

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

Tuesday, March 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, Kerry W. Gibson and Jim Harvey.

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** – Ricky Hatch
- C. **PLEDGE OF ALLEGIANCE** – Stacy Skeen
- D. **THOUGHT OF THE DAY** – Chair Ebert

E. PRESENTATIONS:

1. PRESENTATION OF MOTHERS OF THE YEAR

Commissioner Gibson said that after spending time with these women there is a feeling of greatness and he highlighted some of their notable attributes. Cindy Allen was recognized as the 2017 Weber County Mother of the Year, Annette Spendlove as North Ogden Mother of the Year and Deanna Porter as Ogden City Mother of the Year. Ms. Porter championed motherhood, Ms. Spendlove said that the greatest thing she has done is being a mother and Ms. Allen spoke of service projects that her family does, including pulling dyers woad. The mothers were each presented with the book, "The Art of Motherhood."

2. PRESENTATION OF SEAL OF SERVICE AWARD TO ALISON COREY

Rick Grover, County Planning Director, stated that Ms. Corey, of County GIS, is amazing and is a team player who helps other departments. She reached out to the Planning Division and has done many great things resulting in saving staff time, tax dollars and developers money. Ms. Corey said that she is happy to work with GIS, an innovative group. The commissioners expressed thanks for her professionalism and positive attitude and presented her with a plaque, a Seal of Service pin, and \$100 for her exemplary work.

3. PRESENTATION OF 2016 STORM WATER PROJECT OF THE YEAR AWARD (FROM APWA) FOR THE EMERGENCY WATERSHED LITTLE WEBER CUTOFF CHANNEL PROJECT

Jared Andersen, County Engineer, referred to the Little Weber Overflow Channel in western Weber County. For 120+ years when high flooding has occurred in the area, the banks have overflowed creating many issues. After the last flood (2011), this large project received \$20+ million from the State to help with mitigation, and many entities and county staff worked on it. He recognized two important individuals on this project—Craig Bagley with Bowen Collins & Associates and Michael Nebeker with Whitaker Construction. This is the fourth award received for this channel. Commissioner Gibson gave credit to Mr. Andersen, Lance Peterson, with County Emergency Management, the commissioners, and a large list of partners. He spoke of the importance of this critical infrastructure to our economic vitality and the commissioners expressed appreciation to these teams and their tremendous work.

F. CONSENT ITEMS:

- 1. Warrants #1025-1027 and #414890-415064 in the amount of \$1,511,161.40
- 2. Purchase orders in the amount of \$85,819.43
- 3. Minutes for the meeting held on March 7, 2017
- 4. Set the second public hearing date for March 28, 2017 to allow citizens to provide input concerning the projects that were awarded under the 2017 Community Development Block Grant program (CDBG)
- 5. Approval of Reconciliation Change Order for Wardell Brothers on the Skyline Drive project
- 6. Contract with Michael Bouwhuis for the payment of capital defense services on the Lovell case

Commissioner Gibson moved to approve the consent items; Commissioner Harvey seconded.

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

G. ACTION ITEMS:

1. TWO RIGHT-OF-WAY CONTRACTS FOR THE WIDENING OF 12TH STREET

LAYNE/LAURA MCFARLAND PARCELS 51, 52, 54, 56; LAYNE/LAURA MCFARLAND PARCELS 53, 55, 57

Jared Andersen, County Engineer, briefly presented these two contracts.

Commissioner Gibson moved to approve the two right-of-way contracts for the widening of 12th Street with the McFarlands as listed above; Commissioner Harvey seconded.

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

2. RESOLUTION APPOINTING MEMBER TO BEN LOMOND CEMETERY DISTRICT – RESOLUTION 10-2017

Stacy Skeen, of the Commission Office, stated that the statutory noticing process was followed for the two vacancies. Two applications were received.

Commissioner Harvey moved to adopt Resolution 10-2017 appointing Kevin Bailey and Leonard Call to the Ben Lomond Cemetery District through 12/31/2020; Commissioner Gibson seconded.

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

3. RESOLUTION APPOINTING A MEMBER TO WEST WEBER/TAYLOR CEMETERY DISTRICT – RESOLUTION 11-2017

Stacy Skeen, of the Commission Office, stated that the statutory noticing process was followed for the vacancy.

Commissioner Gibson moved to adopt Resolution 11-2017 appointing Michael Atkinson to the West Weber/Taylor Cemetery District through 12/31/2020; Commissioner Harvey seconded.

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

4. SECOND AMENDMENT OF C&D LANDFILL MANAGEMENT AGREEMENT - MOULDING INVESTMENTS

Randy Moulding and Scott Moulding were present. Kevin McLeod, with County Operations, presented the contract amendment with Moulding, which is willing to install two large truck scales at the Landfill as contemplated in the underlying management agreement. In consideration of Moulding's investment in the scales, the county is willing to extend this agreement for an additional five years. Mr. McLeod stated that the scales will equalize costs for all customers. He addressed Chair Ebert's question stating that after the five years the county will not be responsible for any additional payoff.

Commissioner Gibson moved to approve the Second Amendment of the C&D Landfill Management Agreement; Commissioner Harvey seconded.

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

5. RESOLUTION CALLING FOR SPECIAL ELECTION REGARDING A PETITION TO CREATE A SERVICE AREA FOR PARKS & RECREATION SERVICES IN THE TAYLOR, WARREN & WEST WEBER AREAS OF UNINCORPORATED COUNTY – RESOLUTION 12-2017

Commissioner Gibson stated that a few years ago three individuals approached him, as their elected representative, indicating that West Weber School was being torn down, that the park around the school would not be reconstructed, that there was no other park in their neighborhood and asking how they could have parks and recreation for the children in their community. They asked the Commission recently to provide a park for them and a public hearing was held on 11/29/2016. The Commission declined because this is not a service that the county generally provides. This group has had various meetings, etc., and is now pursuing creating their own park district. It has collected over 500 signatures.

Brent Fowers, of West Weber, said that as a committee, they have been concerned about the lack of public parks in their area. They started a petition to find out the people's wishes, and he said that most in their area were positive with moving forward to vote on this issue.

Commissioner Gibson moved to adopt Resolution 12-2017 calling for a special election regarding a petition to create a service area for parks and recreation services in the Taylor, Warren, and West Weber areas of unincorporated Weber County; Commissioner Harvey seconded.

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

6. FIRST READING OF AN ORDINANCE AMENDING THE ORDINANCE ENACTING THE IMPOSITION AND COLLECTION OF TOURISM, RECREATION, CULTURAL, CONVENTION AND AIRPORT FACILITIES TAXES

David Wilson, Deputy County Attorney, stated that this amendment is to add airport facilities and operation and maintenance of the airport facilities for funding from the TRCC tax.

Commissioner Gibson moved to approve the first reading of an ordinance amending the ordinance enacting the imposition and collection of tourism, recreation, cultural, convention and airport facilities taxes; Commissioner Harvey seconded.

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

7. FIRST READING OF AN ORDINANCE ESTABLISHING FINANCIAL ADMINISTRATION PRACTICES

Scott Parke, County Comptroller, stated that this ordinance delegates the authority from the Commission to the Clerk/Auditor to act as the financial officer to approve routine expenditures once the internal control processes have occurred. In moving to electronic payments, this process is more efficient. Any single expenditure over \$1 million still has to go before the Commission.

Commissioner Harvey moved to approve the first reading of an ordinance establishing financial administration practices; Commissioner Gibson seconded.

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

8. REVISED “CHANGING ADOPTED BUDGET” POLICY 6.1

Scott Parke, County Comptroller, stated that this policy allows for better efficiency; the current process is very cumbersome.

Commissioner Gibson moved to approve the revised “changing adopted budget” Policy 6.1; Commissioner Harvey seconded.

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

9. NEW “CONTRACT” POLICY 4.2

Scott Parke, County Comptroller, noted that currently there is no policy governing contracts. This policy defines the process and clarifies who is responsible for what portion in the contract process.

Commissioner Gibson moved to approve the new contract Policy 4.2; Commissioner Harvey seconded.

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

G. PUBLIC COMMENTS: None

H. ADJOURN

Commissioner Gibson moved to adjourn at 11:20 a.m.; Commissioner Harvey seconded.

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

Attest:

James Ebert, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor

3-14-2017

AGREEMENT REGARDING PAYMENT FOR CAPITAL DEFENSE SERVICES ON DOUGLAS LOVELL CASE

This Agreement is made and entered into this 14th day of March, 2017, by and between Weber County ("County"), a political subdivision of the State of Utah, and Michael D. Bouwhuis ("Bouwhuis"). The County and Bouwhuis are sometimes referred to collectively as "Parties."

RECITALS

WHEREAS, Douglas Lovell ("Defendant"), was charged with the commission of the criminal offense of Aggravated Murder, a capital offense, in violation of Utah Code Ann. § 76-5-202, and other felonies in Criminal Case number 921900407 in the Second Judicial District Court in and for Weber County, Utah; and

WHEREAS, Bouwhuis and Sean Young ("Young") entered into an agreement with the County ("Defense Agreement") to provide legal defense services to Defendant in the above-named case; Bouwhuis agreed to act as lead counsel and Young agreed to act as co-counsel; and

WHEREAS, the Defense Agreement provided for a cap of \$100,000 to be paid to Bouwhuis and Young jointly if the death penalty was sought in Defendant's case, and the Parties agreed that the \$100,000 cap was reasonable and adequate; and

WHEREAS, the Defense Agreement provided that the \$100,000 cap could only be exceeded upon prior written approval of the County if Bouwhuis and Young could demonstrate that the cap was unreasonably inadequate because of exceptional circumstances; and

WHEREAS, Bouwhuis and Young have submitted invoices exceeding the \$100,000 cap; and

WHEREAS, Bouwhuis met with the County to discuss additional compensation under the Defense Agreement, and the Parties agreed to additional compensation pursuant to the terms included herein;

NOW THEREFORE, based upon the mutual promises and other good and satisfactory consideration, the Parties agree as follows:

**SECTION ONE
PURPOSE OF AGREEMENT**

- 1.1 The purpose of this Agreement is for the County to resolve any and all outstanding obligations it has to Bouwhuis and Young for legal defense services provided under the Defense Agreement.

**SECTION TWO
COMPENSATION**

- 2.1 County agrees to pay an additional \$21,672.50 as compensation under the Defense Agreement for the legal defense services provided to Defendant by Bouwhuis.

2.2 County's obligation to Bouwhuis under the Defense Agreement shall be fulfilled upon payment of the \$21,672.50.

**SECTION THREE
MISCELLANEOUS**

3.1 **Authorization.** The individuals signing this Agreement on behalf of the Parties confirm that they are the duly authorized representatives of the Parties and are lawfully enabled to sign this Agreement on behalf of the Parties.

4.2 **Captions and Headings.** The captions and headings herein are for convenience of reference only and in no way define, limit or describe the scope or intent of any sections or provisions of this Agreement.

4.3 **Entire Agreement.** This Agreement contains the entire agreement between the Parties, and no statement, promises or inducements made by the Parties or agents for the Parties that are not contained in this written Agreement shall be binding or valid and this Agreement may not be enlarged, modified or altered, except in writing, signed by the Parties.

4.4 **Governing Laws.** It is understood and agreed by the Parties, that this Agreement shall be governed by the laws of the State of Utah.

IN WITNESS WHEREOF, the Parties execute this agreement on the date written above.

Weber County Commission

By  _____, Chair

Date 3/14/2017

Commissioner Harvey voted _____

Commissioner Ebert voted _____

Commissioner Gibson voted _____

ATTEST:



Weber County Clerk/Auditor

By  _____

Michael D. Bouwhuis
Date 12/30/16