

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

Tuesday, July 3, 2012 - 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 unreported 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:** Craig L. Dearden, Chair, Kerry W. Gibson and Jan M. Zogmaister.

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

- A. **WELCOME** - Chair Dearden
- B. **PLEDGE OF ALLEGIANCE** - Deputy Ray Day
- C. **THOUGHT OF THE DAY** - Commissioner Zogmaister

**PRESENTATION BY CORPS ENCORP** - Chair Dearden noted that last week the Commission adopted a resolution designating today as "Corps Encorp Day" and three members performed today.

**D. CONSENT ITEMS:**

- 1. Purchase Orders for \$49,436.86
- 2. Warrants #287115 - #287508 for \$981,694.22
- 3. Minutes for the meeting held on June 26, 2012
- 4. Set public hearing for July 31, 2012, 10 a.m., amendments to Subdivision Ordinance, Chapter 1, General Provisions, Filing of Preliminary and Final Plans & Section 1-6, Definitions, and Chapter 6, Penalty, Validity and Repealer (signature block section)

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

**E. ACTION ITEMS:**

- 1. **CONTRACT WITH THE STATE OF UTAH, SECOND DISTRICT JUDICIAL COURT FOR A CONTRACT AMENDMENT FOR COURT BAILIFF AND COURT SECURITY SERVICES - CONTRACT C2012-145**

Reed Richards, Deputy County Attorney, presented the annual 1-year contract, which includes a 90-day termination clause. It pays for only a small portion of some salaries and cost of officers and the county pays the remainder. Commissioner Zogmaister noted that the actual cost of services is \$1.4 million and the county will be reimbursed for only \$561,700. The contract needs comptroller review.

Commissioner Zogmaister moved to approve Contract C2012-145 with the State of Utah, Second District Judicial Court, for court bailiff and court security services subject to the Comptroller's review/approval; Commissioner Gibson seconded, all voting aye.

- 2. **CONTRACT WITH DIAGNOSTIC LABORATORIES & RADIOLOGY TO PROVIDE XRAY, EKG, AND ULTRASOUND SERVICES TO INMATES HOUSED AT WEBER COUNTY JAIL - CONTRACT C2012-146**

Reed Richards, Deputy County Attorney, addressed this item and the following one together noting that Requests for Proposals were issued, that the contracts contain early termination clauses and are non exclusive, and the contract terms are for three years with some extension options.

Commissioner Gibson moved to approve Contract C2012-146 with Diagnostic Laboratories & Radiology to provide XRay, EKG, and ultrasound services to inmates housed at the Weber County Jail, subject to the Comptroller's review/approval; Commissioner Zogmaister seconded, all voting aye.

**3. CONTRACT WITH LABCORP TO PROVIDE LAB SERVICES TO INMATES HOUSED AT THE WEBER COUNTY JAIL - CONTRACT C2012-147**

Commissioner Gibson moved to approve Contract C2012-147 with LabCorp to provide lab services to inmates housed at the Weber County Jail, subject to the Comptroller's review/approval; Commissioner Zogmaister seconded, all voting aye.

**4. ACCESS AGREEMENT WITH HORIZON MILLING FOR A GATE ON F AVENUE**

Doug Dickens, of County Property Management, stated that for security purposes Horizon Milling is requesting to block off the portion of F Avenue that leads into their area. David Wilson, Deputy County Attorney, noted that there are two petitions relating to the vacation of roads. Gary Laird, of County Solid Waste Management, stated that one petition is to vacate a portion of F Avenue and another to vacate a portion of 27<sup>th</sup> Street. The latter is necessary because the county is within 300 feet of a small parcel that Horizon Milling would like to fence.

From previous discussions with the commissioners and David Wilson, Deputy County Attorney, Mr. Laird said that Chair Dearden felt that the best solution was for Horizon Milling to pay to move the county's gate so that it will be outside of the vacated property. Horizon Milling has agreed to that verbally. Mr. Laird said that Horizon Milling changed their fencing contract to include the gate and to grade that area so the county can get in to its property outside of Horizon Milling's gate. Commissioner Gibson requested that Horizon Milling follows through with installing the gate since the Commission is approving this prior to having that language in writing and that by allowing the vacation the county is not limiting its future use. Mr. Laird feels this is a better solution than for the county to have to access through Horizon's gate and said that the county has adequate access to its property in that area.

Commissioner Gibson moved to approve the two petitions for vacation of portions of 27<sup>th</sup> Street and F Avenue for Horizon Mills, which agrees to install/construct an alternate access gate located south of the proposed enclosure to allow full access from the public street without obstruction; Commissioner Zogmaister seconded, all voting aye.

**5. CONTRACT WITH AVTEX ASSIGNED TO EMERGENCY COMMUNICATIONS NETWORK, LLC (ECN) FOR CITYWATCH REVERSE 911 NOTIFICATION SYSTEM FOR THE NORTHERN 6 COUNTY REGION - CONTRACT C2012-148**

Lance Peterson, of County Emergency Management, stated that a few years ago the county entered into a service contract with AVTEX for CityWatch, a reverse 911 notification system, at which time the county had its own system and server. Last year the county issued Requests for Proposals and selected AVTEX as the host agency. Recently the county was notified that Code Red, owned by ECN, purchased CityWatch, and per last year's contract an assignment agreement is required. Mr. Peterson addressed Commissioner Zogmaister's question stating that the county entered into the hosted solution in April 2011.

Commissioner Gibson moved to approve Contract C2012-148 with AVTEX assigned to Emergency Communications Network, LLC (ECN) for CityWatch reverse 911 notification system for the northern six county region; Commissioner Zogmaister seconded, all voting aye.

## F. PUBLIC HEARING:

1. Commissioner Zogmaister moved to adjourn the public meeting and convene the public hearing; Commissioner Gibson seconded, all voting aye.
2. **PUBLIC HEARING REGARDING ZONING TEXT AMENDMENT ZTA 2012-05 AMENDING CHAPTER 5B, AGRICULTURAL VALLEY AV-3 ZONE, SECTION 5B-3, PERMITTED USES REQUIRING FIVE (5) ACRES MINIMUM LOT AREA TO ALLOW CUSTOM EXEMPT MEAT CUTTING, INCLUDING WILD GAME, & AMEND CHAPTER 1, GENERAL PROVISIONS, BY ADDING A NEW DEFINITION OF CUSTOM EXEMPT MEAT CUTTING**

Jim Gentry, of the County Planning Division, stated that this amendment is to add custom exempt meat cutting as a permitted use in the Ogden Valley with the following definition: cutting, wrapping and preparation of meat for human consumption provided that the source of meat shall be limited to animals that are part of one or more livestock operations in Weber County and/or wild game. He said that the use is supported by the General Plan; it supplements farmers' agricultural pursuits and is less intense than others in the zone (i.e., daycares, animal hospitals, fruit/vegetable packaging plants, turkey farms). Some uses are already allowed in the zone such as slaughter houses slaughtering up to 500 rabbits, turkeys and beavers, and are historically found as part of rural agriculture. The conditions for approval call for the use to be in a separate building with no outside storage, to be an accessory to a dwelling on a parcel of at least five acres, and the parcel is to be located and accessed from a collector or arterial road and the petitioner has included these in his petition. Staff recommends that the County Commission approve the amendment. The Planning Commission unanimously recommended denying the petition.

Mr. Gentry noted that the applicant was operating last fall and the State Ombudsman and the Board of Adjustment ruled that it did not meet the requirements of the zoning at that time. It is before the Commission to add it as a permitted use.

Garrett Jones, petitioner, referred to the Ogden Valley's General Plan which includes promoting agricultural land and working farms and said that supporting agricultural business is the only way to maintain a rural community and custom meat cutting is a vital link in an agricultural community where people raise animals. Without custom meat cutting or mobile butchering, there is no way people can consume the animals they raise. Mr. Jones said that he has spoken with dozens of people in the Valley and those who have lived next to this type of operation do not have objections. Because the use is allowed in the commercial zones in the Valley, the Planning Commission felt that it did not need to be allowed in the agricultural zones. Mr. Jones said that he, planning staff and many experts, including Planning Commissioners, feel this is a mistake in general—this is a permitted use in the commercial zones in the Valley, but due to the nature of those commercial zones which are retail space (small strip malls, restaurants, etc.) it is not prudent. The space is so small that there is no distinction between retail spaces as there is in areas that have larger commercial zones.

All commercial zones in the Valley are retail commercial spaces. Mr. Jones feels that it is the business owner's responsibility to lessen impacts. He has followed the correct processes to obtain all the appropriate permits from the county and State. This is an agricultural activity and as such should occur in agriculturally zoned areas. Mr. Jones addressed the commissioners' questions stating that this is not for a retail meat business—customers have to bring their own meat, and that the original purpose was to have the operation open for three months to fit his needs but has since decided to have it open all year.

Chair Dearden invited public comments and following is the summary:

Sandra Tuck, of Liberty, who served for 30 years as a County Planning commissioner and also on the Board of Adjustment (BOA) and was involved in writing the Ogden Valley General Plan, said that people can obtain all of their agricultural needs from Ogden. She said that the building does not have an original building permit and that the water is approved for the home and barn on the property. The facility is not quite 100 feet from the home across the street and about 120 feet from the house next door, and there is 27 foot frontage. Her neighbor, Mr. Rohde, was not able to be present and had asked her to say that all the animals that Mr. Jones processes come from preserves, private and fenced land owned by the Jones in Utah and Idaho, that they say they have a 90% success rate of elk that come from private land but these are not domestic, and that the Ombudsman makes a strong point that the county regulations require a processing facility to have a large fraction of its output grown onsite, 50% in the case of milk. The reason there is no such operation in the Valley is due to the disposal of waste and this does not fit in the Valley. She said that the Ombudsman, the County BOA, and the Ogden Valley Planning Commission have recommended not approving this item.

Brett Barry, of Liberty, said that when Mr. Jones received the land use permit, he filed a lawsuit to revoke it. The county then wrote a letter stating that Mr. Jones was proceeding at his own risk, that there was a lawsuit against him. At that time the Ombudsman had found that it was not a legitimate use within a residential neighborhood. Mr. Barry said that it is a commercial slaughter endeavor and not an agricultural one. It could not get approved to process only the elk so now Mr. Jones is changing it to allow domesticated animals and all wild game—which has not been clarified—and is proposing now that the facility be open all year. The BOA voted 5-0 to deny and the Planning Commission voted 7-0 to deny. Mr. Barry lives 130 feet from that facility and cannot simply move. The petitioner has additional property and alternatives that neighbors do not. He is not trying to stop their business but Mr. Jones originally had the opportunity to put it in a CV-2 Zone, where it is permitted. There was testimony by realtors at previous hearings that this will lessen property values.

Kevin Parson, Ogden Valley Commission Chair, supports a cut and wrap facility but also supports the concept of planning, and this operation can be done in CV-2 zoning. The Planning Commission unanimously voted 7-0 to deny this request. There is space to develop in CV-2 in the Valley and he feels that the county should be pro development on what is already planned for. Nothing has been built in CV-2 for an extremely long time and Mr. Parson did not agree with sticking this in the middle of a neighborhood, stating that at this time it does not make sense to approve the request.

Noel McSpadden, meat manager for the State Department of Agriculture's inspection program, showed a map of all of Utah's custom exempt establishments stating that currently there are 44 and they serve a purpose for the agriculture community. He has been with the State for 17 years and very seldom has there been a complaint about these facilities, which are highly regulated; State staff constantly reviews them inside and out. The meat is for those individuals that own the animals and not for retail.

David Wiley, State custom exempt specialist, goes into these facilities, checks sanitation, etc. They are closely monitored to ensure they are following the host of regulations. In that area there are a lot of animals that need to be slaughtered and the service is greatly needed. Initially the plant did not pass inspection and the petitioner improved the plant spending a lot of money creating a sanitary environment. The inedible products will never be out front and that the facility is underground.

Doug Allen, of Huntsville, grew up in a dairy farm but sadly today there are no such farms in the Valley. He is on the Huntsville City Planning Commission but is not representing them. He strongly urged the Commission to allow this business and said that industry should not be curtailed. There is no slaughtering at the facility. All other plants in Weber County are right in the middle of neighborhoods and no one has complained.

Jared Montgomery, of Liberty, stated that he has 150 cattle and would like this operation in their community.

Judi Culley, Valley resident for 40 years, stated that they have raised beef, pigs, etc., and use a mobile butcher and she feels they do not need the operation in the Valley. She said that there are more than two upset neighbors, but some could not come due to their busy schedules. The proposed amendment would allow a meat cutting operation on every five acres. When Mr. Jones was operating previously, she would see them taking their waste late at night and is wondering to where because the waste plant in Ogden was closed during those hours. Ms. Culley showed pictures of animals being brought to be cut up expressing concern that they are not covered and thus are visible to the children. Additionally, no one can get up and down the entire road because of their semi trucks. She asked the Commission to deny the request, noting that it has been voted against three times already.

Steve Clarke, of Eden, supports Commissioner Parsons' contention that planning is important and needs to be followed in permitting a custom exempt meat cutting operations on any AV-3 Zone. The Planning Commission feels this should be done in commercial areas and he supports that. Mobile butchering is available in the Valley and works great and Mr. Jones can use it, bringing the operation closer to where the animals are actually harvested. He asked the Commission to deny this request, but should they approve it, that the necessary conditions—which are not specified in the proposed ordinance, such as setbacks, handling/disposition of carcasses, etc.—be stipulated. Mr. Clarke said that it is easy to see that setbacks are a real issue noting that operations on AV-3 zones should be on a 5-acre parcel, where buildings are setback so that the trucks do not block the street, are properly setback from residential properties, etc., but these issues are not being discussed in this meeting. He asked that the Planning Commission's recommendation be respected and custom exempt meat cutting should go in CV-2 or MV-1 zones.

Anthony Ward, of Liberty, is currently in the registered Angus business and from time to time needs to butcher animals and has to haul them to Tremonton or Lewiston. He feels strongly about the Valley's agriculture heritage and does not believe that those in the agriculture community should be limited to earning a living, that with proper regulations, people have the right to pursue their business.

Eugene Bailey, of Liberty, supports Mr. Jones' proposal and feels that some of the objections are trivial.

Mr. Jones responded to the comments that the Ombudsman and the BOA had recommended against this request as misconceptions. The Ombudsman ruled that under the current code it was not a permitted use, which is the reason for this request. The BOA agreed with the Ombudsman that under the current code it is not an approved use but that has no bearing on what is before the Commission. Referring to Ms. Tuck's comment that the building did not have a building permit, he said that it had it originally as well as when he renovated. This operation maintains a rural community and supports agriculture.

Mr. Jones showed pictures of the operation indicating how little impact it has on the community, that very little of the facility is visible because it is an underground building, that the semi truck does not block the road once it has backed up to the building, and showed the installed improvements requested by the Department of Agriculture. He said that it is a very small, clean operation with very little impact on neighbors. Regarding Ms. Culley and Mr. Parsons' comments, Mr. Jones said that mobile butchering is also not a permitted use in the Valley and today's item is a step toward getting it approved. Currently, about 6% of the AV-3 Zone would meet the proposed requirements. He said that many of the vehicles that drop off animals are totally covered.

3. Commissioner Zogmaister moved to adjourn the public hearing and reconvene the public meeting; Commissioner Gibson seconded, all voting aye.

#### 4. ACTION ON PUBLIC HEARING:

##### **F.2. - AMENDMENTS TO THE ZONING ORDINANCE, CHAPTER 5B & CHAPTER 1- ORDINANCE 2012-10**

Commissioner Gibson expressed appreciation for everyone's attendance/engagement for over a year on this difficult issue. The question is whether the petitioner can use his property as requested and if the proposal fits within the General Plan. He feels this fits the Plan and expressed concerns with restricting it to a 5-acre parcel and limiting it to arterial roads. People should not be discouraged from entering into business ventures as long as they meet regulations. He noted that the issue of whether this type of operation belongs only in a CV-2 or MV-1 zone in the Valley was not discussed until after the public comments were heard, thus there is no opportunity to find out how residents feel. If this was intended to be a commercial meat cutting plant then it should go in a commercial zone, but it is intended to be an agricultural operation. The proposal is for meat to be cut up and returned to the animals' owners.

Commissioner Zogmaister supports agriculture and feels that the proposal fits the General Plan and that there is a need for it. However, there are designated zones within the General Plan for certain uses. This use is allowed as a conditional use within CV-2 and a permitted use within MV-1 zones in the Valley and she encourages this operation to be located within these zones, rather than to change the ordinance for one business.

Mr. McSpadden explained the different types of State licenses—there is the inspection license that can be for a harvesting or processing plant, which can be for wholesale and retail, and the custom exemption meat cutting, where the animals do not receive the marks of inspection and the products from the animals go back to the original owner and marked "Not for Sale."

Commissioner Zogmaister reiterated that the proposed ordinance does not address issues that would arise in an AV-3 Zone, such as setbacks. Mr. Gentry addressed Chair Dearden's question stating that the petitioner requested a permitted use on five acres but this proposal could be a conditional use and have conditions put on it to mitigate any negative impacts such as setbacks. Chair Dearden said that commercial property in the Valley is expensive and other businesses that have wanted to go in the commercial could not afford the property and didn't go there. Commissioner Zogmaister noted that the CV-2 Zone needs to be reviewed because it may not be fitting what it was intended for the Valley and may not be a good fit. She noted that there is CV-2 space available in the Valley. Commissioner Gibson said that some of the uses already allowed as permitted uses in the agricultural zones are much more intensive than this proposal and he sees it as an enhancement to an agriculture operation that fits well. Mr. Jones said that originally his plan was to be an accessory business to a business which his family has. This proposal will serve all Valley residents.

Commissioner Zogmaister moved to support the Planning Commission’s recommendation to deny the amendment to Chapter 5B-3, Permitted Uses Requiring Five Acres Minimum Lot Area to allow Custom Exempt Meat Cutting, and to Chapter 1, General Provisions, Definitions. Commissioner Gibson made a substitute motion to adopt Ordinance 2012-10 amending Chapter 5B-3, Permitted Uses Requiring Five Acres Minimum Lot Area to allow Custom Exempt Meat Cutting and amend Chapter 1, General Provisions, Definitions, noting that zoning is necessary, however, he supports upholding individual property rights, when they meet the General Plan, which he feels this does, that it is less intensive than other permitted uses in this zone, and it fulfills a need; Chair Dearden seconded for discussion expressing concern with approving this as a permitted use and noting that as a conditional use the Commission can set certain conditions to minimize negative impacts. Commissioner Gibson said that conditional uses create another set of challenges for a business owner but agrees there may be specific important issues that should be considered. David Wilson, Deputy County Attorney, asked if the ordinance allows the Commission to modify the petition at this stage—from permitted to a conditional use with the needed conditions. Mr. Gentry responded that the ordinance allows it. The commissioners noted that certain issues were raised today such as parking, frontage, and setbacks. Mr. Jones did not fully understand conditional uses and Chair Dearden and Mr. Gentry outlined the conditional use application process. Mr. Jones agreed with a conditional use and stated that the use is already regulated by the State on waste disposal, parking, etc., that setbacks are regulated by the county and he preferred receiving a decision as soon as possible. Chair Dearden called for the vote adopting Ordinance 2010-10 approving this item as a permitted use and Commissioner Gibson voted aye. Commissioner Zogmaister and Chair Dearden voted nay; Chair Dearden moved to adopt Ordinance 2010-10 approving this item as a conditional use permit and for Mr. Jones to go through that process; Commissioner Gibson seconded.

Roll Call Vote:

Commissioner Zogmaister.....aye  
 Commissioner Gibson .....aye  
 Chair Dearden .....aye

**G. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, JULY 10, 2012, 10 A.M.**

**H. PUBLIC COMMENTS:** None

**I. CLOSED EXECUTIVE SESSION TO DISCUSS STRATEGY RELATING TO IMMINENT OR PENDING LITIGATION**

Commissioner Zogmaister moved to convene a closed executive session to discuss strategy relating to imminent or pending litigation; Commissioner Gibson seconded.

Roll Call Vote:

Commissioner Zogmaister.....aye  
 Chair Gibson.....aye  
 Chair Dearden .....aye

There was no action taken on the closed executive session.

**J. ADJOURN**

Commissioner Zogmaister moved to adjourn at 12:40 p.m.; Commissioner Gibson seconded, all voting aye.

Attest:

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 Craig L. Dearden, Chair  
 Weber County Commission

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 Ricky D. Hatch, CPA  
 Weber County Clerk/Auditor