates at 75% of that cost.

The county does not plan to make the \$84,000 payment because it would conflict with the federal reimbursement guidelines which do not allow the county to purchase equipment with federal dollars. Commissioner Zogmaister moved to approve Contract C2013-25 with Kansas State Bank of Manhattan for a long-reach excavator that will be used on the flood mitigation project; Commissioner Bell seconded, all voting aye.

3. REQUEST FOR DISCUSSION AND/OR ACTION ON AN APPEAL FROM THE OGDEN VALLEY PLANNING COMMISSION’S DECISION REGARDING CUP 2011-07 FOR DIGIS WIRELESS INTERNET TRANSMISSION SITE LOCATED ON TOP OF THE WATER STORAGE TANK WITHIN LEGENDS AT HAWKINS CREEK

This item was held.

4. RESOLUTION APPOINTING A MEMBER TO THE BOUNDARY COMMISSION – RESOLUTION 2-2013

Rob Scott, County Planning Division Director, noted that two Boundary Commission members are appointed by the County Commission. The other appointment by the county is still current.

Commissioner Bell moved to adopt Resolution 2-2013 appointing Ernest Rowley to the Boundary Commission for another 4-year term; Commissioner Zogmaister seconded.

Roll Call Vote:

Commissioner Zogmaister..... aye
Commissioner Bell aye
Chair Gibson aye

5. FINAL APPROVAL OF SILVER BELL ESTATES NO.1, 3RD AMENDMENT LOTS 51 AND 53 AND A REQUEST TO VACATE LOTS 51 AND 53 OF SILVER BELL ESTATES NO. 1 – ORDINANCE 2013-1

Jim Gentry, with the County Planning Division, stated that the petitioner owns both lots; the home is located on both lots and the petitioner is enlarging one and decreasing the other.

Commissioner Bell moved to grant final approval of Silver Bell Estates No.1, 3rd Amendment Lots 51 and 53 and to vacate Lots 51 and 53 of Silver Bell Estates No. 1 by Ordinance 2013-1; Commissioner Zogmaister seconded.

Roll Call Vote:

Commissioner Zogmaister..... aye
Commissioner Bell aye
Chair Gibson aye

6. COOPERATIVE AGREEMENT WITH THE UTAH STATE UNIVERSITY (U.S.U.) EXTENSION FOR EDUCATIONAL WORK – CONTRACT C2013-26

Jerry Goodspeed, of U.S.U. Extension, presented this annual contract.

Commissioner Zogmaister moved to approve Contract C2013-26, Cooperative Agreement with the Utah State University Extension for educational work; Commissioner Bell seconded, all voting aye.

7. CONTRACT WITH PLEASANT VIEW CITY TO PROVIDE \$350,000 IN LOCAL SALES TAX FOR TRANSPORTATION FUNDS TO FACILITATE A STUDY FOR THE SKYLINE DRIVE (NORTH) PROJECT – CONTRACT C2013-27

Douglas Larsen, Weber Economic Development Director, stated that this project goes from Highway 89 to 450 E. in Pleasant View. The funds will allow the city to complete an environmental assessment study.

Commissioner Bell moved to approve Contract C2013-27 with Pleasant View City to provide \$350,000 in local sales tax for transportation funds to facilitate a study for the Skyline Drive project in Pleasant View; Commissioner Zogmaister seconded, all voting aye.

8. CONTRACT WITH SCHINDLER ELEVATOR CORPORATION FOR MAINTENANCE ON THE WEBER CENTER ELEVATORS – CONTRACT C2013-28

Andy Bunot, with Property Management, presented this 5-year contract.

Commissioner Zogmaister moved to approve Contract C2013-28 with Schindler Elevator Corporation for maintenance on the Weber Center elevators; Commissioner Bell seconded, all voting aye.

9. CONTRACT WITH XEROX FOR A W7545P COPY MACHINE FOR THE WEBER COUNTY COMMISSION OFFICE – CONTRACT C2013-29

Shelly Halacy, with the Commission Office, noted the need to update the copy machine. There is a savings and no penalty for ending the other copier contract.

Commissioner Bell moved to approve Contract C2013-29 with Xerox for a W7545P copy machine for the Weber County Commission Office; Commissioner Zogmaister seconded, all voting aye.

10. RECOMMENDATION FROM THE WEBER COUNTY TAX REVIEW COMMITTEE TO REFUND PROPERTY TAX ON PARCEL 16-207-0003

A residence in the Ogden Valley was taxed in 2007 and 2008 as secondary and the taxpayer has requested a tax refund for those two years. Machel Maycock, with the County Assessor's Office, stated that this item was discussed at the 12/11/2012 Commission meeting at which time the attorney for Jesse Hammons, petitioner, brought up a new issue that the Tax Review Committee (Committee) had not heard and the County Commission asked that county legal counsel review it to see if the county had the right to remove a primary residential exemption on a parcel. The original Committee recommendation was that Mr. Hammons had remedy through the valuation notices and the tax notices for both years. She said that Mr. Hammons had also not responded to the Assessor's Office request for a Primary Residence Affidavit—it was not received until 2009. Ms. Maycock referred to legal counsel's memorandum on the issue and said that the Commission could accept the original Committee recommendation, remand this to the Committee to hear the new issue or make a decision based on legal counsel's memorandum.

Chair Gibson asked Monette Hurtado, Deputy County Attorney, to address the new issue brought up at the last Commission meeting. Ms. Hurtado said that the purpose of tax review is to gather information and the Committee did not base their decision on the new information since they did not have it. Additionally, Ms. Hurtado said that the section of code brought up by the petitioner's attorney refers to the Board of Equalization (BOE), not to the County Assessor's Office, and thus she does not believe it applies to what the petitioner requested—it would apply if the BOE was hearing this issue and made a request for additional information. Ms. Hurtado feels it is appropriate to send this issue back to the Committee for consistency so that they can have an opportunity to have all the facts, including any new concerns. Commissioner Zogmaister concurred that the issue should be remanded to the Committee, stating that the commissioners rely on the Committee to have all the information available to them and then to make a recommendation. Ms. Hurtado addressed Commissioner Bell's question stating that the petitioners are alleging that the ordinance adopted would not apply and there was a new fact established for reporting of documents and that they did not have access to that. The Committee's recommendation was not based on what is being requested.

Scott Hansen, attorney for petitioner, stated today that county legal counsel had an opportunity to review this for over a month and asked if the county had legal authority to change the status on the home and if there was an ordinance enacted at that time. He felt that an answer should be provided today. Ms. Hurtado stated that the issue had not been brought up before tax review. She said that in Mr. Hansen's previous concerns he had said he went before the BOE, however, he never did, that the section of code Mr. Hansen refers to addresses the BOE, not the County Assessor, and thus the Committee should have an opportunity to review the information and decide if Section 59-2-103.5 applies. She said this debate should occur before the same body that the petitioner went before the first time.

Mr. Hansen said that they have asked the county a number of times to specifically inform them under what authority it took the action that it did. He said that they cannot continue the discussion unless the county writes a response as to what it found in the investigation, what it is basing its decision on and that they cannot go before the Committee without some type of legal status from the county. He asked for something in writing from the county regarding what it is basing its decision on. Commissioner Zogmaister emphasized that the county has not made that decision yet, thus it cannot give them information on how they are basing their decision when they have not made the decision yet. She recommends the issue be heard by the Committee where all of the information should have been presented prior to this. Mr. Hansen said that he was not hearing what section of code applies to the Assessor's Office that would allow them to take the action that they did.

Commissioner Zogmaister moved to send this item back to the Tax Review Committee and to have all of the information presented to them before it is brought to the County Commission again; Commissioner Bell seconded, all voting aye.

F. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, FEBRUARY 5, 2013, 10 A.M.

G. PUBLIC COMMENTS: None

H. ADJOURN

Commissioner Bell moved to adjourn at 10:37 a.m.; Commissioner Zogmaister seconded, all voting aye.

Attest:

Kerry W. Gibson, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor