

MINUTES
WEBER COUNTY COMMISSION

Tuesday, February 20, 2018 - 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 H. "Jim" Harvey, Kerry W. Gibson and James Ebert.

OTHER STAFF PRESENT: Lynn Taylor, of the County Clerk/Auditor's Office, Christopher Crockett, Deputy County Attorney, and Fátima Ferneliús, of the Clerk/Auditor's Office, who took minutes.

- A. WELCOME** – Chair Harvey
- B. INVOCATION** – John Warren
- C. PLEDGE OF ALLEGIANCE** – Michele Elliott
- D. THOUGHT OF THE DAY** – Commissioner Gibson

E. PRESENTATIONS:

1. PRESENTATION OF WEBER COUNTY SHERIFF'S OFFICE AWARDS.

Weber County Sheriff Terry Thompson presented unit citations to Deputies Mike McDonald, Tyler Greenhalgh, Bowdie Malan, Weston Voth, Kevin Logerquist, Jacob Wiese and Kiley Slater of the Marine Patrol Unit noting that working on the water presents many obstacles and unstable conditions. During the 2017 summer season they encountered several remarkable situations at Pineview and Causey Reservoirs and showed outstanding professionalism and dedication in every situation and there was no loss of life. Life Saving medals were presented to Deputies Bowdie Malan and Jacob Wiese for the great job in a harrowing experience in preventing an attempted suicide. Rob Tyler, of the County Shops, and Kyle Nyland, of the County Fleet, were presented with the Sheriff's Medal and Special Recognition of Excellent Service to the Sheriff's Office for their dedication and hard work in restoring the 1965 Ford Mustang (donated years ago by the Hall family for the students Drug Awareness Car) and it has been one of the greatest public relations tools at the Sheriff's Office. The Medal of Merit was presented to Detective Steve Haney for his diligence in tracking a criminal who created havoc in our county. He persistently tracked the criminal across state lines, who after being released from prison continued his criminal activities, and was again apprehended.

Lt. Brandon Toll gave a presentation on the search and recovery of a missing small plane and its two pilots at the bottom of the Great Salt Lake in Box Elder County. This operation included Weber County Search and Rescue, Box Elder County, State Parks, and volunteers, on a very remote, harsh and unforgiving location with fog, extreme cold temperatures, loss of motor boats, mechanical problems, etc. There was much pre-planning and the operation took two separate attempts. Due to the water's salinity, only one diver, Arthur Pluim, was able to make it down to the plane loaded with others' weights. He had to do everything by feeling his way in zero visibility and the aircraft was upside down. As Mr. Pluim was under the water he started developing hyperthermia and lose mobility but he pushed himself to complete the recovery of both pilots. It was later learned that he had a leak in his suit. The Sheriff's Medal was presented to Art Pluim and the Medal of Merit to each Search and Rescue member who assisted in this operation: Lt. Brandon Toll, Sgt. Mark Horton, Deputy Bowdie Malan, Dave Casperson, Rick Goodliffe, Don Olsen, Shaun Palm, David Phillips, Arthur Pluim, Howard Pluim, Dustin Robley, Kevin Tams, Sheri Trbovich, Buffi Tuttle, and Scott Willis. Sheriff Thompson referred to the great working relationship with Box Elder County and their great unit. He read a heartfelt letter to the Weber County Search and Rescue from one of the families of the recovered expressing their profound gratitude in this very difficult operation. Box Elder County Sheriff Kevin Potter expressed thanks to Weber County and gave out coins to the team—a military tradition given to membership in a unit when challenged. He thanked the volunteers stating that they do so at a great cost.

2. PRESENTATION OF THE DICIO GROUP CONTRACT UPDATE.

Sasha Clark, with the Dicio Group, noted that about a year ago the county issued a Request for Proposal for communication services. During that process the sentiment from the other companies was to only provide a plan for the dollar amount but not to execute it. She knew the county needed action, needed it quickly and needed a lot more than was in that RFP; Dicio was happy to provide all of it without additional cost. Her detailed presentation included the significant social growth since inception of the contract, the social comparisons with surrounding counties and other states, the Weber County branding package that Dicio has created, and the crisis communications during the Uintah Fire, which received State recognition. Chair Harvey expressed sincere appreciation to Dicio for going above and beyond in doing things not asked for in the RFP, for doing more than anticipated, for following through, being professional, dealing very well with the unexpected, being incredibly cost effective and helping with the county's transparency commitment.

F. CONSENT ITEMS:

1. Warrants #1346-1360 and #425659-425865 in the amount of \$1,551,571.24.
 2. Purchase orders in the amount of \$31,864.06.
 3. Minutes for the meeting held on February 13, 2018.
 4. Surplus 98 voter privacy booths from the Weber County Elections Department.
- Commissioner Ebert moved to approve the consent items; Commissioner Gibson seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

G. ACTION ITEMS:

1. **REQUEST FROM WEBER COUNTY TAX REVIEW COMMITTEE (COMMITTEE) TO REFUND \$635.87 TO MICHAEL COLLINS, PARCEL #16-133-0006 DUE TO INCORRECT CALCULATION OF SQUARE FOOTAGE.**

Joe Olsen, of the County Assessor's Office, on behalf of the Committee, said that incorrect square footage was identified in the 2017 Board of Equalization. Mr. Collins requested a refund for previous years and according to Judicial Code 78B-2-307 the Committee recommended refunding \$635.87 for 2013-2016.

Commissioner Gibson moved to approve the Weber County Tax Review Committee's recommendation to refund \$635.87 to Michael Collins, Parcel #16-133-006 due to incorrect square footage calculation; Commissioner Ebert seconded.

Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

2. **RATIFY AN AMENDED CONTRACT WITH THOMPSON REUTERS/WESTLAW TO PROVIDE LEGAL RESEARCH SERVICES TO THE PUBLIC DEFENDERS.**

Christopher Crockett, Deputy County Attorney, presented a small amendment to the existing contract to add two licenses because of the addition of two new appellate attorneys. The increased monthly amount is \$176.

Commissioner Ebert moved to ratify the amended contract with Thompson Reuters/Westlaw to provide legal research services to the public defenders; Commissioner Gibson seconded.

Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

3. **AMENDED PUBLIC DEFENDER CONTRACTS WITH MICHAEL BOUWHUIS AND LOGAN BUSHELL.**

Christopher Crockett, Deputy County Attorney, presented this small amendment. Because of scheduling issues these two attorneys have agreed to make a change to one of their assignments.

Commissioner Gibson moved to approve the amended public defender contracts with Michael Bouwhuis and Logan Bushell; Commissioner Ebert seconded.

Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

4. **CONTRACT WITH THE UTAH STATE CUTTER AND CHARIOT ASSOCIATION TO HOLD THE 2018 UTAH STATE CHARIOT CHAMPIONSHIPS AT THE GOLDEN SPIKE EVENT CENTER (GSEC).**

Duncan Olsen, with the GSEC, presented this contract.

Commissioner Gibson moved to approve the contract with the Utah State Cutter and Chariot Association for the 2018 Championships at the Golden Spike Event Center; Commissioner Ebert seconded.

Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

H. PUBLIC COMMENTS:

Lori Brinkerhoffer, of Hooper City, congratulated the Commission and the county departments for attending the legislature session and for doing a great job for the county. She said that Sheriff Thompson will be greatly missed and his department has had a huge impact by being proactive. She thanked Sasha Clark/Dicio Group for the extraordinary job they are doing.

I. ADJOURN

Commissioner Ebert moved to adjourn at 11:29 a.m.; Commissioner Gibson seconded.
Commissioner Ebert – aye; Commissioner Gibson – aye; Chair Harvey – aye

Attest:

James H. "Jim" Harvey, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor

**AGREEMENT FOR INDIGENT DEFENSE ATTORNEY
DISTRICT COURT**

2/20/2018

This Agreement is made effective the 1st day of February, 2018, by and between Weber County, a body politic of the State of Utah, hereinafter referred to as "County," and Logan Bushell, hereinafter referred to as "Attorney." County and Attorney are sometimes referred to individually as "Party" and collectively as "Parties."

WITNESSETH:

WHEREAS, pursuant to Chapter 32 of Title 77, Utah Code Ann. (1953, as amended), County has the responsibility to provide legal counsel to every indigent person who faces the substantial probability of deprivation of his or her liberty; and

WHEREAS, Attorney is a member of the Utah State Bar Association in good standing and admitted to practice law before the courts of the State of Utah; and

WHEREAS, Attorney is willing to represent indigent persons in the Second District Court when appointed by the Court;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained hereafter, the Parties agree as follows:

1. Attorney agrees to provide competent legal counsel to any person charged with a felony or a misdemeanor who appears at the arraignment calendar sessions in the court Attorney is assigned to and who is deemed by the court to be indigent, as well as those indigent persons assigned to Attorney at video arraignments. Attorney will represent indigent defendants in all matters before the court including scheduling conferences, all hearings and trials, and all other matters required to ensure adequate representation including but not limited to probation violations hearings and restitution hearings.
 - a. Attorney agrees to provide competent legal counsel to any indigent person charged with a felony who is referred to and accepted by the Drug Court Program or the DUI Court Program in the Second District Court, Ogden Department. Attorney agrees to work to ensure that such persons' rights are protected throughout the court process. Furthermore, Attorney agrees to provide whatever efforts may reasonably be needed to further the purposes of the drug court and DUI court programs.
 - b. Attorney agrees to represent indigent persons who are being held by an order of the court at the McKay-Dee Hospital for involuntary commitment proceedings and those persons who are under involuntary commitment to Weber Human Services in review hearings. Attorney will be responsible to set up contact with the clerk of the court in the attorney's assigned week to obtain notices of hearings and be available for those hearings (which are generally heard each Friday morning at 8:30 a.m., and at times on Monday afternoon at 3:30 p.m.) The

attorney shall interview each client before the hearings and provide competent legal representation for the client at the hearings. The attorney will also be responsible to represent the client in de novo appeals from the commitment hearings and file petitions for review hearings as requested by a client under commitment.

2. Attorney agrees to promptly notify the court of any changes with regard to the indigent status of client, which changes would affect the qualifying of the client for court-appointed counsel.
3. If Attorney is not Rule 8 qualified, Attorney shall make reasonable efforts to become Rule 8 qualified.
4. Attorney agrees to be supervised by an attorney who has been hired by County to act as the coordinating attorney ("Coordinating Attorney") and to accept assignments from said Coordinating Attorney to cover specific court calendars and other hearings as necessary.
5. Attorney will provide the Coordinating Attorney with caseload information on a monthly basis on a form approved by the Coordinating Attorney including information about the cases which have gone to trial.
6. Attorney will seek to identify potential conflicts or complaints that persons may have against Attorney and work diligently to avoid any complaints being lodged against Attorney. Attorney will immediately communicate to the Coordinating Attorney any complaints that may be lodged by anyone against Attorney and work diligently to resolve any such complaint.
7. Attorney will be responsible for scanning any paper files once they are closed and destroying the hard copy of the file. In the event that Attorney fails to scan closed paper files and destroy the hard copies, County may withhold the costs for doing so from Attorneys final paycheck. Attorney agrees to cooperate with Coordinating Attorney in transferring the digital copies of closed files to the Coordinating Attorney.
8. Attorney will assist Coordinating Attorney in the development of a list of court approved investigators and expert witnesses and make diligent efforts to utilize only those investigators and expert witnesses found on such list. If Attorney feels it necessary to utilize an expert witness or investigator who is not on the approved list, Attorney agrees to first consult with the Coordinating Attorney before making any such request of the Court.
9. Attorney shall submit to the Coordinating Attorney an electronic copy of each and every motion, memoranda, and appellate brief Attorney files. Attorney is not required to submit said copies prior to the respective due dates but shall submit copies to the Coordinating Attorney as soon thereafter as is practicable. Attorney will not be required to submit copies of client court reports, or any other such reports, unless requested by the Coordinating Attorney.

10. Attorney shall submit to the Coordinating Attorney an electronic copy of each request for transcripts, request for appointment of expert witness, or any other motion, request, or stipulation that will require payment by the County, and shall submit such copies simultaneously with the filing of the original documents with the Court. Attorney shall also work to ensure that such requests are necessary for case preparation.
11. If at any time Attorney's case load becomes sufficiently burdensome to create an ineffective assistance of counsel issue or could cause the attorney to be in violation of the Rules of Professional Conduct, Attorney shall immediately notify the Coordinating Attorney and determine a proper course of action to remedy the situation.
12. County agrees that if Attorney is asked to represent a defendant in a capital defense case which could result in the death penalty, a separate contract would be crafted to handle compensation.
13. Attorney is expected to provide coverage for other contract attorneys when necessary and when Attorney is available to provide coverage. When possible, the attorneys should attempt to trade coverage at the time coverage is procured. When a simultaneous trade is not possible, the attorney whose calendar was covered should make reasonable efforts to reciprocate coverage for the attorney who covered for him/her upon request.
14. If the Coordinating Attorney determines that the attorney who provided coverage made reasonable efforts to procure coverage from the attorney for whom he/she provided coverage and the other attorney is unwilling or unable to provide coverage within six months of the original coverage having been provided, the covering attorney shall be compensated \$250 by the attorney who was covered. This amount shall be deducted from the paycheck of the attorney whose calendar was covered and added to the paycheck of the covering attorney.
15. When Attorney will miss his/her regular court assignment due to trial, vacation, seminar, etc., Attorney shall arrange with another contract attorney to cover Attorney's court. If Attorney fails to procure coverage and does not appear at Attorney's court assignment, the sum of \$600 shall be deducted from Attorney's pay and paid to the attorney[s] who provided coverage for Attorney (if any is provided). The arrangement for court coverage shall be coordinated with the Coordinating Attorney.
16. The term of this Agreement shall be from February 1, 2018 through December 31, 2019.
17. County agrees to pay Attorney the following amounts annually:

Basis for Amount	Amount
District Court Calendars	\$61,818
Mental Health Court	\$3,900
Drug Court Calendar	\$9,100

DUI Court Calendar	\$5,200
Additional Increase from January 2017	\$3,247
Total	\$83,265

Payment shall be made to the Attorney in equal monthly installments of \$6,938.75 per month. The first installment is due before the end of February 2018 and a like sum on the last day of each month thereafter through December 31, 2019.

18. Attorney's compensation is based on the number of years Attorney has practiced. County agrees to periodically increase the compensation to Attorney up to a maximum of 30 years.
19. Attorney agrees to maintain professional malpractice insurance with limits of \$100,000 per person and an aggregate of \$300,000 and provide to County evidence of the insurance. In addition, Attorney agrees to defend, indemnify, and hold County harmless from all damage, loss, or injury Attorney may suffer or be held liable for as a result of Attorney's conduct.
20. Attorney agrees to abide by the rules of Professional Conduct of the American Bar Association, the Utah State Bar Association, and the laws of the State of Utah, including but not necessarily limited to the provisions of Chapter 32 of Title 77, Utah Code Ann. (1953, as amended).
21. Attorney agrees to keep abreast of all current legal trends and to that end shall maintain sufficient continuing professional education credits during the period of this Agreement.
22. Throughout the term of this Agreement, Attorney agrees to maintain access to an office within Weber County where Attorney can meet with clients which Attorney serves under the terms of this Agreement. Attorney agrees to be available and accessible to clients reasonably in advance of any hearing or trial, to make reasonable efforts to visit clients who are incarcerated, to return telephone calls as soon as reasonably possible, and to otherwise be reasonably accessible to all clients.
23. Attorney agrees to use his/her best efforts to avoid any conflicts of interest which would divide loyalty of Attorney to the client. The Parties, however, recognize that certain cases may arise where conflicts are of sufficient magnitude that the Attorney cannot represent the person charged. Conflicts of interest shall only be deemed to exist after a determination of the appointing Court.
24. Attorney will represent various clients that would typically be assigned to other contract attorneys when the court deems there is a conflict of interest preventing the other contract attorney from representing the client. Any such representation shall be at no additional cost to County, with such assignments being made under the direction of the Coordinating Attorney.

25. Nothing in this Agreement shall prohibit Attorney from representing private clients so long as the representation of private clients does not interfere with or create a conflict of interest in the representation of clients appointed under this Agreement.
26. Unless the fee is waived by the court based upon the client's financial condition, Attorney agrees to assist County in the continued implementation of a fee recovery program whereby Defendants receiving assistance of appointed counsel shall repay to County a portion of the expense thereof as a matter of restitution, based upon a schedule approved by the Weber County Commission.
27. This Agreement may not be assigned by Attorney. Attorney is an independent contractor and shall not act as an agent for County.
28. County has established an indigent expense fund and will continue to fund the expense fund for the term of this Agreement. The expense fund may be used by all attorneys representing indigent defendants in County. Appropriate expenses shall include, but shall not be limited to laboratory costs, transcripts, defense witness fees, and extraordinary investigator fees. Attorney will bear all other expenses in providing the services contemplated herein, including but not limited to, transportation, office, telephone, postage, copying, and secretarial costs. While ensuring that Attorney's client receives an adequate and reasonable defense, Attorney hereby agrees to use his/her best efforts to minimize the cost and expenses to be deducted from the fund.
29. Before any of the expense funds are expended, Attorney shall first consult with the Coordinating Attorney and then shall make application for approval of expenses in the form of a written motion to the trial judge and shall specify the reasons for the expense. Payment for any expense incurred by the Attorney and not previously approved by the Court, or in excess of that approved by the Court, shall be the sole responsibility of the Attorney. In the event the total court approved expenses exhaust the expense fund for the year, the Attorney shall apply in writing to the Weber County Clerk/Auditor for approval of additional funds.
30. Attorney or County may terminate this Agreement without cause upon sixty days written notice to the other Party.
31. This Agreement may be terminated at any time for cause. Cause shall include but not be limited to a suspension or revocation of Attorney's license to practice law in the State of Utah, a breach of this Agreement, or behavior which brings disrepute to other contract attorneys or to County.
32. In the case of a breach or violation of a term of this Agreement, Attorney shall be given seven calendar days to cure the breach or violation. Failure of the Attorney to cure the breach or violation within the specified period shall result in termination of this Agreement. In the event this Agreement is terminated, the Parties agree that County may award this contract to other legal counsel and deduct the costs from the compensation identified in this Agreement.

33. Any notice required by this agreement shall be given in writing addressed to the following unless otherwise designated in writing.

FOR THE COUNTY:

Weber County Attorney
2380 Washington Blvd., Suite 230
Ogden, UT 84401

FOR THE ATTORNEY:

BUSHELL & WIDDISON, PLLC
470 24TH STREET, SUITE 202
OGDEN, UT 84401

34. In the event this Agreement is terminated or is not renewed, Attorney agrees to cooperate with his successor including the filing of all necessary pleadings for withdrawal and to deliver all applicable files, information, and materials to the successor.
35. In the event that Attorney files a Notice of Appeal to the Utah Court of Appeals and/or the Utah Supreme Court, Attorney shall immediately, but not later than ten (10) days thereafter, contact Appellant Counsel designated by County to transition and turn over all relevant records within Attorney's possession or control as necessary in the interests of justice and as requested by Appellate Counsel.
36. This Agreement can be changed, modified, or amended only by written agreement of the Parties.
37. Attorney is an independent contractor and is responsible to pay any and all taxes and fees which may result from the compensation paid to Attorney pursuant to this Agreement.
38. This Agreement shall constitute the entire agreement between the Parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either Party except to the extent incorporated in this Agreement.
39. This Agreement shall be governed by the laws of the State of Utah.

IN WITNESS WHEREOF the undersigned have affixed their respective signatures hereto the dates indicated below.

BOARD OF COUNTY COMMISSIONERS
OF WEBER COUNTY

By Jim Harvey

James H. "Jim" Harvey, Chair

Date Feb 20, 2018

Commissioner Harvey voted

✓

Commissioner Gibson voted

✓

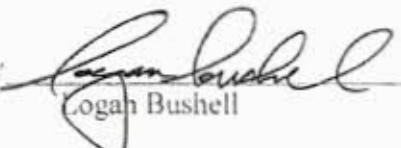
Commissioner Ebert voted

✓

ATTEST:


Ricky Hatch, CPA
Weber County

ATTORNEY

By 
Logan Bushell

Date 2-9-18

INDIGENT DEFENSE COORDINATOR


Michael D. Bouwhuis

Date 2/12/18