

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

Tuesday, February 14, 2017 - 10:00 a.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 Ebert and Kerry W. Gibson. Jim Harvey was excused.

**OTHER STAFF PRESENT:** Ricky D. Hatch, County Clerk/Auditor; David C. Wilson, Deputy County Attorney; and Fátima Fernelius, of the Clerk/Auditor's Office, who took minutes.

- A. WELCOME** – Chair Ebert
- B. INVOCATION** – Sean Wilkinson
- C. PLEDGE OF ALLEGIANCE** – Devron Andersen
- D. THOUGHT OF THE DAY** – Commissioner Gibson

**E. CONSENT ITEMS:**

1. Warrants #4140445-#414228 in the amount of \$1,049,959.76
2. Purchase orders in the amount of \$1,093,859.68
3. Minutes for the meeting held on February 7, 2017
4. Acceptance of the dedication of Weber County Parcel #15-044-0008 as a public road

Commissioner Gibson moved to approve the consent items, with the exclusion of E.4, which was to be moved to the top of the Action Items; Chair Ebert seconded.

Commissioner Gibson – aye; Chair Ebert – aye

**F. ACTION ITEMS:**

E.4-Courtlan Erickson, Deputy County Attorney, stated that a request was presented to the Commission in December 2016 to formally dedicate a piece of county property as a public thoroughfare, and the Commission voted in favor of it. In the mean time, the dedication plat was prepared and reviewed by pertinent staff and is now before the Commission to formalize that action. Commissioner Gibson asked why there were separate actions and Mr. Erickson said that it gave the opportunity to ensure that everything was done in accordance with what the Commission had approved. Devron Andersen, of the County Recorder/Surveyor's Office, stated that everything was in order, that it dedicates the majority of the land that covers the current dirt road. The county acquired the property in the 1930's from a tax sale and it has never been used for anything—there is a dirt road over it. Jared Andersen, County Engineer, said that there may be a small portion of the parcel that is currently not used as a road and the county does not plan to use that property (until the road needs to be improved). The parcel is about 1,000 feet long X 33 wide.

Commissioner Gibson moved to accept the dedication of Weber County Parcel #15-044-0008 as a public road; Chair Ebert seconded.

Commissioner Gibson – aye; Chair Ebert – aye

1. **RESOLUTION REAPPOINTING DR. FRANK BROWN AS A BOARD MEMBER OF THE WEBER-MORGAN HEALTH DEPARTMENT – RESOLUTION 8-2017**

David Wilson, Deputy County Attorney, stated that this board's by-laws provide for an 11-member board, of which the county appoints three, with one being a recommendation by the Weber County Medical Society. The Society recommends reappointment of Dr. Brown. Mr. Wilson noted that the term on the resolution may need to be corrected.

Commissioner Gibson moved to adopt Resolution 8-2017 reappointing Dr. Frank Brown to the Weber-Morgan Health Department Board, subject to the possible term correction; Chair Ebert seconded.

Commissioner Gibson – aye; Chair Ebert – aye

2. **RIGHT-OF-WAY CONTRACT FOR THE WIDENING OF 12<sup>TH</sup> STREET:  
LLOYD WESLEY EAST/KAY ELIZABETH BASS EAST, PARCEL 112**

Jared Andersen, County Engineer, briefly presented this contract.

Commissioner Gibson moved to approve the right-of-way contract for the widening of 12<sup>th</sup> Street with Lloyd Wesley East/Kay Elizabeth Bass East, Parcel 112; Chair Ebert seconded.

Commissioner Gibson – aye; Chair Ebert – aye

**3. FIRST READING OF AN ORDINANCE OF THE COUNTY COMMISSIONERS OF WEBER COUNTY ESTABLISHING PROVISIONS FOR THE SURVEYING AND SURVEY MONUMENTS ORDINANCE**

Devron Andersen, of the County Recorder/Surveyor, stated that the U.S government surveyed the lower Weber County in 1855 into one mile square sections and set section corner monuments every half mile. These monuments are known as the public land survey system. The county surveyor's number one job is to maintain these monuments. Every public and private infrastructure system is tied to the monument system. When these monuments are disturbed or destroyed huge problems are created, which can double, triple or even quadruple the price of an otherwise land boundary survey. Municipalities and counties will spend hundreds of thousands of dollars to try to re-establish and re-acquire property for road and utility right-of-ways, private property owners and the surveyors they hire have conflicts, which can also result in costly litigation, and the cost of replacing destroyed monuments to the County Surveyor's Office can be up to ten times more expensive than it would be to maintain these monuments. The biggest problem for the County Surveyor's Office today is that over each decade since the 1970's it is estimated that more monuments have been lost than they have been able to replace. With the projected growth of the Wasatch Front to double in the next 35-40 years, this is a loss ratio that can no longer be accepted or sustained.

Weber County must protect the public land survey system to the same degree as other public entities have moved to protect their infrastructure systems by education, standardization and regulation. The proposed ordinance will allow the County Surveyor's Office to fulfill its statutory duty by issuing permits for construction activities that will destroy/disable our monuments and to penalize those who ignore the county's polices/procedures. The Surveyor's Office is confident that with this proposed ordinance in place and working with local municipalities that they can reverse the trend of past decades and that over time the biggest winners will be the county landowners through a stable monument system. Commissioner Gibson asked if the ordinance had been floated through industry groups, etc., and what had been the feedback. Mr. Andersen stated that their office had made great efforts over the past months to put this ordinance in front of surveyors and engineers that will be affected and the majority of the feedback had been positive. They would like to put the proposed ordinance out to the construction industry a bit more. They had tried to address expressed concerns in the ordinance. Commissioner Gibson suggested making an additional outreach to interested parties and to put the item back on the agenda after there is an opportunity for significant feedback. Chair Ebert expressed concern with the language about placing the burden of proof on those who have worked around a destroyed monument to provide documentation that they were not the ones responsible and Mr. Andersen said that he and county legal counsel addressed this on the following item.

Commissioner Gibson moved to approve the first reading of an ordinance establishing provisions for the Surveying and Survey Monuments Ordinance; Chair Ebert seconded.  
Commissioner Gibson – aye; Chair Ebert – aye

**4. FIRST READING OF AN ORDINANCE ESTABLISHING A PROCESS FOR ADMINISTRATIVE APPEALS**

Bryan Baron, Deputy County Attorney, noted that this ordinance relates to the above item. The appeals process would initially go to the division that made the decision, the public would then appeal to an appeals board established by the Commission and consisting of seven members (including two from the community). During ordinance development, Mr. Baron reached out to Sean Wilkinson, County Community and Economic Development Director, whose division also had an interest in this ordinance and had been included. Mr. Baron explained that the burden had been shifted onto the public because the Surveyor's Office has a difficult time proving who damaged a monument—there are records showing that a monument was in the ground, that it was checked and was good, but down the road it is found to be damaged and there is no way for the county to prove who damaged it, but with the record that a particular construction company worked in that area within the past year there is the presumption that because they are the only ones who worked in that area they must be the ones who damaged the monument, unless they prove that they did not. Mr. Andersen explained that this is what the permit process accomplishes and said that when a permit is pulled that the Surveyor's Office does go reference it. He referred to incidents when contractors have damaged monuments, then they leave, and the county discovers the damage later. The contractors then deny their involvement, and this is a huge problem for the Surveyor's Office. Chair Ebert had some questions that he will study before final action.

Commissioner Gibson moved to approve the first reading of an ordinance establishing a process for administrative appeals; Chair Ebert seconded.  
Commissioner Gibson – aye; Chair Ebert – aye

**5. CONTRACT WITH CONDUENT FOR REQUIRED ACTUARIAL STUDY OF COUNTY'S OPEB PER GASB 45**

Scott Parke, County Comptroller, stated that the county made significant changes to its OPEB liabilities last year, and it is prudent to exercise one extension of the current contract with the actuarial company that is familiar with the former plan. Subsequently, the contract will go out for bid.

Commissioner Gibson moved to approve the contract with Conduent for a required actuarial study of the county's OPEB per GASB 45; Chair Ebert seconded.

Commissioner Gibson – aye; Chair Ebert – aye

**6. CONTRACT WITH THE UTAH STATE CUTTER AND CHARIOT ASSOCIATION FOR THE UTAH STATE CHARIOT CHAMPIONSHIPS AT THE GOLDEN SPIKE EVENT CENTER ON FEBRUARY 25-26, 2017**

Duncan Olsen, with GSEC, briefly presented this contract.

Commissioner Gibson moved to approve the contract with the Utah State Cutter and Chariot Association for the Utah State Chariot Championships at the Golden Spike Event Center on February 25-26, 2017; Chair Ebert seconded.

Commissioner Gibson – aye; Chair Ebert – aye

**7. CONTRACT WITH WEBER STATE UNIVERSITY FOR THE WEBER STATE RODEO AT THE GOLDEN SPIKE EVENT CENTER ON MARCH 24-25, 2017**

Duncan Olsen, with GSEC, briefly presented this contract.

Commissioner Gibson moved to approve the contract with Weber State University for the Weber State Rodeo at the Golden Spike Event Center on March 24-25, 2017; Chair Ebert seconded.

Commissioner Gibson – aye; Chair Ebert – aye

**8. CONTRACT WITH THE WEBER SCHOOL DISTRICT FOR THE STEM FAIR AT THE GOLDEN SPIKE EVENT CENTER ON FEBRUARY 23-24, 2017**

Duncan Olsen, with GSEC, briefly presented this contract.

Commissioner Gibson moved to approve the contract with Weber School District for the STEM Fair at the Golden Spike Event Center on February 23-24, 2017; Chair Ebert seconded.

Commissioner Gibson – aye; Chair Ebert – aye

**9. CONTRACT WITH STOTZ EQUIPMENT FOR A TRADE AGREEMENT FOR USE OF 2 EACH 100+HP JOHN DEERE TRACTORS AT THE GOLDEN SPIKE EVENT CENTER. GSEC WILL PROVIDE ADVERTISING SPACE AND USE ONE BUILDING FOR ONE DAY IN ADDITION TO \$250 PER TRACTOR A YEAR**

Duncan Olsen, with GSEC, briefly presented this contract.

Commissioner Gibson moved to approve the trade agreement with Stotz Equipment for use of two 100+hp John Deere tractors at the Golden Spike Event Center. GSEC will provide advertising space and use one building for one day in addition to \$250 per tractor a year; Chair Ebert seconded.

Commissioner Gibson – aye; Chair Ebert – aye

**G. PUBLIC COMMENTS:**

Andy Hubbard, President, Golden Spike Chapter of the Utah Council of Land Surveyors, spoke in reference to items F.3 & 4. He read a letter from the Council stating the importance of survey monuments, thanking Devron Andersen, of the County Recorder/Surveyor's Office, for sharing the proposed ordinance at its 9/2016 meeting and expressing support for the county's efforts to preserve its monuments.

Brent Hipwell, of West Weber, spoke in reference to item E.4 stating that it would be clearer to area residents if the County Recorder/Surveyor's Office actually put a hard mark on the ground to identify with the 33 feet. He expressed concerns with drainage. His father dedicated the bottom part of this roadway section a few years ago to the county when they built a home there. The county's system goes to about the end of the 1,000 feet that was just dedicated but from there it floods over and gets into the Hipwell's system and they have to deal with it on their private property. Mr. Hipwell asked if by dedicating this road it places liability on the county for the extra water, safety issues, etc. He said that he was representing the affected people on 3600 W., that some had gotten emotional and left the meeting earlier. He said that the slew that runs through that area is within four inches of the pavement, and with 14 ft. of water, it creates hefty safety concerns. He recommended a safety study in order to protect those people. Commissioner Ebert requested that Mr. Hipwell's leave his contact information and said that he would be sent a response to his questions. As the spokesperson, he was encouraged to contact the Commission with any questions. Additionally, the county would put all the information it was receiving related to the road, development, etc., on its facebook page.

Dale Robinson, State Chair, Utah Council of Land Surveyors, echoed what had already been said on items F.3 & 4. He said that they are licensed by the State and are charged to follow the footsteps of the original surveyors, which is done by measuring from monuments, which are very important to the public. Chair Ebert said that the Commission is very supportive of the action that Mr. Andersen is taking and want to ensure that it is done in an enforceable, appropriate manner and still protecting the monuments.

#### **H. CLOSED MEETING**

Commissioner Gibson moved to convene a closed executive session to discuss strategy relating to imminent or ongoing litigation; Chair Ebert seconded.  
Commissioner Gibson – aye; Chair Ebert – aye

There was no action taken.

#### **I. ADJOURN**

Commissioner Gibson moved to adjourn at 11:15 a.m.; Chair Ebert seconded.  
Commissioner Harvey – aye; Chair Ebert – aye

Attest:

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James Ebert, Chair  
Weber County Commission

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Ricky D. Hatch, CPA  
Weber County Clerk/Auditor