

MINUTES
WEBER COUNTY COMMISSION

Tuesday, June 16, 2020 - 10:00 a.m.

Via Zoom meeting + at Weber Center, 2380 Washington Blvd., Ogden, UT

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: Gage Froerer, James "Jim" H. Harvey, and Scott K. Jenkins

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

A. WELCOME - Chair Froerer

B. PLEDGE OF ALLEGIANCE - Bryan Baron

C. INVOCATION - Christopher Crockett

D. THOUGHT OF THE DAY - Commissioner Jenkins

E. PUBLIC COMMENTS: Ralph Price, of Ogden, is grateful that in Weber County we try to consider others' perspectives. He said that all lives matter and that the black lives matter movement has focused on what is going on with people of color. Jeff Glum, of Ogden, referred to the challenges we are experiencing in the pandemic, stating that COVID-19 should not be the only priority, and Chair Froerer agrees that there are a lot of moving parts to this, that it is not strictly about COVID-19 but that its affects go far and deep within our community.

F. CONSENT ITEMS:

1. Warrants #2807-2822 and #450106-450251 in the amount of \$1,613,164.03
2. Purchase orders in the amount \$124,661.64
3. Minutes from the meeting held on June 9, 2020
4. New business licenses
5. Surplus various technology equipment from the Weber Metro CSI Unit
6. Surplus a 2005 Dodge Ram 2500 Pickup from the Weber County Fleet Department
7. Extensions to pay delinquent taxes on parcels #13-148-0006 & #01-038-0033; the Tax Review Committee unanimously recommended extensions for both parcels

Commissioner Jenkins moved to approve the consent items; Commissioner Harvey seconded.
Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

G. ACTION ITEMS:

1. **REQUEST FOR FINAL APPROVAL OF THE 3600 WEST ROAD DEDICATION 2017-01 CORRECTED CONSISTING OF THE RE-DEDICATION OF WEBER COUNTY PROPERTY FOR 3600 WEST**

This item was held.

2. **RESOLUTION ADOPTING 2020 FINAL TAX RATES FOR WEBER COUNTY & MUNICIPAL SERVICES FUND – RESOLUTION 15-2020**

Scott Parke, County Comptroller, stated that the county lowered its General Fund tax rate by \$1 million during the budget cycle—\$500,000 as a tax decrease and \$500,000 was pulled out of the General Fund and set aside in a flood control line item. Chair Froerer noted that there were a few public hearings/meetings on that last year. This resulted in a tax decrease for about 94% of county residents. Mr. Parke stated that the county is not trying to generate additional revenue but to balance out that burden so those in unincorporated areas pay for services that they receive and are not subsidized.

He addressed the commissioners' questions stating that the county is financially the strongest it has been since his employment with the county, that it is financially well positioned due to staff anticipating an economic downturn, having built up reserves, and paying off debt, that a tax increase is not anticipated in the General Fund, that the unincorporated areas had the lowest tax rate of any city with property taxes in Weber County, and now that their rate has been doubled they still have the lowest tax rate of any such city. Before the tax increase, the Municipal Services Fund was going broke. When the new library was opened, there was no additional revenue for operating expenditures—the bond was only to fund the building—and in this fall's budget cycle the county will have to estimate the cost of operations. The county started working on a project 1½ years ago to better track costs of Upper Valley vs. the lower valley. There have been some discussions about potentially dividing the Municipal Services area into three separate areas and set the tax rates differently so that each pays appropriately for their costs and avoid subsidizing. Regarding drainage/flood control, Commissioner Jenkins said that last year \$500,000 was taken out of the General Fund and put on a separate line item allocated for the county's portion of the complex drainage system. That amount may need to be increased because the county has not taken responsibility for some parts of the drainage systems, that it has yet to be determined for some portions which entity will take responsibility, and some of that work is significant.

Commissioner Jenkins moved to adopt Resolution 15-2020 adopting the 2020 final tax rates for Weber County and the Municipal Services Fund; Commissioner Harvey seconded.
Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

4. **ORDINANCE ESTABLISHING A LIBRARY CAPITAL PROJECTS FUND (SECOND READING) – ORDINANCE 2020-7**

Bryan Baron, Deputy County Attorney, noted that this item was discussed in depth last week.

Commissioner Harvey moved to adopt Ordinance 2020-7 establishing a Library Capital Projects Fund; Commissioner Jenkins seconded.

Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

3. **APPROVAL OF THE HERITAGE LAND DEVELOPMENT APPEAL TO THE WESTERN WEBER PLANNING COMMISSION’S DENIAL OF PRELIMINARY APPROVAL FOR TAYLOR LANDING, A 156-LOT CLUSTER SUBDIVISION LOCATED AT APPROXIMATELY 4000 W. 2200 S.**

Scott Perkes, of the County Planning Division, stated that the applicant is requesting overturning the Planning Commission’s denial of the preliminary approval of this subdivision. Heritage Land Development applicant/owner, Jay Stocking, as well as Boyd Cook, and Jessica Prestwich participated via Zoom.

Christopher Crockett, Deputy County Attorney, stated that normally appeals from a land use authority go before the Board of Adjustment but an appeal on a request for preliminary subdivision approval goes before the County Commission (“Commission”). The Commission is to look only at the record of what was presented to the Planning Commission, not hear it anew, in order to determine whether the Planning Commission got it right or erred in interpreting application of the land use code. The burden of proof is on the appellant that the land use authority erred. The County Commission then shall determine the correctness of the land use authority’s interpretation, application of the plain meaning of the land use regulations, and also interpret and apply land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application. Once all evidence was submitted and arguments made, the Commission could choose to deliberate in a closed session.

Ms. Prestwich said that the applicant did everything possible to follow the Cluster Subdivision code, that the definition of prime agriculture land states that they have to prove that the area has soil types that are capable of having the highest nutrient content, best irrigation capabilities, and offer marketable opportunities for crop production, that they had the soil study done, which indicates what they need to do to make this open space prime agriculture land to produce the intended alfalfa, that this piece of property is the best place for them to put the drainage for the irrigation, which would drain to 1800 South, providing the least disturbance to existing homes, that they are keeping the open space contiguous as required, and after meeting with city engineers, the lift station would go in this open space. Mr. Stocking said that they consulted with a soils engineer to ensure they were utilizing the best use for the property. On the west there are better soil types that would naturally be ready now but they consulted with a local expert farmer who does a lot of farming and who recommended putting this in the east property as proposed because the west property does not have a lot of straight lines making it very difficult to flood irrigate with all of the corners, and to get crop equipment in there, and it would create more liability for the farmer when irrigating and potentially flooding out neighbors. They are willing to do some work on the east end to make it the best use for agriculture and the farmer, and he feels the code’s intention is for the best use for agriculture. He iterated that they really tried to accomplish what the code asks. Mr. Cook referred to the map stating that none of the current land is being farmed, if they do as proposed they believe they can turn this into prime farm land that will be utilized as green and farm space, and there is a big drainage pipe going in on 1800 South, which is another reason for proposing the green space on that northeast corner so it can drain to those appropriate spots rather than to people’s yards. He reiterated that none of this land is currently prime farm land but will be if irrigated and drained, and they are proposing to make it so.

Commissioner Jenkins said that there are conflicting issues—one relates to prime agriculture land that is not in production and the other stems from the soil analysis. The appellant had stated that it has the ability to become prime farm land. The county is trying to tell the farmer what to do with the property which is almost a taking, and from the Planning Commission minutes, the denial was based on the soil analysis. He asked if there was another option and if not, then the ordinance sets them up for conflict. Mr. Perkes said that the Cluster Subdivision Code requires preserving prime land first, which definition states that it is soil areas that are capable of becoming prime. Currently, there are a spectrum of soils. Other sections of code indicate that the applicant has the ability to make it more contiguous and more useful space for large crop production. Staff findings versus those of the Planning Commission showed conflict, which he believes lies in whether one looks at individual sections of the code alone or if one looks at the overall intent of the code. Christopher Crockett, Deputy County Attorney, noted that the definition of prime agricultural land had been read into that record. Commissioner Jenkins read from that record that Chair Edwards stated that based on figure 3 of Phase 1 the open space falls into prime land, and that based on soil analysis, he did not feel the developer met the requirements of the Cluster Subdivision. Commissioner Jenkins reiterated that this was based on the soil analysis not on what the developer could do, and even in their previous statement had said that it fell under prime land. He feels this puts the Planning Commission in a position where they had to deny it but it appears to him that prime land should be taken into consideration in this, and code needs to be reviewed in the near

future. Commissioner Harvey feels that a lot of this stems from the fact that the county needs to re-evaluate the lower valley's Master Plan because it was last reviewed in 2003, and only in part, with some areas reviewed in 1970. The Commission had funded the review in early 2019 but pulled it out of respect for those who were considering incorporation. He dislikes for planning commissioners to be put in this situation. Chair Froerer said that this zone requires 30% open space and the applicant has about 58%, that prime ground does not become so unless it is irrigated and the farmer states it can be put into production with irrigation, and that the idea of clustering and having open space was to have a parcel in open space that could be put into production rather than be filled with weeds. Ultimately, the key to open space is whether it can be utilized for something other than a park, etc., and he feels that staff made a good recommendation, and that it is a viable parcel for open space. Mr. Cook agrees that the use of that land is the best for it and that they have more open space than required because of the farmer's recommendation.

Commissioner Jenkins moved to put this item regarding the Heritage Land Development's appeal of the Western Weber Planning Commission denial of preliminary approval for Taylor Landing on next week's agenda to visit the property; Commissioner Harvey seconded, agreeing with having a little more time for review. Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

H. PUBLIC HEARINGS

1. Commissioner Harvey moved to adjourn the public meeting & convene the public hearings; Commissioner Jenkins seconded.
Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

2. **PUBLIC HEARING TO AMEND WEBER COUNTY CODE SECTIONS §108-16 & §110-2 TO CLARIFY OGDEN VALLEY OUTDOOR LIGHTING & ILLUMINATED SIGN ALLOWANCES**

Scott Perkes, of the County Planning Division, stated that the code has been in place since 2017 and there is opportunity to make some minimal changes at this time to tighten it up. The Ogden Valley Planning Commission held work sessions and a public hearing and recommended approving the proposed amendments, which include changing the name of the ordinance from Ogden Valley Outdoor Lighting to simply Outdoor Lighting because the ordinance is applicable to some western Weber cluster subdivisions that have been given density bonuses, and to also clarify the subsection entitled, "Creation of Dark Sky Committee." A member of the public had suggested that the proposed members of the committee be members of the public only. There had been some discussion that an employee could possibly help the committee clarify code, etc. Mr. Perkes addressed Commissioner Jenkins' question stating that this does not necessarily take the dark skies concept to the whole county but could under certain developments, that code very clearly states who it is applicable to, that most provisions are for Ogden Valley and is applicable only in western Weber if they have been given bonus density. This concept for the lower valley somewhat bothers Commissioner Jenkins.

Chair Froerer invited public comments from all meeting participating and Ron Gleason, of unincorporated Huntsville, said that he continues to work with the dark sky accreditation for North Fork Park. He asked the Commission to approve the minimal changes and stated that enforcement is up to the Commission. He was the one who made the suggestion to possibly remove the staff on the dark sky committee because it has not yet been established and he thought that that might be a barrier. He would like it established as soon as possible and is in favor of the staff member on the committee if staff has the time but not if having a staff is the reason it has not been created. The Commission is in charge of setting up the committee with a member from the Planning Division, with two members from the public, two from OBVA, and one from Visit Ogden. Chair Froerer does not believe having a staff member was the reason the committee had not been formed. Commissioner Harvey concurred and stated that all of the successful committees he is familiar with have someone who knows how to navigate governmental agencies; they provide some higher level of expertise due to dealing with the issues daily and this adds to the value and efficiencies. He very much supports a staff on the committee. Chair Froerer said that the amendments go a long way to doing away with unneeded enforcement provisions, that it is a step forward in private property rights, and that it is business friendly.

Rick Grover, County Planning Division Director, said that the intent is to make the ordinance easier to interpret. He stated that the ordinance name change is also to facilitate the Western Weber Planning Commission if it wants to look at this more in depth, but for now it is strictly relating to cluster subdivisions. Commissioner Jenkins appreciates the addition of "low output lighting" in the ordinance but reiterated that he finds it difficult with the dark sky concept for western Weber County. Mr. Grover said that these changes are more minor, that they do not require a lot of light studies, and when staff reviews the plans they can see if the light shielding is on the plans, and subsequently it also helps the code enforcer.

3. **PUBLIC HEARING TO AMEND WEBER COUNTY CODE SECTIONS §101-1-7 & §108-7 TO ADD A DEFINITION OF AGRICULTURAL BUILDING, AMEND DEFINITION OF AGRICULTURAL PARCEL & INCLUDE PROVISIONS FOR AGRICULTURAL BUILDING EXEMPTIONS**

Steve Burton, of the County Planning Division, stated that this is to bring the Land Use Code relating to agricultural exempt buildings into compliance with State Code, and they are minimal changes. The current definition of agriculture parcel—which needs to be fulfilled in order to qualify for the agriculture building classification—is one that is at least 5 acres if vacant or 5¼ acres with a residential dwelling unit. State Code only requires 2 acres if it is in unincorporated county and in a subdivision. The definition of agriculture building was added for clarity which states that it is a structure used solely in conjunction with onsite agriculture use. A section was added under Agriculture Building Exemptions, stating that they are exempt from permit requirements of the State construction code except that plumbing, electrical, and mechanical permits may be required when that work is included in the structure. Both Planning Commissions unanimously recommended approval.

4. Public Comments: Chair Froerer invited public comments from all those participating and none were offered.

5.

Commissioner Harvey moved to adjourn the public hearings and reconvene the public meeting; Commissioner Jenkins seconded.

Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

6. **ACTION ON PUBLIC HEARINGS:
H-2 AMEND COUNTY CODE SECTIONS 108-16 & 110-2—LIGHTING & ILLUMINATED SIGN ALLOWANCES - ORDINANCE 2020-8**

Commissioner Harvey moved to adopt Ordinance 2020-8 amending Weber County Code Sections §108-16 and §110-2 to clarify Ogden Valley Outdoor Lighting and Illuminated Sign allowances; Chair Froerer seconded.

Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

H-3 AMEND COUNTY CODE SECTIONS §101-1-7 & §108-7, DEFINITIONS, AND TO INCLUDE PROVISIONS FOR AGRICULTURAL BUILDING EXEMPTIONS – ORDINANCE 2020-9

Commissioner Jenkins moved to adopt Ordinance 2020-9 amending the Weber County Code Sections §101-1-7 and §108-7 to add a definition of agricultural building, amend the definition of agricultural parcel, and include provisions for agricultural building exemptions; Commissioner Harvey seconded.

Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

I. **COMMISSIONER COMMENTS:** Commissioner Harvey stated that it is great to work with the other commissioners. Chair Froerer expressed appreciation to the public participating in the meeting. He thanked Planning Division staff stating that their job is not easy at times and that they, too, want to make good decisions for the public.

J. **ADJOURN**

Commissioner Jenkins moved to adjourn at 11:46 a.m.; Commissioner Harvey seconded.

Commissioner Harvey – aye; Commissioner Jenkins – aye; Chair Froerer – aye

Attest:

Gage Froerer, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor