

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

Tuesday, September 6, 2011 - 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: Jan M. Zogmaister, Chair, and Kerry W. Gibson. Craig L. Dearden was excused.

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 Zogmaister
- B. **PLEDGE OF ALLEGIANCE** - Rob Scott
- C. **THOUGHT OF THE DAY** - Commissioner Gibson

D. CONSENT ITEMS:

- 1. Purchase Orders for \$171,262.40
- 2. Warrants #277573-#277874 for \$473,605.19
- 3. Minutes for the meeting held on August 30, 2011
- 4. Retirement Agreement with Curtis Christensen - Contract C2011-182
- 5. New business licenses

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

E. ACTION ITEMS:

- 1. **INTERLOCAL AGREEMENTS FOR ELECTION SERVICES PROVIDED BY WEBER COUNTY TO HOOPER AND ROY CITIES FOR 2011 GENERAL ELECTION - CONTRACTS C2011-183, C2011-184**

Douglas Larsen, County Elections Administrator, presented these two contracts.

Commissioner Gibson moved to approve Interlocal Agreements C2011-183 and C2011-184 for election services provided by Weber County to Hooper and Roy cities, respectively, for the 2011 General Election; Chair Zogmaister seconded, both voting aye.

- 2. **ADJUSTMENT OF IMPACT FEES FOR AN ADDITION TO WASHINGTON HEIGHTS BAPTIST CHURCH AND CONSTRUCTION OF A NEW STORAGE SHED LOCATED AT 1770 E. 6200 S.**

Craig Browne, of County Building Inspection, stated that Washington Heights Baptist Church is constructing a larger shed and an addition to their building and this item is to consider the reduction of impact fees. The parcel contains 42 acres and the proposed construction will only impact about 1.6 acres of the site. A strict interpretation of the impact fee ordinance would result in a \$74,623.29 impact fee for the addition and a \$58,010.40 impact fee for the shed. He noted that the Commission has reduced impact fees in the past only for the areas that are impacted. The reduced impact fees will be \$20,708.29 for the church addition, \$1,315.00 for storm water and \$2,859.30 for the shed. There are no reductions to the roads. Commissioner Gibson asked if this is consistent with past actions and Mr. Browne responded that it is and he named other entities such as Western Zirconium, GSL, and others that have large parcels but only a small portion of those parcels were impacted.

Commissioner Gibson moved to approve the adjustment of impact fees for the church building addition and construction of the new storage shed located at 1770 E. 6200 S.; Chair Zogmaister seconded, both voting aye.

3. **FINAL APPROVAL OF THE HIGHLANDS AT WOLF CREEK PHASE 2 SUBDIVISION 2ND AMENDMENT (2 LOTS)**

Ben Hatfield, of County Planning Division, showed an area map stating that the owners of lots 18 and 23 of the Highlands at Wolf Creek Phase 2 Subdivision decided to purchase the lot between them, split it and then reconfigure their lot lines to incorporate the land into their lots. Each lot will consist of about ¾ of an acre. The vacation of the original three lots will occur later in this meeting.

Commissioner Gibson moved to grant final approval of the Highlands at Wolf Creek Phase 2 Subdivision 2nd Amendment; Chair Zogmaister seconded, both voting aye.

F. PUBLIC HEARING:

1. Commissioner Gibson moved to adjourn the public meeting and convene the public hearings; Chair Zogmaister seconded, both voting aye.

2. **PUBLIC HEARING REGARDING AMENDMENTS TO THE WEBER COUNTY ZONING CHAPTER 34, HOME OCCUPATION-SHORT TERM VENDORS-TEMPORARY OUTDOOR SALES-FARMER'S MARKETS AND MOVING A PROVISION REGARDING GARAGE AND YARD SALES FROM CHAPTER 34 TO CHAPTER 23, SUPPLEMENTARY AND QUALIFYING REGULATIONS**

Rob Scott, County Planning Division Director, presented amendments to the Zoning Ordinance, Chapter 34, for home occupations and new ordinance language for short-term vendors, temporary outdoor sales and farmers markets.

Mr. Scott said that there are four issues to discuss: 1) whether or not two non-resident employees should be allowed as part of home occupations; 2) onsite sale and production of merchandise; 3) what personal services should be allowed as home occupations; and 4) short-term vendors and temporary outdoor sales.

Non-resident employees: Both General plans support promoting commercial uses within commercial areas/zones and do not support the idea of non-resident employees. The ordinance specifically states that the purpose for home occupations is to allow the persons residing in the home to provide a service. The Western Weber County Planning Commission's focus had been on larger lots where it is perceived that there are not as many impacts. However, Mr. Scott pointed out that there are traditional residential neighborhoods in unincorporated Weber County such as Wally's Acres, the Uintah Highlands area, Ogden Canyon (where there are lots 2,000 square feet and less), and P.R.U.D.s in the Ogden Valley, which have the potential for problems. Some home occupations allow visiting clientele, which have potential for additional impacts (traffic, noise, etc.) and may compound the problems, and this is not consistent with the ordinance goals. Home occupations are currently designated as permitted uses.

Additional conditions are difficult to impose by staff unless specifically identified in the ordinance and if these other issues are to be considered, perhaps these uses should go back to being classified as conditional uses. Businesses with employees should be in commercially zoned areas. If there are special circumstances that warrant an exception (i.e., a homebound/disabled person) the ordinance can include language to allow for those special exceptions.

Mr. Scott said that the Commission would need to consider the appropriate buffer between a home occupation and a neighboring home. Currently, the ordinances allow some uses to go beyond the standard 5-acre lot. He recommended that for home occupations with visiting clientele and/or non-resident employees that these be designated as conditional uses. The parking standards do not address home occupations with non-resident employees and appropriate standards need to be formulated.

Onsite sale and production of merchandise: Staff and both Planning Commissions are recommending eliminating “home occupations may only include merchandise and items which are produced on the premises.”

Personal services: Mr. Scott said that the county wanted to try having its uses consistent with the Health Department’s regulations. Staff contacted the Weber-Morgan Health Department and received information that nail salons, tattoo parlors, tanning salons and massage therapy parlors come with special health concerns; there is potential for contamination between residents and clients and are not recommended as home occupations. Both Planning Commissions recommend eliminating these uses, with the exception that the Ogden Valley Planning Commission is recommending that massage therapy parlors be an allowed home occupation use. Louis Cooper, of the Health Department, stated that beauty salons have historically been in homes, but nail salons are more recent and can have fungus, etc., thus they have been regulating those along with tattoo parlors due to the potential health hazards. Mr. Cooper said that there is a lot of potential for transmission of disease in massage therapy parlors with excessive bodily contact, thus separation of home and business becomes essential, but this is difficult to regulate.

Short term-vendors/temporary outdoor sales: There is a question as to what is an appropriate location for short-term vendors/temporary outdoor sales and whether locating these uses on a site with the appropriate zoning is sufficient or if in addition they should be located on a site with a previously approved site plan. Both Planning Commissions recommended that a site with appropriate zoning is sufficient. Chair Zogmaister noted that the Health Department is currently regulating the water sanitation, etc.

Mr. Scott noted that the Commission has Options A and B relative to these four areas and he needs their direction.

Chair Zogmaister invited public comments and none were offered.

3. PUBLIC HEARING REGARDING THE VACATION OF LOTS 18, 22 AND 23 OF THE HIGHLANDS AT WOLF CREEK PHASE 2 SUBDIVISION

Ben Hatfield, of County Planning Division, referred to the related item E.3 above.

Chair Zogmaister invited public comments and none were offered.

4. Commissioner Gibson moved to adjourn the public hearings and reconvene the public meeting; Chair Zogmaister seconded, both voting aye.

5. ACTION ON PUBLIC HEARINGS:

F.3. - VACATION OF LOTS 18, 22 AND 23 OF THE HIGHLANDS AT WOLF CREEK PHASE 2 SUBDIVISION - ORDINANCE 2011-14

Commissioner Gibson moved to adopt Ordinance 2011-14 vacating lots 18, 22 and 23 of the Highlands at Wolf Creek Phase 2 Subdivision; Chair Zogmaister seconded.

Roll Call Vote:

Commissioner Gibson aye
Chair Zogmaister aye

F.2. - HEARING REGARDING AMENDMENTS TO THE ZONING ORDINANCE, CHAPTER 34, HOME OCCUPATION-SHORT TERM VENDORS-TEMPORARY OUTDOOR SALES-FARMER'S MARKETS AND MOVING A PROVISION REGARDING GARAGE AND YARD SALES FROM CHAPTER 34 TO CHAPTER 23, SUPPLEMENTARY AND QUALIFYING REGULATIONS

Chair Zogmaister noted that currently, these home occupations are permitted uses. Commissioner Gibson read the pertinent excerpts from the two General Plans stating that the idea is to have commercial uses in commercial areas. He did not believe that it would be hindering that goal by allowing two employees in a home occupation. Mr. Scott stated that the question is whether to start allowing up to two people, who live in a different area, to be able to drive to someone's home and operate out of that home. Chair Zogmaister supports home businesses but expressed concerns with parking issues in P.R.U.D.s, the Ogden Canyon and cluster subdivisions. The Planning Commissions did not address parking. If the item is to move forward, she would like language recognizing that not all lots can support more than 1 employee. She recommended that only those uses currently regulated by the Health Department (tattoo & tanning salons) be disallowed. Mr. Scott recommended that Option B in the ordinance be adopted today with Commission direction to address the other issues.

Chair Zogmaister felt that 5-acres is excessive for a buffer. Mr. Scott recommended taking that issue back to the Planning Commissions. Mr. Scott noted that the buffer/separation standard exists so that there is no impact to the neighborhood when allowing for those outside employees to come in. David Wilson, Deputy County Attorney, stated that safety has to be the ultimate factor as the Commission considers allowing a home occupation with visiting clients and two employees. This should be reviewed on a case-by-case basis as to whether they can adequately serve the parking without creating a safety hazard, rather than basing it upon acreage. Children are out on those streets, riding bikes, etc., and with the increase in traffic, from a liability standpoint, there should be some provision for off-street parking if the homes have ½ to 1-acre. There was discussion about requiring a conditional use permit for those properties under a certain acreage.

Mr. Scott noted that most of the 16 required conditions in the home occupation exist currently but a few have minor amendments. Chair Zogmaister asked why the site plan requirement was being added and Mr. Scott stated that it is a policy question. It will be much better for petitioners to come onto an approved site. Chair Zogmaister stated that some requirements for an approved site for a temporary operation are quite a heavy load for the use. Mr. Scott stated that if someone is required to be located on an approved site, they already have an approved site plan and it is known how much parking area they will take up, etc. He explained that farmers do not fall under short-term vendors/temporary outdoor sales.

Commissioner Gibson moved to direct staff to draft the final ordinance with Option A for both 34-3, Short-term Vendors, and 34-4, Temporary Outdoor Sales. Regarding Home Occupation, he moved to direct staff to prepare the ordinance to allow two non-resident employees under certain circumstances as discussed, to adjust the acreage, and to take into account the safety issue on the parking standards; Chair Zogmaister seconded, both voting aye. The commissioners expressed their preference for Option B of Item 16 under Required Conditions. Discussion ensued and the commissioners were not prepared to make a decision on 34-2, Home Occupation, and desire to study this issue further. David Wilson, Deputy County Attorney, noted that from a legal standpoint it is preferred to present the final product containing all of the Commission's directives. Commissioner Gibson moved to table this item. Chair Zogmaister seconded, both voting aye.

G. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, SEPTEMBER 13, 2011, 10 A.M.

H. PUBLIC COMMENTS:

Dave Nielsen spoke on behalf of the owners of La Plata Ranch, a 10,800 acre property located northeast of Powder Mountain Resort. The primary interest is in Weber and Cache counties, but also affects Box Elder County. La Plata Ranch is currently in the process of planning a destination resort development in that general area. The area north of Avon Road in Cache County and coming down following the boundary lines contains about 133,000 acres of land. He said that there are six roads involved. Three of them are dirt roads, the earliest from 1866, and involve both Weber and Cache counties.

Mr. Nielsen said that the time has come to call attention to this area and improve the roads. La Plata Ranch owners wonder why these roads between the two counties are still dirt after 60+ years and assume it is because there are two counties involved and the major area landowners own large tracks of land. He presented a report they prepared on the roads and asked the two counties to address the issue of improving these roads. The last big rain storm undid all the work that had been done to repair the roads. Mr. Nielsen asked that Weber County contact Cache County see if this issue can move forward.

The road that connects the other two is called Davenport Road, running easterly from the Avon/Liberty Road and comes up on State Road 39 at the Ant Flat area. That road is approximately 20 miles long with about 4½ miles of it in Weber County and crosses Weber County’s boundary line five times and three different parcels and the remaining in Cache County. There is a legal dispute on the Davenport Road that connects from the west to the east with the landowner of Swan Ranch, and La Plata Ranch owners are also working with Cache County to get that resolved. The road that was put in 1866 went along the river, which has changed course and the landowner moved the road a little out of the river. Three miles of the road were washed out by the river in La Plata and they want to relocate it and make the connection through on this road. The State Supreme Courts adjudicated in 1927 for a 100-foot public highway through that area. Mr. Nielsen said that the landowners are in support, except for the one ranch owner who has blocked 5½ miles of Davenport Road. He stated that the Cache County Attorney is recommending using the county’s power of eminent domain to condemn the road.

I. ADJOURN

Commissioner Gibson moved to adjourn at 11:36 a.m.; Chair Zogmaister seconded, both voting aye.

Jan M. Zogmaister, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor