

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

Tuesday, October 1, 2013 - 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: Kerry W. Gibson, Chair, Jan M. Zogmaister and Matthew G Bell.

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

A. WELCOME – Chair Gibson

B. PLEDGE OF ALLEGIANCE – Jim Harvey

C. THOUGHT OF THE DAY – Commissioner Zogmaister

D. PRESENTATIONS:

SEAL OF SERVICE AWARD TO DILIYA BERRETT OF THE ASSESSOR'S OFFICE

John Ulibarri, Weber County Assessor, read the submitted nomination. Ms. Berrett expressed thanks to her co-workers. The commissioners presented her with \$100, a Seal of Service pin and a plaque for her excellent customer service.

COUNTY SEAT TELEVISION PROGRAM

Chad Booth outlined topics that have been presented in the program and asked for ideas for future topics.

SR-37 (4000 S.) PROJECT

Brett Slater, with UDOT, stated that this project, a joint effort between UDOT, West Haven City and Weber County, is not fully funded at this time. Currently, they are conducting the environmental study/preliminary engineering, which will take the project from SR-108 to 5100 W. A public hearing will be held 10/10/13 at West Haven. HG Kunzler, Project Manager with H.W. Lochner, stated that the study takes in SR-37 from 5100 W. to Midland Drive to increase safety and mobility through the corridor. Proposed improvements include that it will be a 5-lane facility with sidewalks on both sides. He addressed the commissioners' questions including that five homes will be relocated.

E. CONSENT ITEMS:

1. Purchase Orders for \$910,607.85
2. Ratify Warrants #301849-#302106 for \$2,032,519.56 dated September 24, 2013
3. Warrants #302107-#302456 for \$1,107,246.72
4. Minutes for the meeting held on September 17, 2013
5. ACH payment to US Bank for \$95,285.83 for purchasing card transactions through 9/16/2013
6. New business licenses
7. Surplus camera equipment from the Sheriff's Office
8. Surplus radios from the Sheriff's Office
9. Surplus part of Parcel #16-049-0022 as requested by County Operations
10. Set public hearing for October 22, 2013, 10 a.m., to consider a request to amend the County Zoning Map by rezoning property located at approx. 2150 E. Megan Circle (Uintah Highlands area) from Residential Estates-15 (RE-15) Zone to Single-Family Residential-1-10 (R-1-10) Zone to develop the Combe South Estates No. 2 with consistent zoning
11. Set public hearing for October 22, 2013, 10 a.m., to consider a request to amend the County Land Use Code Title 104 (Zones) Chapter 12 (Single-Family Residential Zones R-1-12, R-1-10) by reducing the minimum front and rear yard setbacks in the R-1-10 Zone from 30 feet to 20 feet

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

F. ACTION ITEMS:

1. CONTRACT WITH KOTTAGE KUPBOARD INC. FOR THE CORN STALKS & PUMPKINS EVENT AT THE GOLDEN SPIKE EVENT CENTER (GSEC) SEPTEMBER 30-OCTOBER 5, 2013 – CONTRACT C2013-249

Jim Harvey, with GSEC, presented this standard contract.

Commissioner Zogmaister moved to approve Contract C2013-249 with Kottage Kupboard Inc. for the Corn Stalks & Pumpkins Event at the Golden Spike Event Center 9/30-10/5/2013; Commissioner Bell seconded, all voting aye.

2. CASH IN LIEU OF BOND/LOAN AGREEMENT WITH SUMMIT MOUNTAIN HOLDING GROUP LLC FOR SUMMIT MOUNTAIN HOLDING GROUP TO MAKE A CASH DEPOSIT IN LIEU OF PROVIDING A LOAN OR SURETY AND PERFORMANCE BOND WITH A FINANCIAL INSTITUTION – CONTRACT C2013-250

Dan Olsen, County Comptroller, noted that State law requires the county to have an appraisal of the assessment area, which takes into account the value of the improvements and, if there are going to be privately funded improvements that the developer put up a loan or cash to guarantee completion of those improvements. Under this agreement, Summit will deposit with the county approximately \$3.5 million in cash. As those improvements progress the county will release the funds. If there is money remaining, it will be released to Summit; if the cost is higher than deposited, Summit will add the money to the fund.

Commissioner Zogmaister moved to approve Contract C2013-250, Cash in Lieu of Bond/Loan Agreement with Summit Mountain Holding Group LLC for Summit Mountain Holding Group to make a cash deposit in lieu of providing a loan or surety and performance bond with a financial institution; Commissioner Bell seconded, all voting aye.

3. CONTRACT WITH EARTHTEC ENGINEERING FOR A GEOTECHNICAL STUDY ON 7.45 ACRES OF PROPERTY THAT WEBER COUNTY IS IN THE PROCESS OF PURCHASING – CONTRACT C2013-251

Nate Pierce, County Operations Department Director, noted that this contract is to conduct a soil study.

Commissioner Zogmaister moved to approve Contract C2013-251 with Earthtec Engineering for a geotechnical study on 7.45 acres of property that Weber County is in the process of purchasing; Commissioner Bell seconded, all voting aye.

4. CONTRACT WITH FREE AND ASSOCIATES INC. FOR APPRAISAL SERVICES TO CERTAIN REAL PROPERTY IN WEBER COUNTY – CONTRACT C2013-252

Nate Pierce, County Operations Department Director, stated that this is part of the due diligence on the property in the above item to ensure the county is not paying more than fair market value.

Commissioner Bell moved to approve Contract C2013-252 with Free and Associates Inc. for appraisal services to certain real property in Weber County; Commissioner Zogmaister seconded, all voting aye.

5. CONTRACT WITH GERBER CONSTRUCTION, INC. FOR THE WILLARD CANAL INTAKE MODIFICATIONS PROJECT AS PART OF THE WEBER EMERGENCY WATERSHED PROTECTION (EWP) PROJECT – CONTRACT C2013-253

Jared Andersen, County Engineer, stated that this project includes installation of an automated screen trash rake system to prevent clogging of the intake. Chair Gibson noted that NRCS pays 75% of the EWP project costs, Weber Basin pays half of the remaining 25% and the county pays the remaining 12.5% match.

Commissioner Bell moved to approve Contract C2013-253 with Gerber Construction, Inc. for the Willard Canal intake modifications project as part of the Weber Emergency Watershed Protection Project; Commissioner Zogmaister seconded, all voting aye.

6. **ACTION ON ADMINISTRATIVE APPLICATION, FINAL APPROVAL OF COMBE SOUTH ESTATES SUBDIVISION NO. 1, 2ND AMENDMENT (2 LOTS), WITH A RECOMMENDATION FOR DEFERRAL OF SIDEWALK IMPROVEMENTS ON COMBE ROAD & VACATE AMENDED PLAT OF LOT 3, COMBE SOUTH ESTATES SUBDIVISION NO. 1, INCLUDING ALL PUBLIC UTILITY EASEMENTS – ORDINANCE 2013-26**

Ben Hatfield, of County Planning, noted that a large area of Combe Road around this subdivision has portions of curb and gutter but not sidewalk. The Western Planning Commission and staff recommend approval of this item.

Commissioner Bell moved to grant final approval of the Combe South Estates Subdivision No. 1, 2nd Amendment, with deferral of sidewalk improvements on Combe Road, and to adopt Ordinance 2013-26 vacating the Amended Plat of Lot 3, Combe South Estates Subdivision No. 1, including all public utility easements located therein; Commissioner Zogmaister seconded.

Roll Call Vote:

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

G. PUBLIC HEARINGS:

1. Commissioner Zogmaister moved to adjourn the public meeting and convene the public hearings; Commissioner Bell seconded, all voting aye.
2. **PUBLIC HEARING ON A LEGISLATIVE AMENDMENT TO THE OGDEN VALLEY GENERAL PLAN; OGDEN VALLEY PATHWAY MASTER PLAN AND MASTER PLAN MAP**

On 6/25/2002 the Weber County Commission amended the Ogden Valley General Plan by adopting the Ogden Valley Pathway Master Plan. In January 2009, the County Planning Division and Weber Pathways engaged in a project to establish a county-wide pathway plan. The effort included the collaboration of all 15 municipalities of the county, Weber County, federal, state and regional agencies and culminated in a document entitled the “Weber County Cooperative Pathways Master Plan” that included trail and bike maps for the entire county. Rob Scott, County Planning Division Director, stated that this amendment incorporates the updates from that effort into the Ogden Valley Pathway Master Plan and Map to be consistent with the Weber County Cooperative Pathways Master Plan. The highlights include reformatting the plan to be consistent with current policies, adopting the Weber County Coordinated Trail Signage standards (endorsed by the Weber Trails Committee and adopted by reference), and a revised section on funding options for developing pathways.

Landowner relations are a critical part of developing the trail network. It is reinforced that the pathway locations are not property specific. As each pathway is considered for development the specific design will look at where the actual location will be. Mr. Scott noted that the scale of the Plan Map does not allow for the detail of the pathways in North Fork Park and Weber Memorial Park, and as specific master plans for those parks are identified, the pathway details will be included in those specific maps. The County Commission, with a recommendation from the Ogden Valley Planning Commission, created the Trails Ad Hoc Committee to review this project. The Planning Commission held several work sessions and a public hearing and recommend adoption of the Plan and Map. Findings were developed that demonstrate that the plan is consistent with State Code, the county’s plan and land use ordinances.

Chair Gibson invited public comments and following is a summary:

Steve Balek, of the Patio Springs Subdivision, Eden, stated that the subdivision residents have many concerns over a proposed pathway in the area owned by the Ogden Valley Land Trust (Land Trust). This pathway will run adjacent to their rear property lines and they have major concerns with safety because where these pathways have been installed in the past there has been an increase in home burglaries, etc.

Mr. Balek said the residents do not feel it is proper to give Ogden Valley Pathways permission to modify their plans without public hearing. Pathways are needed but there is no purpose in running one through the middle of a subdivision and they request the Commission deny this pathway.

John Brady, of the Patio Springs Home Owners Association (HOA), echoed Mr. Balek's concerns stating that it is a small area back there and it would not tie into any other paths. The pathway seems to go into the center of their subdivision, into their backyards, and is simply a circle that goes nowhere and makes no sense. There are also two proposed parking lots in there. The majority of the HOA is extremely against this path. The HOA recognizes it is a conservation easement and designated wetland back there and they want it kept that way. They do not agree with putting a trail and parking lots there for no purpose.

Sherrie Brennan, of the Patio Springs Subdivision, Eden, expressed concern with the residents arbitrarily giving Pathways permission to put in a path without the issue first being heard in a public forum. All proposed pathways need to be individually reviewed. She stated that it is an inappropriate place for a pathway—the area borders people's backyards. Additionally, various animals live back there such as deer, elk, moose, raccoons, skunks, rabbits, bald eagles, etc. If a pathway is installed there, she will put up a fence and will probably all her neighbors for they do not want their homes intruded upon; they do not want people walking in their backyards. The fences would block the pathways of deer, etc. She is saddened that this pathway would cause this type of intrusion stating that human beings do not have the right to do that to the animals. She pleaded with the commissioners not to allow this pathway.

Tory Madson, of the Patio Springs HOA, echoed the previous expressed concerns.

Pat Brennan, of the Patio Springs Subdivision, Eden, hopes that the Commission can stop the RAMP funds to install the pathway—public funds would make the pathway public. He understands that the RAMP funds were taken back but had been reissued and he wants to know if that is correct. When the Land Trust obtained the property, a builder had built on Patio Springs property, which was then part of Wolf Creek, and an agreement between Wolf Creek, Lowell Peterson and the Patio Springs HOA allowed Patio Springs to get the property back for a fee. However, Mr. Peterson who had signed the document to be recorded then told the HOA that he did not have the legal right to sign and the residents reluctantly rescinded and asked that nothing be recorded at that time. In 2010, the residents that had encroached on the property were approached to remove. When Wolf Creek owned the property through the 1990's it had given permission to all those residents to do what they wanted to with the rear of the properties as long as no permanent structures were erected. When the document was orchestrated with the Land Trust, it contained language that all of the encroachments would remain and it was agreed, however, after it was recorded it was discovered that the language had been removed. The residents had believed that the Land Trust would put its easement on the property and no one could build back there, which is the residents' desire. Now the Land Trust has taken a few of those residents to court and has lost. Mr. Brennan feels they are being vindictive because of the encroachment. He said that there is a river where they could continue a pathway. He has no problem with a pathway in the front but it's vindictive to put it in their backyards; trail users would just walk around the residents' backyards. He recommends that the parties meet to discuss this issue.

Commissioner Zogmaister, understands the citizens' concerns, and asked how it relates to this proposed action and Mr. Scott responded that it is a totally different matter; it is a private matter between the Land Trust and the residents. He said the path is not on the map nor is it proposed. Adopting this Plan does not have any affect on negotiations or potential litigation that is occurring with the subject residents. If in the future they wish to add it to the map, it would depend on the type of pathway—if it is part of private development, they are able to add it without the county's knowledge.

Steve Balek stated that the residents are against Ogden Valley Pathways making modifications without the county's approval and that Pathways should have to come before the County Commission for public input.

The commissioners asked if there is an approval process for adding that pathway to the list or whether Pathways can move forward to create it without any county approval. Mr. Scott iterated that on private development the county has no control. To amend the county's plan, it is an administrative issue and can be amended by planning staff, however, if the commissioners wish, it can be changed so that it is brought before the County Commission. The commissioners agreed that this would be good policy.

Commissioner Zogmaister noted that emails were received about the conflict with RAMP funding. She asked about the process for a private party to make the pathway public. This needs to be studied. David Wilson, Deputy County Attorney, said that if public funds are involved then the county would want it to be a public pathway. There should be a process for screening this in advance and hear surrounding property owners input before the county grants public funds to facilitate a pathway. Commissioner Bell expressed concern with the county considering RAMP funding for a trail that goes nowhere.

3. PUBLIC HEARING TO CONSIDER A REQUEST TO REZONE PROPERTY LOCATED AT APPROXIMATELY 6300 S. & 1500 E. (SOUTH OGDEN AREA) FROM THE GRAVEL (G) ZONE TO AGRICULTURAL-1 (A-1) ZONE FOR THE PURPOSE OF CREATING A FARM OPERATION THAT CAN RAISE FISH, GRAZE CATTLE AND CARRY OUT OTHER VARIOUS ACTIVITIES AND/OR USES ALLOWED IN THE A-1 ZONE

Scott Mendoza, of the County Planning Division, showed area maps noting that on the north side of the subject property is South Ogden City's boundary and on the south is the Town of Uintah. The subject property, consisting of two parcels (one is almost 54 acres, the other almost 1 acre) was used as a gravel pit for about 30 years, and lies directly east of an existing A-1 Zone. Because this action results in zoning that allows less intensive uses and that are more compatible with surrounding uses, Gordon Frisbey, applicant, requested that the county not limit the farm improvements to those currently shown on the Concept Development Plan and not require a Zoning Development Agreement. Commissioner Zogmaister asked about the benefit of applicants going through the Zoning Development Agreement process and Mr. Mendoza responded that it is in some cases where they are asking for very specific development plans, however, at this point the applicant is planning to begin a farm operation and has not provided anything very specific. Mr. Mendoza referred to Chapter 5, Rezone Chapter, which language states that the County Commission *may* require an applicant to enter into a Zoning Development Agreement.

Mr. Mendoza outlined questions for the Planning Commission and County Commission's consideration, including how this change is in compliance with the General Plan, why present zoning should be allowed, and how the change is in the public's interest. These items are addressed in staff's report along with staff's analysis. The report includes the recommendation from the Western Weber Planning Commission, which is in favor of this request, and staff's recommendation, which is also in favor, reminding the Commission that the applicant is requesting that there be no Zoning Development Agreement, that the Concept Development Plan not be adhered to as is presented today and that the property be regulated by the A-1 Zone.

Mr. Mendoza showed the existing access for this property and stated that after the property was purchased, there was a right-of-way provided to access it. Planning staff notified South Ogden City and the Town of Uintah inviting comments but none were submitted. Additionally, 282 notices were mailed and 4 people asked questions such as whether a fence would be constructed, what types of animals would be part of the farm (but there is no specific plan), etc.

Chair Gibson invited public comments. Mr. Frisbey stated that he just wants to have a farming operation.

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

5. **ACTION ON PUBLIC HEARINGS:**

G.2 - LEGISLATIVE AMENDMENT TO OGDEN VALLEY GENERAL PLAN; OGDEN VALLEY PATHWAY MASTER PLAN AND MASTER PLAN MAP

Commissioner Bell asked to hold this item for about one week and no action was taken.

G.3. - REZONE PROPERTY AT 6300 S. & 1500 E. FROM G ZONE TO A-1 ZONE – ORDINANCE 2013-27

Commissioner Bell moved to adopt Ordinance 2013-27 rezoning property at approximately 6300 South 1500 East from the Gravel (G) Zone to the Agricultural-1 (A-1) Zone for the purpose of creating a farm operation that can raise fish, graze cattle and carry out other various activities and/or uses allowed in the A-1 Zone with a recommendation that the proposal not be subject to a Zoning Development Agreement nor be limited to the development shown on the Concept Development Plan, and that it be subject to the A-1 Zoning requirements; Commissioner Zogmaister seconded.

Roll Call Vote:

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

H. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, OCTOBER 8, 2013, 10 A.M.

I. PUBLIC COMMENTS: None

J. ADJOURN

Commissioner Bell moved to adjourn; Commissioner Zogmaister seconded, all voting aye.

Attest:

Kerry W. Gibson, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor