

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

Tuesday, April 1, 2014 - 10:00 a.m.

Commission Chambers, 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: Kerry W. Gibson, Chair, Jan M. Zogmaister and Matthew G Bell.

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

A. WELCOME – Chair Gibson

B. PLEDGE OF ALLEGIANCE – Fátima Ferneli

C. THOUGHT OF THE DAY – Commissioner Zogmaister

D. CONSENT ITEMS:

1. Purchase Orders for \$2,223,043.81
2. Warrants #307715 - #308047 for \$2,332,073.95
3. Minutes for the meeting held on March 25, 2014
4. New business licenses
5. Request for Assurances relating to real property acquisition for the debris removal and bank protection sites for the Weber County Emergency Watershed Protection project
6. Set public hearing for April 22, 2014, 10 a.m., to consider amending Weber County Land Use Code, Title 104 (Zones); Chapter 5 Agricultural-1); Section 7 (Site Development Standards) by reducing the minimum separation (setback) standard in between a main building & an accessory structure

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

E. ACTION ITEMS:

1. APPROVAL OF THE WEBER COUNTY 2014 POLLING LOCATIONS

Jennifer Morrell, County Elections Director, noted that Elections had provided the commissioners with a list of 40 polling locations. Elections is proposing to have a Saturday early voting at the Weber Center and the Ogden Valley Library Branch, and this will depend on building security, etc. Commissioner Zogmaister asked about noticing the citizens and Ms. Morrell responded that they are working to improve the website, are sending information to the cities to mail to residents, working with the State to have Weber County-specific information on their web page, etc.

Commissioner Zogmaister moved to approve Weber County 2014 polling locations; Commissioner Bell seconded, all voting aye.

2. ADDENDUM TO THE LEXIPOL CONTRACT FOR CUSTODY POLICY MANUAL AND DAILY TRAINING BULLETINS FOR THE CORRECTIONS DIVISION – CONTRACT C2014-53

County Sheriff Terry Thompson stated that his office works with Lexipol to achieve standards/goals of operations in the Sheriff's Office. This has been very valuable in helping them achieve the best statutory required practices. He addressed Commissioner Zogmaister's question stating that the contract amount of \$18,000 is for the addendum and includes daily training briefs.

Commissioner Bell moved to approve Contract C2014-53, addendum to the Lexipol contract for the Custody Policy Manual and daily training bulletins for the Corrections Division; Commissioner Zogmaister seconded, all voting aye.

3. **WEBER COUNTY P-CARD POLICY REVISION – POLICY 10.1**

Brianna Spencer, of County Purchasing, noted the only change to the policy for allocating funds spent on purchasing cards through US Bank; the procedure has been converted from being done manually and will now be done online. Commissioner Bell noted that this item was discussed in Audit Committee, which suggested a couple of minor revisions.

Commissioner Zogmaister moved to approve the revision to Policy 10.1, Weber County P-Card Policy; Commissioner Bell seconded, all voting aye.

4. **CONTRACT BY/AMONG WEBER COUNTY, WEBER FIRE DISTRICT (DISTRICT) & THE UTAH DIVISION OF FORESTRY FOR AMENDMENTS TO THE FUNDING OF THE WEBER COUNTY FIRE WARDEN – CONTRACT C2014-54**

David Austin, Weber Fire District Chief, stated that since 2003 there had been a four-way agreement between the county, the Division of Forestry, Fire and State Lands, the U.S. Forest Service and the District, which was very beneficial. The costs for the Wildland and Fire Warden and for the Assistant Fire Warden were shared. Due to funding reductions, the Forest Service cannot participate in this agreement and it results in a funding loss of \$14,996 to this program. The Forest Service was not party to the original two-way agreement between the State and the county. Generally, the participation agreement is between the county and the State but to have a full time Fire Warden the District joins to help facilitate some of the costs. Weber County is the very last agreement from which the Forest Service has removed itself. The Forest Service is still in the District but will not receive the same services.

This addendum removes the Forest Service and amends the agreement for one year rather than eight months. Previously, the District funded four months and the remaining three participants funded eight months. The Fire Warden is a full time position (since 2003). Exhibit 4, the financial plan, was added to this amendment and can be amended annually to adjust the funding of the Fire Warden. The county's portion will be approximately 1/3 of the total cost. The Fire Warden position also used to be seasonal but it has substantial responsibilities in the county (i.e., mitigation, planning) for prevention and suppression of wildland fires and has greatly benefited areas such as the Nordic Valley, Uintah Highlands, Powder Mountain, Snowbasin and Causey Estates.

Chief Austin addressed Commissioner Zogmaister's questions stating that the Forest Service has a unit that it staffs during wildland fire season and that the District has not considered going back to a part-time Fire Warden position because of the significant benefit to the county. He believed the cost of a part-time warden was between \$20,000-\$30,000.

Chief Austin introduced Rick Cooper, stating that for the past three years the District has had a very elite wildland firefighting team through a contract with the State and Mr. Cooper has been its program manager. Mr. Cooper stated that the Wildland MOU program is a cooperative agreement between the District, the Division of Forestry, Fire and State Lands, the U.S. Forest Service, the Bureau of Land Management and the Bureau of Indian Affairs. This team responds nationally. He said that the program has been very beneficial and participation enhances their wildland firefighting skills and knowledge, which they can pass on to those in our area and reduce the probability of major catastrophes.

Commissioner Bell moved to approve Contract C2014-54, Participating Agreement between Weber County, Weber Fire District and the Utah Division of Forestry for amendments to the funding of the Weber County Fire Warden; Commissioner Zogmaister seconded, all voting aye.

5. CONTRACT WITH CK CONSTRUCTION CORPORATION TO REPLACE COUNTERTOPS IN THE WEBER CENTER PUBLIC RESTROOMS, ALONG WITH NEW SINKS/BASINS AND THE RELATED HARDWARE – CONTRACT C2014-55

Nate Pierce, County Operations Department Director, stated that because the restrooms are part of the common area in the building, the county will receive from the Condominium Association partners about \$8,500 at the end of the year.

Commissioner Zogmaister moved to approve Contract C2014-55 with CK Construction Corporation to replace countertops in the Weber Center public restrooms, along with new sinks/basins and the related hardware; Commissioner Bell seconded, all voting aye.

6. CONTRACT WITH THM REMODELING SERVICES FOR THE REMODELING OF THE WEBER CENTER CONFERENCE ROOM – CONTRACT C2014-56

Nate Pierce, County Operations Department Director, stated that this is to use Capital Improvement Plan funds from 2013. At the end of last year, Operations was asked to look at costs to renovate the Commission conference room and the criterion was developed with some of the commissioners. This contract is to install those improvements. The cost is \$21,597.

Commissioner Zogmaister said that when they had discussed the needs in the conference room it was for improved lighting and some electronics/technology that is needed. She stated that this contract is extravagant and goes over and above those improvements. She noted that this contract includes new cabinetry for \$11,000, paneling for \$8,200, and the ceiling and lighting for \$1,700 because staff would do some of the work, but the electronics was not even included. She did not feel the county should be spending that kind of money and could offer other county uses for that money or just not spend it right now when the only improvements needed are the lighting and electronics capability. By way of information, Mr. Pierce said that it would still leave about \$18,000 in the CIP account that could be used for the electronics. He outlined the lighting improvements to be done and said that an electrician on staff would do a lot of the electronics. He said that the \$1,700 is basically for the demolition and installation of ceiling panels. Commissioner Zogmaister said that this is a good opportunity to do what is needed but not spend the additional \$19,000 for cabinetry and panel. Chair Gibson said that the room has always seemed very odd in its layout with the pressed wood cabinetry along the one side of the room, that it gets a lot of use and is not functional. Commissioner Zogmaister said that people claim the Commission is building Taj Mahals for libraries and now they are building a Taj Mahal-type conference room for the Commission.

Commissioner Bell moved to approve Contract C2014-56 with THM Remodeling Services for the remodeling of the Weber Center conference room. Commissioner Zogmaister said that the room itself is functional; the lighting is poor and some technology is needed, but to add the aesthetics is over/above what is needed. She supports the lighting and electronics for about \$20,000 but not the cabinetry and paneling for another \$19,000; Chair Gibson seconded. Commissioners Bell and Gibson voted aye. Commissioner Zogmaister voted nay.

7. APPROVAL OF AN ACCESS EASEMENT FOR THE PAS DE CALAIS SUBDIVISION

This item was discussed last week and was tabled. Richard Reeve had asked that it be held based upon an engineering study that was being done. Jared Andersen, County Engineer, stated that he had not received any calls from an engineer doing any type of study. He stated that a geotechnical firm will first need to do a boring where the existing roadway comes into the pond area, but not on the existing roadway. He is concerned that a study may be in progress without any communication with the county. He reiterated that County Engineering will make sure the design and all necessary studies are done make to ensure this is done correctly.

Mr. Anderson said that certain items have to receive approval prior to the roadway cross-section being approved. Without approval from the studies, the road cannot be constructed. The easement section is across county property but the same approvals will be needed for the roadway up to the two homes. He has discussed with Matthew Rasmussen, petitioner, the two borings that will be needed for the location where the two homes will be constructed.

Mr. Rasmussen had indicated to Commissioner Bell that he does not plan to build on the property for some time, and particularly because this is a controversial issue, he does not feel there is a rush to get it done, and he wants it done right.

Commissioner Bell said that the road will probably be shared for three houses (including the Uintah Highlands Improvement District (District) property that they may sell as a lot). Commissioner Zogmaister wants the rights of property owners respected and that the county gets the 4,600 square foot piece of property to protect its pond and interests there. Chair Gibson said that this is an opportunity to clear up an issue that has existed for the county for a long time to ensure there is access and for continued maintenance of the pond. He feels that the easement and property exchange are separate issues from approval of the subdivision, that the latter is what requires the studies, in conjunction with County Planning and Engineering, which will direct what studies and information is needed. He feels the studies are part of a different process, thus he is comfortable proceeding at this point and allowing the studies to come forward with the subdivision.

Richard Reeve, representing Carol Browning, referred to the request by voice mail and email sent to the commissioners last night. He said that the Browning family has retained Shane Taggart, an engineer, who is in the process of reviewing the plat maps and process but has not yet conducted a site inspection. If Mr. Taggart rushes the report he could have a report two weeks from today with actual data to consider whether this is a good move for the county. He agreed that there are two separate processes: granting public property to a private land owner, giving him an easement, and there is the subdivision process.

Mr. Reeve urged the commissioners to follow the code about granting public property to a private land owner and said that they have to find substantial evidence that there is no other way Mr. Rasmussen can build a practical and feasible way to access the road. Code states that they have to find substantial evidence that shows it is impractical or infeasible for Mr. Rasmussen to build any other road to access his property. He would like the findings entered into the record but does not believe substantial evidence can be found. He said it is not the normal language found in county land codes, which indicates that a higher burden is put upon the Commission to find substantial evidence. He refuted the comment that the county would receive a benefit because the berm has been there for a long time, adverse and prescriptive use has been established for the county, and he said that no one will remove it because the county has rights to it.

Regarding the easement granted to the District, he had spoken with John Reeve, District Chair, and said that it had not been given willingly. The District had shown that they had prescriptive use to that easement for more than 40 years and the county granted the easement based on historic use. However, Mr. Rasmussen has no historic claim across county property to get a prescriptive easement. The code requires the County Commission, before giving up public land, to see if there is any other way that is practical and feasible for a road to be brought to that property, but cannot consider financial adversity to the developer. He brought a copy of the plat map and stated that there is a lot for sale that has frontage on the road that adjoins Mr. Rasmussen's property that is flat, thus Mr. Rasmussen has a feasible and practical way to access his property. It involves purchasing a lot, but the Commission can consider whether it is economical according to county code.

Chair Gibson feels comfortable with county legal counsel's advice that approving this easement would be admissible under code. The county may have a prescriptive right granted by courts to the berm, but the county has an opportunity to solve an issue that has been a challenge for some time, that the county has a pond but does not own part of it. This would eliminate the risk of having to make extraordinary arrangements for that basin.

Commissioner Zogmaister moved to approve an access easement for the Pas de Calais Subdivision, with the county receiving the portion of land needed for ownership where the berm is located; Chair Gibson seconded. Commissioners Zogmaister and Gibson voted aye. Commissioner Bell voted nay.

F. PUBLIC HEARINGS

1. Commissioner Bell moved to adjourn the public meeting and convene the public hearings; Commissioner Zogmaister seconded, all voting aye.

2. **PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE WEBER COUNTY LAND USE CODE TITLE 108 (STANDARDS) CHAPTER 1 (DESIGN REVIEW), TITLE 101 (GENERAL PROVISIONS) SECTION 101-7-7 (DEFINITIONS), AND TITLE 106 (SUBDIVISIONS) CHAPTER 1 (GENERAL PROVISIONS) SECTION 106-1-8 FINAL PLAT REQUIREMENTS AND APPROVAL PROCEDURE**

Jim Gentry, of the County Planning Division, said that these amendments are to help clarify language and streamline the process. A provision is being added that the County Engineer can approve financial guarantees up to \$25,000 (from \$10,000). The definition for financial guarantees is also being amended. Both Planning Commissions recommended approval. Commissioner Zogmaister asked how many subdivision approvals would be affected by the increase to \$25,000 and how they came up with that amount. Mr. Gentry said that they feel comfortable with that amount, that many escrows are received for landscaping for commercial buildings, for a few fire hydrants or minor ditches that need to be filled, piping, etc., and that it is usually for minor items and for smaller subdivisions. He also stated that the release of the escrow funds would be done through County Engineering after the request is received and the inspection is conducted.

Sean Wilkinson, County Planning Division Director, stated that Planning is in favor of these changes. In some subdivisions two fire hydrants can exceed the \$10,000 amount and the \$25,000 may cover all the needed minor improvements. Instead of waiting 1-2 weeks to bring it to the County Commission to approve those escrow agreements, it will give County Engineering the flexibility to handle this and potentially save developers a few weeks. The escrow agreements will be recorded and all actions documented. Chair Gibson invited public comments and none were offered.

3. **PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE WEBER COUNT LAND USE CODE TITLE 104 (ZONES) CHAPTER 23 (OGDEN VALLEY MANUFACTURING ZONES MV-1) SECTION 2 (PERMITTED USES) BY ADDING SMALL BREWERY AND DISTILLERY AND TITLE 101(GENERAL PROVISIONS) SECTION 101-7-7 (DEFINITIONS)**

Jim Gentry, of the County Planning Division, stated that the applicant wishes to amend the MV-1 Zone to allow a small liquor distillery. The Ogden Valley Planning Commission recommended adding the definitions of distillery and small brewery, which definitions come from State Code. A small brewery will manufacture less than 60,000 barrels of beer per year. Chair Gibson invited public comments and none were offered.

4. Commissioner Zogmaister moved to adjourn the public hearings and reconvene the public meeting; Commissioner Bell seconded, all voting aye.

G. ACTION ON PUBLIC HEARINGS:

1. **(F.2) - AMENDMENTS TO THE WEBER COUNTY LAND USE CODE TITLE 108 (STANDARDS) CHAPTER 1 (DESIGN REVIEW), TITLE 101 (GENERAL PROVISIONS) SECTION 101-7-7 (DEFINITIONS), AND TITLE 106 (SUBDIVISIONS) CHAPTER 1 (GENERAL PROVISIONS) SECTION 106-1-8 FINAL PLAT REQUIREMENTS AND APPROVAL PROCEDURE – ORDINANCE 2014-6**

Commissioner Zogmaister moved to adopt Ordinance 2014-6 amending the Weber County Land Use Code Title 108 (Standards) Chapter 1 (Design Review), Title 101 (General Provisions) Section 101-7-7 (Definitions), and Title 106 (Subdivisions) Chapter 1 (General Provisions) Section 106-1-8 Final Plat Requirements and Approval Procedure; Commissioner Bell seconded.

Roll Call:

Commissioner Bellaye
Commissioner Zogmaister.....aye
Commissioner Gibsonaye

2. **(F.3) - AMENDMENTS TO THE WEBER COUNT LAND USE CODE TITLE 104 (ZONES) CHAPTER 23 (OGDEN VALLEY MANUFACTURING ZONES MV-1) SECTION 2 (PERMITTED USES) BY ADDING SMALL BREWERY AND DISTILLERY AND TITLE 101(GENERAL PROVISIONS) SECTION 101-7-7(DEFINITIONS) – ORDINANCE 2014-7**

Commissioner Bell moved to adopt Ordinance 2014-7 amending the Weber County Land Use Code Title 104 (Zones) Chapter 23 (Ogden Valley Manufacturing Zones MV-1) Section 2 (Permitted Uses) by adding Small Brewery and Distillery and Title 101(General Provisions) Section 101-7-7(Definitions); Commissioner Zogmaister seconded.

Roll Call:

Commissioner Bellaye
Commissioner Zogmaister.....aye
Commissioner Gibsonaye

H. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, APRIL 8, 2014, 10 A.M.

I. PUBLIC COMMENTS: None

J. ADJOURN

Commissioner Bell moved to adjourn at 11:13 a.m.; Commissioner Zogmaister seconded, all voting aye.

Attest:

Kerry W. Gibson, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor