

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

Tuesday, August 26, 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 PRESENT:** 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 Ferneliuss, of the County Clerk/Auditor's Office, who took minutes.

**A. WELCOME** – Chair Gibson

**B. PLEDGE OF ALLEGIANCE** – Holin Wilbanks

**C. THOUGHT OF THE DAY** – Commissioner Zogmaister

**D. CONSENT ITEMS:**

1. Ratify purchase orders for \$108,163.41 dated August 19, 2014
2. Purchase orders for \$110,251.60
3. Ratify warrants #312427 - #312633 for \$896,285.67 dated August 19, 2014
4. Warrants #312634-#312862 for \$1,594,928.56
5. Minutes for the meeting held on August 12, 2014
6. Surplus fifteen intoxilyzers from the Weber County Sheriff's Office
7. Surplus two Phillips Heartstart FR2 AEDs from the Weber County Sheriff's Office
8. Surplus two file cabinets from the Weber County Clerk/Auditor's Office
9. Ratify a new beer license
10. ACH payment to US Bank for \$81,054.03 for purchasing card transactions through July 15, 2014
11. Retirement agreement with Florence L. Peterson – Contract C2014-181
12. Extend the contract with Certified Public Accountants and Business Advisors for the Weber Housing Authority for the years ending December 31, 2014, 2015 and 2016

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

**E. ACTION ITEMS:**

1. **INTERLOCAL AGREEMENT WITH FARR WEST CITY FOR RECYCLING INCENTIVES – CONTRACT C2014-182**

Gary Laird, with County Solid Waste, noted that this is a recycling incentives agreement similar to the other recent ones. It is to pay the city for the recycling material brought to the recycling center based upon a formula of 30% of the net income from the program.

Commissioner Bell moved to approve Contract C2014-182, Interlocal Agreement with Farr West City for recycling incentives; Commissioner Zogmaister seconded, all voting aye.

2. **INTERLOCAL AGREEMENT BY/AMONG WEBER COUNTY, THE CITY OF LOGAN, WASATCH INTEGRATED WASTE MANAGEMENT DISTRICT, NORTH POINTE SOLID WASTE SPECIAL SERVICE DISTRICT, TRANS-JORDAN CITIES AND SOUTH UTAH VALLEY SOLID WASTE DISTRICT TO JOINTLY CREATE, OPERATE AND MAINTAIN NORTHERN UTAH ENVIRONMENTAL RESOURCE AGENCY AS AN INTERLOCAL ENTITY PURSUANT TO THE UTAH INTERLOCAL COOPERATION ACT, TITLE 11, CHAPTER 13, UCA – RESOLUTION 23-2014, CONTRACT C2014-183**

Gary Laird, with County Solid Waste, stated that the NURLA (Northern Utah Regional Landfill Authority) organization has existed for about seven years. It was created to search options for a northern Utah regional landfill. The selected option didn't come to fruition and NURLA continued to operate on a quarterly basis to discuss regional issues. South Valley, North Pointe and Trans-Jordan Solid Waste Districts approached NURLA about a year ago about joining the organization.

It was decided to do away with NURLA and start an entirely new organization, the Northern Utah Environmental Resource Agency, which will have a broader scope, including looking at emerging technologies relating to solid waste. The six partners can opt in/out of a project. Mr. Laird addressed Commissioner Zogmaister's questions stating that the changes between this contract and the one with NURLA relate mostly to membership. There will be a governing board and an operations committee.

Commissioner Bell moved to adopt Resolution 23-2014 approving Contract C2014-183, Interlocal Agreement by/among Weber County, The City of Logan, Wasatch Integrated Waste Management District, North Pointe Solid Waste Special Service District, Trans-Jordan Cities and South Utah Valley Solid Waste District to jointly create, operate and maintain Northern Utah Environmental Resource Agency as an interlocal entity pursuant to the Utah Interlocal Cooperation Act, Title 11, Chapter 13, UCA; Commissioner Zogmaister seconded.

Roll Call Vote:

Commissioner Bell ..... aye  
Commissioner Zogmaister..... aye  
Chair Gibson..... aye

**3. CONTRACT WITH ORION RENEWABLE ENERGY TRADING GROUP FOR A RENEWABLE ENERGY AGREEMENT – CONTRACT C2014-184**

Gary Laird, with County Solid Waste, stated that this contract allows the county to receive payments for renewable energy certificates for the energy produced by the landfill gas project. Currently, the county receives no money. The county will receive 65% and Orion 35%.

Commissioner Zogmaister moved to approve Contract C2014-184 with Orion Renewable Energy Trading Group for a Renewable Energy Agreement; Commissioner Bell seconded, all voting aye.

**4. RATIFY A CONTRACT WITH OGDEN FRIENDS OF ACOUSTIC MUSIC FOR RENTAL OF VIEW, EAST, MIDDLE AND WEST BOWERIES AT NORTH FORK PARK ON 8/22-24/2014 FOR A MUSIC FESTIVAL – CONTRACT C2014-185**

Jim Carter, with County Parks, briefly presented this contract.

Commissioner Bell moved to ratify Contract C2014-185, Interlocal Agreement with Ogden Friends of Acoustic Music for rental of View, East, Middle and West Boweries at North Fork Park on 8/22-24/2014 for a music festival; Commissioner Zogmaister seconded, all voting aye.

**5. INTERLOCAL AGREEMENT WITH NORTH OGDEN CITY DESIGNATING THE CITY AS THE LAND USE APPROVAL AUTHORITY FOR PROPERTY IN UNINCORPORATED WEBER COUNTY LOCATED AT APPROXIMATELY 1700 NORTH WASHINGTON BOULEVARD – CONTRACT C2014-186**

Sean Wilkinson, County Planning Division Director, noted that the city is in the process of annexing a small piece of property (just over 5,000 sq. ft.) currently located in unincorporated Weber County. This agreement allows the city to be the subdivision approval authority as well as the authority for future site plans, construction and building permits, etc. The city will collect the related fees.

Commissioner Zogmaister moved to approve Contract C2014-186, Interlocal Agreement with North Ogden City designating the city as the land use approval authority for property in unincorporated Weber County located at approximately 1700 North Washington Boulevard; Commissioner Bell seconded, all voting aye.

**6. REQUEST FOR ADDENDUM TO THE 2002 ZONING DEVELOPMENT AGREEMENT FOR WOLF CREEK RESORT**

Jim Gentry, with the County Planning Division, noted that stakeholders were present. In the 2002 Zoning Development Agreement (ZDA) there were 492 units that were part of Wolf Creek's overall density, but they were not assigned to any parcels. The unassigned units gave the developer flexibility in placing the units. Previously, this was not an issue because there was only one owner. However, there are now multiple owners who desire to know how many entitlements they have.

Wolf Creek representatives proposed a two-step process to assign those units to a particular zone within Wolf Creek. The first step would be to restructure the distribution of units, incorporate changes in the 2002 Wolf Creek ZDA and to reflect current zoning. The second step would revise the maps and overall Wolf Creek Master Plan. Mr. Gentry noted that before the commissioners was a map showing the proposed assignment of the units and how the units will go to the parcels. They also had a document with signatures by representatives from each of the 2014 Wolf Creek stakeholder members supporting the updated allocation entitlement distribution of the 2002 ZDA, with the exception of two owners (Summit Mountain Holding Group, Trendwest) that did not sign the Agreement and the units they were assigned in the 2002 Agreement will remain with those parcels and will not be affected by this addendum. Mr. Gentry noted that county staff was not involved in the assigning of units.

The Planning Commission recommended denying the two-step process; they prefer that the concept map be amended at the same time as the ZDA is approved. Some changes have occurred since the Planning Commission meeting on 6/3/2014 including that KRK, which currently owned the golf course, is being bought out by John Lewis/Capon Capital, and there has been additional input from other parties. Mr. Gentry addressed the commissioners questions stating that normally the process is done in one step—the ZDA is handled with the associated maps—but this proposal is to assign the units to have a guarantee of the development rights the developers have and then come back later with the proposed map. He said that Wolf Creek proposes to have this completed within one year if the density is assigned. He said that the Planning Commission wanted a lot of input from the Homeowners Association and all the property owners, even those that did not wish to participate in this process.

Eric Householder, of the Householder Group, noted that he has been working as a consultant with the stakeholders to try to interpret the 2002 Agreement and that it is a complex situation. Wolf Creek has been operating for 30 years under one ownership, but with the 2010 bankruptcy, parcels were sold at auction and property owners want certainty on their entitlements. The first meeting with the county occurred in January 2013 and they have been trying to get clarity for 18 months. He showed area maps. In 2002 there were 2,152 total units in Wolf Creek Resort's ZDA. The total increased in 2006 when Eagles Landing annexed into the project with 106 units. The 492 unassigned units were not assigned to a particular zone, and they are not extra density but exist within the 2002 ZDA. To allocate the units they looked at the zones, acreage, and ownership within the development and projected a calculation, which is supported by the ZDA. He stated that this is not a rezone request, that overall density does not increase and open space does not decrease. They seek clarification on the agreement on the entitlements and within 12-months would come back with a revised plan and a new ZDA. Mr. Householder said that Gary and Jan Fulmer had community meetings with members from both sides within and without the resort and got responses from over 100 people. The major comments were written into an updated land use plan.

Eric Langvardt, certified land planner of Langvardt Design, who has been involved with planning efforts at the resort for about 15 years, stated that this recent effort was to incorporate the input received through the Fullmer's outreach. He showed the existing development map. Many of the units are already built or are planned to be built. The resort master plan already incorporated clustering, a point which the Valley residents are adamant about continuing. They are focusing on two critical areas—the resort core and the northwest parcel, which is the larger remaining area of development to move forward. With the overall plan, one of the largest items of discussion was the importance of protecting open space and the majority of people did not think the originally planned second golf course made any sense. However, protecting the existing golf course is very important because it is such a core to the plan. The open space allocated for the second golf course is important to protect and utilize the expansion of the trail system.

Commissioner Bell asked who would be responsible for trail maintenance and expressed concern that they would not be taken care of because they are not a revenue stream. He prefers having some of these items firmed up initially as part of the process, rather than dealing with them at the tail end. Mr. Langvardt said that trails could be part of an overall HOA and it would be done in the future. The plan totals about 129,000 linear feet of trails, linking this project to others into the existing trail system and

part of it is the concept that the resort will provide a formalized trailhead. The concept of clustering to create a core resort center to this development is a priority that was emphasized by the residents as well as clustering more of the townhomes and condominiums. Part of the master plan would potentially include transferring density from some existing development into the resort core and create more usable open space at the edge of the project. Residents also wanted an access out of the development and there is a commitment to continue the planned roadway access to come south through Eagles Landing and also heading west out of Eagle Ridge.

John Lewis is purchasing the golf course. He said that KRK unfortunately had not been interested in what the public had to say, which created hard feelings. He enlisted everyone's input for three months to come up with a good list of what needs to be reconsidered on this master plan, which has been in place for 30 years. Mr. Lewis noted that there are three major players—America First, Summit and him. He stated that amenities are needed to bring in the people to make this project viable. He asked that the Commission clarify the development agreement, taking his efforts as a good faith gesture that he is interested in the public input and to make this work. He will try to buy back the open space and roll it into a new HOA so that the trail system will pay for itself. Commissioner Bell agrees with building a community center and other amenities, however, he expressed concern that it cannot happen until they start building and paying for the subdivision, etc., which may be many years into the future. He noted that property changes hands up there on the larger subdivisions for a reason. Mr. Lewis said that he is not asking for anything new from the 2002 agreement, only to finish the map in that document because it was not done. However, it is too much to accomplish in one step. The overall density is not changing.

Michael Olsen, representing America First Credit Union, stated that he is not an employee of the credit union but is a consultant. He said that 30 days prior to the auction AFCU, Zions Bank and Farm Bureau were asked by the bankruptcy court to negotiate between the three largest creditors to see if one creditor could take all of the assets and keep it together. They could not make it work. He thanked county planning staff for working with them for over two years. But after two years he could not come up with any other solution to split up the entitlements and the development agreement as was written in 2002. America First has about 51½% of the entitlements and has paid the fees for Mr. Langvardt and Mr. Householder because of their experience on this. He said that the best way to handle the trails issue is to include a paragraph in the addendum, and he believes that all stakeholders that have agreed to sign it would be in favor of that language being put in that addendum now. It could include that every lot pays a certain monthly amount for trails but it needs to be done initially. A problem that America First encountered is that zoning would allow them over 500 units, which would be difficult with the one-step process.

The Fulmers, of Eden, said that they had taken on the task of collecting community input for this proposal in hopes the stakeholders would listen, which Mr. Fulmer said resulted positively as was apparent by the map. The Ogden Valley Planning Commission (OVPC) voted 6-0 to deny this request, which Mr. Fulmer felt was due to questions as to what were they going to do with all people that would move up there with that density, and what were the amenities and how would they be supported. Mr. Fulmer noted that the GEM (Growth with Excellence Mandate) Committee, which works with developers and landowners, held a meeting on this item the night following the OVPC meeting. The Fulmers stated that they had first contacted different neighborhoods from all surrounding areas of Wolf Creek and held subsequent meetings. They put a preliminary proposal of what the community wanted and with the suggestions of the GEM Committee, the OVPC and the County Planning Division they reached out to the stakeholders. They have covered most of the acreage in Wolf Creek and have pulled the community together and seem to be getting good cooperation. They will obtain more input from the community, add it to the developers' input and present their findings at a community meeting on 9/17/2014. There will be articles in the newspaper and road signs noticing the public about Wolf Creek's meeting. They will finalize their findings and provide it to the GEM Committee. It will go through another revision and then be submitted to the OVPC and the County Planning Division. The Fulmers said that they are being extremely meticulous in documenting the process that they are following with the community. Ms. Fulmer stated

that when there was one developer of Wolf Creek (Steve Roberts), he initially installed all of the walking trails when the different communities were built (i.e., Trappers Ridge, Fairways, The Highlands). Once the homeowner associations were operating, they took over the trail maintenance. Commissioner Bell asked if there is a development agreement with Wolf Creek Water & Sewer District. Ms. Fulmer said that she initially contacted the District about the 492 additional living units and asked if they could support them and they had responded affirmatively in an email. Because there is a lot of open space there and developers can petition to change that zoning, the Fulmers recommend including in the plan the designated open space areas (which were agreed to by Mr. Roberts to get his additional desired density) to ensure that conservation easements are put in place to remain in perpetuity.

Mr. Fulmer emphasized that the sewer capacity at Wolf Creek is 2,500 units with an additional 2,500 capacity if they put in more baffles. He stated that there are no additional units, the 492 were part of the original density, and they have been for the past 30 years. There is nothing new—the sewer and water capacity, etc., are based on the 2002 development agreement.

Paul Strange, General Counsel for Summit Mountain Holding Group, stated that to secure the density the developer had agreed to bear the cost of the open space amenities. When Wolf Creek went bankrupt, the development was broken into various parcels and sold at auction. At that time the 492 units were not advertised as being attached to any particular parcel or guaranteed to the purchasers. Thus, it is a wrong idea today that they need to be allocated to parcels that were purchased without that; there is no such entitlement. Summit purchased large portions of Wolf Creek at the auction. The Planning Commission asked that the community meet with the developers and come back with a master plan. He said that the Fulmers deserve a lot of credit for all their hard work. There has been a lot of discussion but there is only a conceptual map and the process is incomplete. There is still a lot to be addressed—of which trails is only one aspect. A master plan will specify a timeline for when items will occur because currently there is no such thing. Major issues that need to be addressed in a comprehensive plan include the need to consider the open space in conjunction with this specific request because currently it exists only in the agreement from 2002, there are issues with the declarant, even though there is agreement that the second golf course does not make sense it is necessary to determine how to deal with the additional parking volume at the other golf course and which developer is responsible because it is a safety nightmare there, who is responsible for delivering the envisioned amenities or should they be required to materialize before the density is allocated or before that additional density can be used, and who is providing the swimming, concert and farmers market areas. He reiterated that there is the question as to “when” things are to occur. He asked if there will be a way to reduce the transportation and provide a shuttle system within the area, and who is responsible for maintaining the open space for the trails. Summit is committed to collaborating and be part of the process but it is not prudent to allocate the density before finalizing the plan and the community having a chance to review it and provide input.

Mr. Strange asked the Commission to deny this request for allocation and require that it be done in a one-step process, which is the normal mechanism. Their property is quite affected by this. He agrees with putting all of this information into a development agreement but it needs to be done comprehensively, with a master plan that has enough detail that can be followed, and that the developers need to be committed to it so that someone can be held accountable going forward.

Commissioner Zogmaister stated that there is already a plan in place. They simply want an addendum to allow density to be assigned, which allows development to move forward because it is stuck now. These experienced developers went into this knowing what density they had; they would not have purchased the property with that much uncertainty. She said that the request today is not to pin down a long term plan or to present a plan as part of today’s meeting but is to allow things to be sorted out and move into certain place so that it can be developed and can have a plan and a timeline. She said that the community is rallying around this project. Mr. Strange said that the main reason they do not want this to move forward is because the community has not finished their process and this is the point where the county has the ability to require something of these developers, before they allocate the density. Commissioner

Zogmaister noted that there is no new density being allocated and that is not being asked. No new units are being asked for water, sewer, amenities, etc., and this is not a traditional situation. She agrees with the two-step process and said that they are at a stalemate without the knowledge of where the density is assigned. Mr. Strange agreed in the global sense but said that the individual parcel owners are getting additional density added.

Commissioner Bell said that the recent property owners knew what they had purchased. Chair Gibson did not believe that each individual knew exactly what they were buying, but knew how the property was assigned as a whole. Commissioner Zogmaister said that government's role is to provide some type of certainty so that things are allowed to move forward. The county created the original process and it can now be improved and does not create winners or losers. Commissioner Bell said that he still has questions and would like the stakeholders to meet with a County Commissioner and walk through each discussion point. The Fulmers support all the parties meeting with an arbitrator.

Mr. Lewis emphasized that he has been a resident there for a long time and is coming forward to try and fix this issue. His purchase contract expires on 9/15/2014 and he has until then to fix this and asked the Commission not to tie his hands and allow him the comfort level to go through the real estate closing. He does not want to spend \$2 million not knowing what he is getting. Commissioner Bell noted that Mr. Lewis knows what he is getting and Mr. Lewis said that he would have a different risk level. Mr. Lewis supports putting this item back on the 9/9/2014 agenda. Commissioner Zogmaister asked about moving up the community meeting but the Fulmers will be out of town.

Howard Schmidt, Eagle's Landing parcel owner, stated that he has owned 160 acres since about 2006/2007 and his property would add the road for the extra access. He has met with all the stakeholders for over a year trying to work through some issues and 99% of them are in agreement that this item should go forward. There is much to be figured on the trails but it will have to be done in the future. He is excited to build trails when he develops but cannot pin that time down. He asked the Commission to move forward today with the addendum.

Ms. Fulmer requested that Commissioner Bell be the negotiator for the 8/28/2014 meeting to bring both sides together and to document what will be agreed to. She stated that they are not trying to stop development and only want the best plan with the community's input. She said that there are a lot of hard feelings in the community with what has been said. Chair Gibson wants to make sure this is done appropriately.

Commissioner Bell moved to bring this item back on the 9/9/2014 agenda; Commissioner Zogmaister seconded, all voting aye.

**F. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, SEPTEMBER 2, 2014, 10 A.M.**

**G. PUBLIC COMMENTS:** None

**H. ADJOURN**

Commissioner Bell moved to adjourn at 11:57 a.m.; Commissioner Zogmaister seconded, all voting aye.

Attest:

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Kerry W. Gibson, Chair  
Weber County Commission

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Ricky D. Hatch, CPA  
Weber County Clerk/Auditor