

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

Tuesday, March 26, 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 Matt G Bell.

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

A. WELCOME – Chair Gibson

B. PLEDGE OF ALLEGIANCE – Dave Hardman

C. THOUGHT OF THE DAY - Commissioner Zogmaister

D. CONSENT ITEMS:

1. Purchase Orders for \$94,727.47
2. Warrants #296047 - #296383 for \$1,938,712.97
3. Minutes for the meeting held on March 19, 2013
4. ACH payment to US Bank for \$72,831.34 for purchasing card transactions ending March 15, 2013
5. Surplus vehicles from Weber County Fleet Management
6. Set public hearing for April 9, 2013, 10 a.m., regarding Conditional Use Permit (CUP) 2013-03 (Summit at Powder Mountain Phase 1) consisting of a 154 unit Planned Residential Unit Development (P.R.U.D.) at Powder Mountain

Commissioner Bell moved to approve the consent items, less the 3/19/13 minutes; Commissioner Zogmaister seconded, all voting aye.

G. PUBLIC COMMENTS:

Sondra Jolovich-Motes, Dee Elementary School Principal, supports building a state-of-the-art library for her students to access. They have significantly increased their reading and math scores and are top in the State but lack access to technology in their homes.

Avan Thayne, James Madison Elementary School Librarian, gives presentations to other librarians in the State and her neighborhood public library is invaluable in her life. She strongly encourages the Commission to make the Library System as good as it can be.

Kathy Gambles, South Ogden resident, uses the Pleasant Valley Branch and the Main Library and supports the strength that Weber County has provided through the Library System. She would like every person in the county to have access to something that meets their various needs.

Marcia Harris, Chairwoman of the Development Board of the Weber County Library, stated that this is a very large bond amount but it affects every person in the county, which is not true of many other bonds. She asked that the Commission not short-change it in dollars because this has not proven wise in the past.

Susie Van Hooser, Ogden City Councilwoman & library media specialist, read a letter from the Ogden City Council in support of the bond election for the Main Library, which is in much need of repair.

Bob Swatski, Ogden resident, referred to the email he sent the commissioners regarding the Powder Mountain P.R.U.D. and asked if the bond is to build the road, the well, or what combination of things. Chair Gibson said that those details would be addressed when they got to that item on the agenda.

Stephanie Moore, of Ogden, is a library patron. She said the Library has been waiting three years and there is a plan to solve the problems. She feels that the issue is timing, that it is very important that it goes on the ballot in June by mail—this is particularly helpful for those who can't get out and vote.

Dwane Van Hooser, of Ogden, said that the issue is to allow the citizens the opportunity to decide their own fate about the Library, not the elected officials.

Lowell Peterson, member of the Board of Directors of Wolf Creek Irrigation Company, expressed concerns regarding Powder Mountain and their proposed plans stating that there are three considerations regarding water usage—water right, storage, and source. He said that unless one has a source of water there is no water. Wolf Creek Irrigation Company has the right (from 1861) for the water that flows down Wolf Creek. If Powder Mountain drills a well at Powder Mountain, there is a strong possibility it will reduce the flow in Wolf Creek. He wished to point out that all of the wells that the Irrigation Company has access to in the Ogden Valley floor are artesian wells, which means there is pressure from above and if they drill high at Powder Mountain it might affect the flow of Wolf Creek. Their right is for 9 second-feet in regular flow and 20 cubic feet per second at high water, and he said that the State's position is that if they get less than 9 second-feet they can protest it. In late July-August they get 2-3 second-feet of water in Wolf Creek and if anything happens to diminish that flow, they will take action to protect their water right. He wanted to make the Commission aware as they analyze the possibility of obligating the county to support bonds for Powder Mountain until they know that they have a water source that will not be cut off because of impacts on water use down below.

John Bingham, of Eden, expressed concerns with water availability for the development at Powder Mountain. He said he is a water rights holder from a well on the Ogden Valley floor who has about 53 acre feet of water and the development should be very carefully looked at and proven before it goes forward. He expressed concern about the plans for the use of the bond money that the Commission has the opportunity to approve today. The plans are to utilize the existing quasi public facilities of the Powder Mountain Water and Sewer and that facility does not have the capacity to treat the additional sewage that would be generated. If the Commission is going to back the infrastructure improvements by allowing a bond to go forward they should insure that the facilities have adequate capacity and expertise. He does not believe there are any plans for sewage treatment improvement with that bond, that Powder Mountain is simply going to run the pipes into an existing sewage facility, which is inadequate even for what it is currently treating.

Janet Shipton, senior citizen who uses three libraries, supports this plan and the Library bond issue, which is to be issued over a 5-year period. She wished to speak for the unemployed who use the libraries for help with job skills, etc.

Sean Wynn, county citizen, said that the State has had the reputation of not caring about the education of its citizens but renovating the Library is an important step forward.

Ellen Lovato, said that her daughter works in the Roy Library and absolutely loves her job and through her daughter she has learned about all the wonderful free programs it offers. She completely supports libraries.

Mark Whalen, West Weber resident, noted that he had just become aware of the bond issue for the Library and has not been able to find enough information to make a decision. He supports libraries but suggested that the bond be put off for a short period of time until the public can become more informed.

Evelyn Bertilson, representing Friends of the Library, said that they would conduct an education campaign to put forth all of the research that has been done, the needs and the programming, and they are just asking that the issue be placed on the June ballot and let the citizens make their choices.

Donna Corby, with the Ogden School District, encouraged the Commission to put the Library issue for election. It worked well for the District and now they have beautiful schools. The libraries supported them while they were heavily under construction and their students studied at the Library.

Janelle Bartlett, a young mother, stated that they attend story time at the Library; the rooms are too small for the number of people that attend and the children's area is also too small.

Gealdine Christiansen, Ogden resident, encouraged the Commission to support the Library bond. Her favorite thing is to read with the children for "America Reads" at the Main Library.

Carlos Camacho, Ogden resident, said that his mother took citizenship classes at the Library and is now a proud citizen. He supports upgrading the Main Library.

E. ACTION ITEMS:

1. DISCUSSION AND/OR ACTION ON A PROPOSED WEBER COUNTY LIBRARY DEVELOPMENT, CONSTRUCTION AND FINANCING PLAN INCLUDING A GENERAL OBLIGATION BOND ELECTION

Chair Gibson noted that a presentation was heard last week on this item.

Commissioner Bell outlined his questions/concerns which included that if the Library bond did not get approved, the Main Library will still need work, the amount of the Library bond is too high, the cost estimate is to build to the gold standard, the Ogden School District has a bond for pools on the same ballot, he heard that someone came up with figures on the libraries which were half of the cost being discussed, and he asked where the figures and sizes of the libraries had come from, whether fundraising was considered, and about asbestos removal for the Main Library.

Lynnda Wangsgard, County Library Director, responded to Commissioner Bell's questions. If the bond does not get approved, an RFP (request for proposals) will be issued for the Main Library and a new plan developed. She noted, however, that the proposed plan is intricately linked to how the pieces fit together to be cost effective. The conceptual phase plan is at a Leadership in Energy and Environmental Design (LEED) gold standard. The Library has the support of a 501(c)(3) organization chartered to raise money for enhancements for facilities, not for bricks and mortar. She said that a very rough cost estimate was provided yesterday by a private developer, but the issue with any estimate that comes from outside without having plans of the building, without having engineers do tests or a feasibility study, without knowing the program and the kind of spaces that are needed, is that it does not have credibility and is an incomplete approach to cost estimating.

Ms. Wangsgard noted that an RFP was issued a year ago for architects and engineers to advise the county on the best way to proceed with the issues of the Main Library and to estimate costs. After a 6-month study, the engineers and architects provided an estimate, which was then vetted by issuing another RFP, interviewing 10-12 architects and their engineering teams, two of which were hired to, among other charges, verify and detail costs for the entire project. Subsequently a premier construction also company gave an estimate for all four projects, where they drilled down to unit costs. There are still some unknowns until they get into a deeper planning phase, and it depends on how they stage renovation of the Main Library. There is a bid for asbestos removal if the building is done in two stages. She said that they feel very confident with that estimate. If these buildings are constructed in a sustainable manner, there will be a cost savings over the 30-50 year life of the buildings. Commissioner Bell expressed difficulty in classifying the Main Library as a historical building and wondered if it might be better to build a new structure that fits into the area to do away with the basement because of the high water table. Ms. Wangsgard said that the professionals know how to repair leaks in that type of environment. Jay Lems, with Prescott Muir Architects, noted that to build a new building would cost \$8-\$10 million more than renovating the Main Library as it sits.

Commissioner Bell had not understood that the plan is for a complete remodel of the North Branch and Ms. Wangsgard stated that it was constructed in 1983, prior to the Internet, making provision of modern library services difficult. The building needs to be restructured and forward-facing—the boxy meeting-room walls upstairs need to be removed and the meeting rooms need to be moved downstairs. It has very

uneconomical heating/cooling systems, it needs seismic bracing, insulation, double pane windows, etc., which can be timely done during this renovation. Commissioner Bell said that it seemed like a lot of money for a remodel, and that in speaking with some North Ogden residents they don't know there is anything wrong with their building and just want their basement finished.

Commissioner Bell asked how the architects were guided to come up with the square footage on the plans and Ms. Wangsgard said it was a 3-year process—they looked at population projections, where libraries would be located in the county and the types of populations they would serve, and the Pleasant Valley Branch was used as a benchmark. RFPs were issued and teams of experts in library building selected from the Intermountain area weighed in to help establish square foot size. They looked at the lower end of recommended square foot size for public libraries, and at the renovated buildings 20 years out, they will be built below the lowest end of the recommended standard. They tried to be realistic but not to make the mistakes that were made at Roy with too small of a building and with not finishing the North Ogden building.

David Wilson, Deputy County Attorney, noted that a lot of work goes into the preparation for the final bond documents for a formal parameters resolution and the drop dead date is next Tuesday. Dan Olsen, County Comptroller, said that the bonds would not be issued until the bids are received back from the contractors and only the amount needed to build the buildings would be issued. All that can be done to minimize a tax increase has been done but there is no way around it. The bonds would be issued in 2-3 phases and the increase would be gradual. Chair Gibson noted that the Commission has a responsibility to balance all the needs of Weber County, which is a sacred trust. He reiterated the Commission's concern with a June election because they want a high voter turnout. Jennifer Morrell, County Elections Director, stated that the effective date for S.B. 34, Special Election Date for Ballot Proposition (passed in 2013 requiring future bond elections to be in November), is July 1. This year elections can be held in June or November.

Ricky Hatch, County Clerk/Auditor, stated that there is not much data on voter turnout for all by-mail elections and he presented what his office has garnered. They calculated voter turnout averages for the past four years, broken down for the county by general and municipal elections—the Primary (June) turnout for a State/Federal election year has been 14% and for a General Election (November) has been 59%; for municipal years (2009, 2011) the Primary turnout was 15% and 22% for the General election. In 2010 the county State/Federal Primary had only 1 race and had low turnout. Weber County has not had a stand-alone special election in recent memory. In 2005 Spokane, WA, had a traditional special election and the turnout was 39% and the following year they had a by-mail special election and the turnout was 51%, a 12% point increase in 1-year, which Mr. Hatch said seems consistent as they've seen approximately 10-20% point increase by moving to by-mail format. He noted that some precincts in the county are small enough that they are all by-mail precincts but those numbers are very small (142 voters in 5 precincts). Ms. Morrell stated that of the 159 county precincts only 45 would have both the Ogden School District's local levee and the Library general obligation bond. She said that they look at the voter averages for the overall county but some areas—Roy, West Haven, Hooper, and North Ogden—have a voter turnout closer to 40% even in an off-year.

Commissioner Zogmaister is in favor of a June election because with such an issue there will be a lot of publicity, energy, information flowing, etc., and the school issue on the ballot generally brings out a lot of voters. She reiterated that the county is trying to be efficient and noted that the Main Library building is in need right now. She expressed concerns about jumping in with by-mail voting only because it has never been done, but said it may be the best way to move forward (and at this point there was applause from the audience). She added that the ballot can spell out for voters the property tax cost of bonds so that they know what they are voting for and what the increase will be—about \$17/average homeowner. Chair Gibson said that he could not support a June election without some hope/expectation of more than a 10% voter turnout. Ms. Morrell noted that the cost she presented last week included 6 vote centers throughout the county and stated that everyone would still receive a ballot. The commissioners expressed consensus in proceeding with a June by-mail election.

Chair Gibson acknowledges the needs of the Library System but said this would be doubling the county's indebtedness. Commissioner Bell noted that the Pleasant Valley Branch was built for about \$9 million at the Gold standard, when construction costs were very high and the county's annual payment is \$500,000. He expressed concern with trying to do too much under this plan, with the county's debt, and that there may be additional financial burdens in the future for the taxpayers.

Commissioner Bell feels that 90,000 sq. ft. for the new Roy branch is excessive. Commissioner Zogmaister noted that 20,000 sq. ft. of that is for administration. Commissioner Bell reiterated that \$50 million is too high for the bond, and it doubles the county's debt. He asked if adjustments can be made. Commissioner Zogmaister did not believe they could build for less than \$40 million. Commissioner Bell suggested doing something similar to the Health Department building where one floor is ready but is not finished. Commissioner Zogmaister noted that there are many issues to look at such as what the impact would be, what bonds would be retiring in 3-4 years, and noted that if the bond is approved, it would be issued as needed and incurring the total debt over a period of five years.

Commissioner Bell moved for a \$40 million General Obligation bond election in June, by-mail, with 6 polling locations; Commissioner Zogmaister seconded for discussion. Commissioner Zogmaister stated that the county would not be the only entity on that ballot and asked if the School District is in agreement with the by-mail election. Ms. Morrell had discussed this option with Ogden School District's Business Administrator informing him that it was an option but she said the District is not aware what the cost will be and it needs to be negotiated. The District is prepared to pay the estimate she gave them to do their own election, which was about \$35,000. Commissioner Zogmaister noted that the Library would have to determine if they can accomplish their plan for \$40 million. Chair Gibson said he was more comfortable with \$40 million rather than \$50 million and would be agreeable to make this motion without a bond amount. Commissioner Bell did not want to come short on the amount and withdrew his motion to have one more week for review and Commissioner Zogmaister also withdrew her second. Commissioner Bell moved to hold a General Obligation Bond election in June, by-mail, with 6 polling locations and for the amount to be determined next Tuesday; Commissioner Zogmaister seconded, all voting aye.

2. REQUEST FOR A SECOND READING OF AN ORDINANCE TO INCREASE THE SHERIFF'S OFFICE FEES

This item was held.

3. CONTRACT WITH SWANSON TACTICAL TRAINING CENTER FOR THE USE OF THE GUN RANGE AND FACILITIES – CONTRACT C2013-60

Reed Richards, Deputy County Attorney, presented this contract renewal for one year with a couple of changes including a \$1,000 increase. It includes an opt-out clause.

Commissioner Zogmaister moved to approve Contract C2013-60 with Swanson Tactical Training Center for the use of the gun range and facilities by the Sheriff's Office; Commissioner Bell seconded, all voting aye.

4. REQUEST FOR DISCUSSION/ACTION ON WEBER PATHWAYS REQUEST FOR USE OF IMPACT FEES

This item was held.

5. CONTRACT WITH JANN KING TO HOLD DOUBLE D'S HIGH SCHOOL RODEO AT THE GOLDEN SPIKE EVENT CENTER (GSEC) ON APRIL 6, 2013 – CONTRACT C2013-61

6. CONTRACT WITH MINDY MAUGHN TO HOLD THE SPIKER'S HIGH SCHOOL RODEO AT THE GOLDEN SPIKE EVENT CENTER ON APRIL 4-5, 2013 – CONTRACT C2013-62

Jim Harvey, of the GSEC, presented items F.5 and F.6. above.

Commissioner Bell moved to approve Contracts C2013-61 with Jann King to hold Double D's High School Rodeo and C2013-62 with Mindy Maughn to hold the Spiker's High School Rodeo at the Golden Spike Event Center as noted; Commissioner Zogmaister seconded, all voting aye.

7. CONTRACT WITH FREE AND ASSOCIATES TO PROVIDE AN APPRAISAL OF THE PROPOSED POWDER MOUNTAIN DEVELOPMENT FOR PURPOSES OF CREATING A SPECIAL ASSESSMENT AREA - PROVIDES A REVISED FEE SCHEDULE AND REPLACES AGREEMENT #C2013-23. FUNDS TO PAY FOR THE APPRAISAL WILL COME FROM SUMMIT MOUNTAIN HOLDING GROUP – CONTRACT C2013-63

Dan Olsen, County Comptroller, stated that this relates to the following item on the agenda. Part of the Special Assessment requires an appraisal. In January a contract was signed with Free and Associates for \$13,150 to complete that appraisal. They have since done more work and given a revised cost estimate of \$34,450. Commissioner Zogmaister noted that the money came from the developer for these appraisals. Commissioner Bell said that suddenly they are charging a \$10,000 rush fee, although not to the county, but it was not the developer or the county's fault. To protect the county in similar cases in the future, he recommends that the County Assessor advise the county.

Commissioner Bell moved to approve Contract C2013-63 with Free and Associates to provide an appraisal of the proposed Powder Mountain Development for purposes of creating a special assessment area - provides a revised fee schedule and replaces agreement #C2013-23; Commissioner Zogmaister seconded, all voting aye.

8. MEMORANDUM OF UNDERSTANDING (MOU) WITH SUMMIT MOUNTAIN HOLDING GROUP, L.L.C. RELATING TO THE CREATION OF A SPECIAL ASSESSMENT DISTRICT FOR THE PURPOSE OF MAKING CERTAIN PUBLIC IMPROVEMENTS – CONTRACT C2013-64

Douglas Larsen, Weber Economic Development Director, stated that Summit Mountain Holding Group is purchasing Powder Mountain. The agreement defines a financing structure for certain public assets—roads, water and sewer—and is subject to a number of qualifiers. The county will issue bonds and the bond funds will pay for construction of public roads and expansion of publicly owned water and sewer infrastructure necessary to move this development forward.

The obligation to cover annual debt service will be the responsibility of the property owners within a defined Special Assessment Area; in the beginning of the project it will be the Summit Mountain Holding Group. The county will be issuing self-supporting bonds, essentially giving permission to the present developer to assess its own property to fund the public improvements. Mr. Larsen noted that it obligates the county to risk by taking this measure if the project failed entirely, if the county exhausted all layers of cash reserves, foreclosed on all the respective property within the Special Assessment Area, and is left with a portion of the remaining debt. Depending on that amount, the county would then delineate a decision to fund debt service from the General Fund or levy a tax to facilitate the debt service. He believes the risk is remote. The agreement has been structured to minimize that risk. At issuance of the bonds, there will be in escrow an amount equal to two years of annual debt service—one funded by the developer, the second from bond proceeds—and the third reserve by the developer depositing a fee with each request for building permits associated with Phase I of the development. Additionally, the agreement, while not strictly defined in this agreement, provides the opportunity to create a community development project area plan that allows for a portion of the new property tax generated by the development as a fourth layer of debt service reserve.

Greg Morrow, Managing Partner of Summit Mountain Holding Group, stated that the first lien is an additional layer, which is over the entire property and the operating resort of the mountain. He explained that if the developers were not paying on the assessment bond, they would lose the entire project to the lender who would pay the assessment bond, and if the first lien elected to be wiped out and not pay the assessment bond, there would be the opportunity for someone to pick up not only the assessment area, but the entire real estate area and the largest ski resort in the U.S. by stepping into the developers' position, making the remaining outstanding payment and bringing it current for \$1.4 annual payment. Mr. Morrow and Dan Olsen, County Comptroller, addressed Commissioner Bell's question regarding the developer encountering financial problems by stating that the county could foreclose on the entire amount by selling to a willing buyer who would have to buy the lots that had not been making the assessment payments.

Mr. Morrow stated that often in a skiing community the primary developer does not own the ski mountain but in this case, they would owe the ski mountain, an estimated \$6 million operating business, which they can tap to make the bond payments in a real estate freeze scenario. They have another non-correlated business, the Summit Series Event Business, two signature events that per year generated revenues larger than Powder Mountain in 2011 and made enough profit that would make the infrastructure bond payment.

Russ Watts, Development Director for Summit, stated that the bond is for improvements at Powder Mountain—a well, a 400,000 gallon tank, sewer system, roads/asphalt. Currently, there is a county easement that goes to the top of Hidden Lake that starts mid mountain with a gravel parking lot. Summit's plan is to pave that road and dedicate it to the county up to Hidden Lake. The road will continue as a dedicated county road to Summit's first phase (containing 137 units). No money has been put in for infrastructure in 50 years at Powder Mountain and the water system does not have adequate capacity for fire protection. The sewer and water systems will be dedicated to Powder Mountain Water and Sewer Company. Commissioner Bell asked if the water is already being taken out of the ground and Mr. Watts said that is correct and that Powder Mountain Water and Sewer Company has two storage areas (about 60,000 gallons) at the top providing water to residents and they are adding a 400,000 gallon storage tank to eventually tie in to Powder Mountain Water and Sewer Company's system. Summit is drilling a new well and is not using their water. Summit owns 1,400 acre ft. of water for Powder Mountain's 10,000 acres; they have 15 drill sites and are selecting one and providing a whole new water source. Mr. Watts said that County Engineering has a letter of approval from the State for the well's location and size and testing will be done in the next 3 weeks. He emphasized that this is being supervised by the State. Commissioner Zogmaister indicated that the issue is covered well in the MOU.

David Wilson, Deputy County Attorney, stated that the county will issue contracts for the building and all the improvements with the intent to keep the roads in the end and transfer the water and sewer to Powder Mountain Water and Sewer Company, however, this may not be that simple and the county may need to retain ownership and enter into an Interlocal Agreement with Powder Mountain Water and Sewer Company. Additionally, if an Interlocal Agreement is not worked out with Cache County regarding the service of the portion of the Project outside of Weber County boundaries, Summit will be dealing with Cache County but this is not critical to move forward with the Special Assessment District because it will be included in their subdivision process. Commissioner Zogmaister stated that there have been many meetings and the county has requested a lot of information because the county wants assurances. The information has been provided and she feels comfortable with the MOU stating that it is contingent upon certain issues. Commissioner Bell echoed that he feels comfortable with moving forward.

Mr. Larsen noted that the bond amount is just over \$20,000 million, that a portion will cover one year of annual debt service, and the remaining will cover construction of public infrastructure for over \$18 million. The annual debt service is close to \$1.6 million. Once the decision is made to issue bonds, the project cost will be defined. Chair Gibson stated that most cities/counties spend money trying to attract economic development in the communities and this is such an opportunity. He also feels comfortable that the county's interests are protected using the tools that are available.

Commissioner Zogmaister moved to approve Contract C2013-64, Memorandum of Understanding with Summit Mountain Holding Group, L.L.C., relating to the creation of a Special Assessment District to make certain public improvements; Commissioner Bell seconded, all voting aye.

F. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, APRIL 2, 2013, 10 A.M.

H. ADJOURN

Commissioner Bell moved to adjourn at 12:44 p.m.; Commissioner Zogmaister seconded, all voting aye.

Attest:

Kerry W. Gibson, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor