

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

Tuesday, October 4, 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, Craig L. Dearden and Kerry W. Gibson.

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

A. WELCOME - Chair Zogmaister

B. PLEDGE OF ALLEGIANCE - Mike Caldwell

C. THOUGHT OF THE DAY - Commissioner Gibson

D. CONSENT ITEMS:

1. Purchase Orders for \$216,679.47
2. Warrants #278409- #278746 for \$630,834.13
3. Minutes for the meeting held on September 27, 2011
4. New business license (Prime Cuts Meat Processing)
5. Notice of termination to Waste Management for the recycling program

Commissioner Dearden moved to approve the consent items, less item D.4, which is discussed under the action items; Commissioner Gibson seconded, all voting aye.

E. ACTION ITEMS:

D.4 Commissioner Dearden stated that he has some questions on this item. The Commission has received some emails about it and he referred to some of the comments in them.

County staff clarified some of the issues. Chris Allred, Deputy County Attorney, stated that originally the application for a land use permit went to County Planning staff. Planning staff determined that the use fit under the broad definition of agriculture and issued the permit. Some neighbors objected and appealed to the Board of Adjustment (BOA), but subsequently determined they would seek an advisory opinion from the Property Ombudsman (PO) rather than to go before the BOA at this time. The issue is still with the PO. After receiving a request for an advisory opinion, the PO then tries to contact every interested party. The county has prepared a response and is waiting to hear from the PO.

Commissioner Gibson said that the land use permit and the business license are two separate issues but in the e-mails people ask the Commission not to approve the business license because they believe it is connected to the land use permit. Commissioner Gibson said that most agriculture operations do not require a business license. Because this issue has been sent for an advisory opinion, David Wilson, Deputy County Attorney, asked if that should stop the business license from being issued and Mr. Allred responded that it does not prohibit the land owner from going forward, if they meet the criteria. Mike Tuttle, of County Engineering, stated that staff in his office typically distributes the business licenses to various agencies (i.e., Building Inspection, Health Department, Planning Division, Fire District) to sign off on them before they are brought before the County Commission. Craig Browne, of County Building Inspection, noted that the business license did not go to the Fire District because the building is one they typically do not inspect, but County Planning, Building Inspection and Health Department have all signed off on the business license.

Commissioner Dearden said that one issue mentioned in an e-mail is that the building is allegedly too close to the property line. Mr. Browne stated that it is an existing building and the site plan that the company submitted met the required setbacks. Scott Mendoza, of the County planning Division, stated that the AV-3 Zone requires grazing to be located further than 200 ft. from a home. He believes that planning staff correctly interpreted the Zoning Ordinance that this standard does not apply to the meat cutting/preparation building—that it applies to the raising and grazing of animals and not to the accessory building. He noted that this is not necessarily a slaughterhouse and outlined the customary activities that occur in a slaughterhouse, which do not take place in this building. Commissioner Gibson asked why they were applying for a business license and Mr. Browne believes they may be trying to cover all the bases to be in compliance and may not have researched this. Mr. Browne stated that Wright's Turkey Farm has a business license, although it is a different operation in that the public goes to them and purchases fresh turkeys. Chair Zogmaister asked if they are selling product from that location and Mr. Mendoza replied they are not. Mr. Browne said that Prime Cuts skins and disembowels the animals on the mountain and brings the carcasses to this facility where it is processed into various meat products for the person who shot the animal.

Both Deputy County Attorneys stressed that the Ombudsman would simply be giving an advisory opinion, which would be taken into consideration by the county, and the issuance of a business license would not affect the decision on the land use permit. Based on the information provided, Mr. Wilson did not believe there was reason to deny the business license today. Having reviewed this item for a couple of days, Commissioner Gibson feels that county staff has acted properly in issuing the business license based on the information provided, that it appears all has been done in order.

Commissioner Gibson moved to approve business license #2142 for Prime Cuts Meat Processing; Commissioner Dearden seconded, all voting aye.

1. CONTRACT WITH STANLEY CONSULTANTS AND UTAH DEPARTMENT OF TRANSPORTATION FOR ADDITIONAL CONSULTANT SERVICES TO ASSIST ON NORTH OGDEN DIVIDE SAFETY IMPROVEMENT PROJECT DUE TO THE ADDITIONAL WORK THAT WAS REQUIRED - CONTRACT C2011-196

Mike Tuttle, of County Engineering, noted that there had been some issues when the digging started on the North Ogden Divide project during the summer and it was determined that extra excavation was necessary. This contract covers the additional work by the construction engineer, Stanley Consultants. It had been anticipated to cost over \$100,000, however, through various efforts, they were able to save a lot of money and to be within the original budgeted amount.

Commissioner Dearden moved to approve Contract C2011-196 with Stanley Consultants and Utah Department of Transportation for additional consultant services to assist on the North Ogden Divide Safety Improvement Project due to the additional required work; Commissioner Gibson seconded, all voting aye.

2. CONTRACT WITH WEBER STATE UNIVERSITY (WSU) FOR RENTAL OF THE ICE SHEET FOR THE 2011-2012 WEBER STATE HOCKEY SEASON - CONTRACT C2011-197

Mike Caldwell, County Public Information Officer, presented this standard contract, which has been in place for the last 17 years. The county collects 25% of the ticket sales revenue.

Commissioner Gibson moved to approve Contract C2011-197 with Weber State University for rental of the Ice Sheet for the 2011-2012 Weber State hockey season; Commissioner Dearden seconded, all voting aye.

3. **CONTRACT WITH MICHAEL D. BOUWHIS AND SEAN YOUNG FOR AN INDIGENT CAPITOL DEFENSE AGREEMENT FOR THE DOUG LOVELL CASE - CONTRACT C2011-198**

David Wilson, Deputy County Attorney, stated that the Utah Supreme Court vacated the Lovell plea and it now comes back for a new trial. The county has chosen not to join the State-wide capital defense fund, and this contract which is similar in terms to others approved in the past, will be paid out of the county's public defender budget. The contract is for two attorneys and is for \$100,000, which is only the attorneys' compensation. There will be additional compensation for investigators, experts, etc. Mr. Wilson addressed Commissioner Dearden's question stating that payments for both first and second chair may not exceed \$100,000 if death penalty is sought by the prosecution or up to a maximum of \$70,000 if the death penalty is not sought or, if originally sought, the death penalty is withdrawn by the prosecution 21 days before commencing trial.

Commissioner Dearden moved to approve Contract C2011-198 with Michael D. Bouwhis and Sean Young for an indigent capitol defense agreement for the Doug Lovell case; Commissioner seconded, all voting aye.

4. **CONTRACT WITH STATE OF UTAH, OGDEN BAY WATERFOWL MANAGEMENT, FOR ACCESS TO DREDGE THE WEBER RIVER - CONTRACT C2011-199**

Tammy Folkman, of County Emergency Management, presented this contract granting permission to the county to access the river by the Bird Refuge to remove debris inside State property boundaries. The term is from 9/26/2011 to 9/25/2012. Legal counsel and the comptroller reviewed the document.

Commissioner Gibson moved to approve Contract C2011-199 with the State of Utah, Ogden Bay Waterfowl Management, for access to dredge the Weber River; Commissioner Dearden seconded, all voting aye.

5. **FINAL APPROVAL OF THE FELT SUBDIVISION AND APPROVAL OF THE VACATION OF LOT 5 OF THE SHAWN KNIGHT SUBDIVISION #2 - ORDINANCE 2011-14A**

Ben Hatfield, of County Planning Division, showed area maps and presented the request for final approval of the Felt Subdivision and vacation of lot 5 of the Shawn Knight Subdivision #2, located in Liberty, and all the utilities therein.

The applicant owns lot 5 of Shawn Knight Subdivision and wishes to combine it with some additional land from an adjacent property. Utilities and road improvements are being extended to the end of the property and a fire hydrant is being installed. These improvements should be completed by the end of the week, weather permitting. There is no escrow agreement yet, therefore there are no County Engineering or Attorney signatures at this time.

Commissioner Dearden moved to grant final approval of the Felt Subdivision and adopt Ordinance 2011-14A vacating lot 5 of the Shawn Knight Subdivision #2, pending escrow agreement signatures and authorizations; Commissioner Gibson seconded.

Roll Call Vote:

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

F. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, OCTOBER 11, 2011, 10 A.M.

G. PUBLIC COMMENTS:

Dave Nielsen, representing La Plata Ranch, noted that a few weeks ago he came before the Commission regarding the development they are planning for La Plata Ranch, which will provide a village area and access to the Powder Mountain Resort from Cache County. Mr. Nielsen said that the three roads that go between Cache and Weber Counties will need improvement. He asked with whom he should address this item with in Weber County. Chair Zogmaister and Rob Scott, County Planning Division Director, stated that he can contact Mike Tuttle of County Engineering.

H. CLOSED EXECUTIVE SESSION TO DISCUSS STRATEGY RELATING TO IMMINENT OR ONGOING LITIGATION AND THE CHARACTER OR COMPETENCE OF AN INDIVIDUAL

Commissioner Dearden moved to close the public meeting to discuss strategy relating to imminent or ongoing litigation and the character or competence of an individual; Commissioner Gibson seconded.

Roll Call Vote:

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

No action was taken on the closed executive session.

H. ADJOURN

Commissioner Dearden moved to adjourn at 11:24 a.m.; Commissioner Dearden seconded, all voting aye.

Attest:

Jan M. Zogmaister, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor