

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

Tuesday, December 11, 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 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:** Craig L. Dearden, Chair, Jan M. Zogmaister and Kerry W. Gibson.

**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** – Ricky Hatch
- C. **THOUGHT OF THE DAY** – Commissioner Gibson

**D. CONSENT ITEMS:**

1. Purchase Orders for \$122,331.15
2. Warrants #292863-#293049 for \$1,893,276.76
3. Minutes for the meeting held on November 27, 2012
4. Surplus a 2008 Dodge Dakota from the Fleet Management Department
5. New beer license

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

**E. ACTION ITEMS:**

**1. ACTION ON THE WEBER COUNTY WILDLAND FIRE BUDGET FOR 2013**

Blain Hamp, Bear River Area Manager, outlined the wildland fire suppression budget (\$39,848). Chair Dearden noted that there is a seven year formula used for the budget and that it works well. District Warden Dave Vickers stated that next year's budget will probably increase because the fire suppression efforts at the mouth of Ogden Canyon may have cost close to \$20,000. Additionally, the Forest Service has in the past provided two hours of helicopter time and two retardant drops under their budget but it appears they will no longer pay for those items.

Commissioner Zogmaister moved to accept the Weber County wildland fire budget for 2013; Commissioner Gibson seconded, all voting aye.

**2. REQUEST FROM WEBER COUNTY TAX REVIEW COMMITTEE FOR DISCUSSION/ACTION REGARDING A REQUEST TO REFUND THE DIFFERENCE IN AMOUNT OF TAXES PAID ON A PRIMARY VERSUS SECONDARY RESIDENCE FOR 2007 & 2008 TAX YEARS**

Machel Maycock, of the County Assessor's Office, stated that this is regarding LSN 16-207-0003. The property was flagged in 2007 by an appraiser based on a Clearfield mailing address and a Primary Resident Affidavit was mailed requesting supporting documentation. The affidavit was not returned for 2007 or 2008 and the primary residence exemption was removed and the property was taxed as non-primary. In 2009 the affidavit and supporting documentation was received along with an address change. She said that the county feels it has acted properly. The county also lists on valuation and tax notices an explanation of primary vs. non-primary residence that helps property owners to appeal. The Committee is recommending that no refund be granted based on a) the opportunity the owner had to remedy the classification during the 45-day appeal periods both in 2007 and 2008—two valuation notices and two tax notices were mailed to the owner, b) the Assessor's Office mailed a Primary Residence Affidavit with specific instructions and the deadlines to comply.

Scott Hansen, representing Jesse Hammons/property owner, stated that the family has lived in the home since construction in 2005. It was initially classified by the county as a primary residence and was taxed at that rate in 2005-2006. The non-primary classification was given in 2007 and 2008 and Mr. Hammons took no action to make this change. Mr. Hammons received a tax notice but not the affidavit or notice that the classification was going to change, and he was using the Clearfield post office box during and after construction. Mr. Hansen showed a 2007 tax notice stating that there was no notice to appeal for the classification. In 2009 the classification was changed to primary residence. Mr. Hansen believes the total overpayment for the two years is \$11,000 and Mr. Hammons is not contesting the assessed value, but that there was a classification error. Mr. Hansen referred to UC 59-2-103.5 that requires the county to adopt an ordinance in order to require primary residence documentation. The ordinance was passed in 2010.

Chair Dearden asked why he has not filed in the past five years, if he noticed this was an error and Mr. Hammons said that he noticed the error in 2009. He went to the county and made the address change at that time. He said he was told that since the classification had been changed to non-primary, in order to change back to primary he had to fill out a form. When he submitted it, he was told he had missed the deadline, and that he had done nothing since.

Mr. Hansen said that County Title 6-14 states that if real property taxes are overpaid the Treasurer should make a good faith effort to notify the owner and if the overpayment is not refunded on/before August 15 of the following year, the overpayment should be applied to current year's taxes. He said that the letter sent Mr. Hammons shows that he took occupancy in the Fall 2005, that there is a factual error and the county did not have authority to change the classification. Chair Dearden reiterated that Mr. Hammons knew about this in 2009 and he had opportunities to appeal and to have the issue heard. Mr. Hansen said that he has not found statute that limits the refund to any certain time line. Chair Dearden noted that there are restraints on times to appeal to the County Commission, and factual error is one of the five statutory categories allowing an appeal. In 2009 Mr. Hammons was aware of the issue and paid taxes but did not appeal until 2012. David Wilson, Deputy County Attorney, did not know how much of this information the deputy county attorney had in reviewing this issue and he needs to look into the laws and questions raised by Mr. Hansen. Chair Dearden asked Mr. Hansen to provide Mr. Wilson the information he presented and asked Mr. Wilson to review it and give the Commission an opinion. Mr. Hammons then requested an explicit response, including code references. Chair Dearden said that the item will probably be on the 1/8/2013 agenda.

**3. CONTRACT WITH THE STATE OF UTAH, DEPARTMENT OF PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT – CONTRACT C2012-223**

Lance Peterson, of County Emergency Management, stated that the State legislature appropriated a \$750,000 this past year to the county to help with flood mitigation efforts on the lower Weber River. This is the standard Article of Agreement with the Division of Emergency Management for the funds.

Commissioner Gibson moved to approve Contract C2012-223 with the State of Utah, Department of Public Safety, Division of Emergency Management; Commissioner Zogmaister seconded, all voting aye.

**4. RESOLUTION TO ADOPT THE 2013 BUDGET & A RESOLUTION ESTABLISHING A TAX LEVY FOR THE MUNICIPAL SERVICES PROVIDED TO THE UNINCORPORATED AREA OF WEBER COUNTY – RESOLUTION 26-2012; RESOLUTION 27-2012**

Dan Olsen, County Comptroller, highlighted the major changes since the budget presentation on 11/27/2012: an increase to the estimate of delinquent tax revenues based on actual collections, a 3% increase in the sales tax for the Transportation Fund, an adjustment to the Tourism Tax revenues by \$25,000; a small increase was made to the public defender contracts, and the Surveyor's Office received a \$17,000 grant from the State to hire an intern to aid with addressing, and changed dollar amounts for the Ice Sheet expansion project. Weber State University will pay all of the bills and bill the county for its portion. Debt service amounts were included for the bonds issued in November for the Ice Sheet and refinancing of the Health Department bonds.

Mr. Olsen explained that the General Fund tax rate for everyone in the county will decrease next year. The tax rate will go up for those of unincorporated areas by the same amount that the General Fund decreased, making it a wash for those residents. This is to account for the adjustments that the Sheriff's Office made in contracts with the cities for law enforcement services. Commissioner Gibson clarified that everyone is receiving a tax decrease and there is no tax increase.

Commissioner Zogmaister moved to adopt Resolution 26-2012 adopting the county's Operating & Capital Budgets for 2013 and declaring the county's intent to pick up a certain percentage of members' contributions to the Utah State Retirement System; Commissioner Gibson seconded.

Roll call vote:

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

Commissioner Zogmaister moved to adopt Resolution 27-2012 confirming the tax to be levied for Municipal Services provided to the unincorporated Weber County; Commissioner Gibson seconded.

Roll call vote:

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

**5. CONTRACT WITH R&O CONSTRUCTION TO PARTIALLY REPLACE THE CONCRETE TIPPING FLOOR – CONTRACT C2012-224**

Gary Laird, of County Solid Waste Management, noted that the county has a contract with R&O to repair the fire damage to the Transfer Station in August. For some time, the county has been trying to replace a damaged portion of the tipping floor (due to the 12.5 years of use). This is the \$231,582 change order for the work to be done in conjunction with the fire reconstruction project.

Commissioner Gibson moved to approve Contract C2012-224 with R&O Construction to partially replace the concrete tipping floor at the Transfer Station; Commissioner Zogmaister seconded, all voting aye.

**6. RATIFY CONTRACT WITH THE STATE OF UTAH, DEPARTMENT OF TRANSPORTATION (UDOT), FOR OLD SNOWBASIN DRILLING & TESTING, CONTRACT MODIFICATION #1 – CONTRACT C2012-225**

Jared Anderson, County Engineer, stated that this modification to Contract C2012-169 is for additional geotechnical borings and instrumentation to be provided by RB&G Engineering for \$16,129.

Commissioner Zogmaister moved to ratify Contract C2012-225 with the UDOT for the Old Snowbasin Drilling and Testing, Modification #1; Commissioner Gibson seconded, all voting aye.

**7. RATIFY THE CONTRACT WITH STATE OF UTAH DEPARTMENT OF TRANSPORTATION (UDOT) FOR THE OLD SNOWBASIN ROAD DESIGN AND SURVEYING – CONTRACT C2012-226**

Jared Anderson, County Engineer, noted that this contract is for the project listed above and services will be provided by CRS Engineers. The contract amount is \$74,017.18. The county's match is \$5,010.97.

Commissioner Gibson moved to ratify Contract C2012-226 with State of Utah Department of Transportation for the Old Snow Basin Design and Surveying; Commissioner Zogmaister seconded, all voting aye.

**8. CONTRACT WITH J-U-B ENGINEERS FOR THE FINAL DESIGN AND CONSTRUCTION MANAGEMENT OF THE WEBER COUNTY EWP PROJECT – CONTRACT C2012-227**

Jared Anderson, County Engineer, stated that this contract is for the Emergency Watershed Project (South Fork of the Ogden River bank protection) through NRCS funds. The cost is \$37,200.

Commissioner Zogmaister moved to approve Contract C2012-227 with J-U-B Engineers for the final design and construction management of the Weber County EWP Project; Commissioner Gibson seconded, all voting aye.

**9. CONTRACT WITH AUTOMATED GEOGRAPHIC REFERENCE CENTER FOR WORK TO BE DONE ON THE WEBER COUNTY MAL (MASTER ADDRESS LISTING) – CONTRACT C2012-228**

Ernest Rowley, County Recorder/Surveyor, stated that this is for a State grant for \$17,000 to fund an intern to work on the county's MAL (specifically for property addresses). The State is requesting the MAL, which is used by several county departments, including Emergency Services, Dispatch, Elections, Planning, Engineering, Surveying, etc.

Commissioner Gibson moved to approve Contract C2012-228 with Automated Geographic Reference Center for work to be done on the Weber County Master Address Listing; Commissioner Zogmaister seconded, all voting aye.

**10. CONTRACT WITH WASATCH SLOPES/BEEHIVE/SKYLINE/BEAR RIVER/GOLDEN SPIKE/NEBO CHARIOT RACING ASSOCIATIONS TO HOLD SIX CHARIOT RACES AT THE GOLDEN SPIKE EVENT CENTER FOR THE 2012-2013 SEASON – CONTRACT C2012-229**

Jennifer Graham, County Recreation Facilities Director, presented this standard contract.

Commissioner Zogmaister moved to approve Contract C2012-229 with Wasatch Slopes/Beehive/Skyline/Bear River/Golden Spike/Nebo Chariot Racing Association to hold six chariot races at the Golden Spike Event Center for the 2012-2013 season; Commissioner Gibson seconded, all voting aye.

**11. DISCUSSION AND/OR ACTION ON A REQUEST FOR AN EXTENSION OF A ZONING DEVELOPMENT AGREEMENT, ZONING PETITION #2012-01 – CONTRACT C2012-230**

Jim Gentry, of the County Planning Division, stated that the applicant has requested extending the Zoning Development Agreement approved in 2006 to match the Consent Agreement extended to 2017. The applicant applied in 2011 but would not sign the agreement and it expired, and he is now re-applying for the extension. At this time the applicant has submitted an updated open space plan for this property at Wolf Creek. Mr. Gentry stated that when this was originally done, three open space plans were deeded and dedicated to Wolf Creek for a golf course, however, with Wolf Creek's bankruptcy, it is unlikely that another golf course will be constructed, thus the applicant submitted a revised open space plan, possibly with some trails in that area. The Planning Commission unanimously voted to grant the extension to match the Consent Agreement, and that the revised open space plan be approved.

Commissioner Zogmaister asked why the developer did not sign the agreement and let it expire. Mr. Gentry responded that the main developer has been working out of town and it was difficult for him to go back and forth and due to the bankruptcy, some property changed ownership from Wolf Creek to another developer, who is working with this developer. Both parties of this agreement, Howard Schmidt D.B.A. Eden Valley Development LLC and John Lewis D.B.A. Capon Capital LLC, have signed the agreement. Chris Allred, Deputy County Attorney had reviewed the agreement.

Commissioner Gibson moved to approve Contract C2012-230, extension of a Zoning Development Agreement, Zoning Petition #2012-01; Commissioner Zogmaister seconded, all voting aye.

**12. ACKNOWLEDGEMENT AND ACCEPTANCE OF THE WITHDRAWAL OF THE PETITION FOR INCORPORATION OF THE TOWN OF POWDER MOUNTAIN**

Chair Dearden referred to the letter before the Commission from Joseph Pierce, Manager Representative, with Western America Holding, LLC. This letter indicates that they are requesting withdrawal of the petition for incorporation of the Town of Powder Mountain immediately and that they have moved forward to request that litigation relating to the petition cease.

Commissioner Dearden moved to accept the Acknowledgement and Acceptance of the withdrawal of the Petition for Incorporation of the Town of Powder Mountain; Commissioner Zogmaister seconded, all voting aye.

**13. QUIT CLAIM DEED TRANSFERRING A DETENTION BASIN LOCATED IN FARR WEST CITY TO THE CITY**

Chair Dearden stated that there is a piece of county property (All of lot 3, Subdivision of Lot 1, Plat A, Weber Industrial Park, West Addition) in Farr West City, which is a retention basin, and the city has requested to take it over and make it part of the city. After review by the County Attorney's Office, a quit claim deed was drafted allowing the transfer.

Commissioner Zogmaister moved to approve the Quit Claim Deed transferring a detention basin located in Farr West City to the City; Commissioner Gibson seconded, all voting aye.

**14. REQUEST ON RESOLUTION MAKING APPOINTMENTS TO THE WEBER AREA DISPATCH 911 AND EMERGENCY SERVICES DISTRICT ADMINISTRATIVE CONTROL BOARD**

This item was held until next week.

**E. PUBLIC HEARINGS**

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

2. **PUBLIC HEARING TO TAKE PUBLIC INPUT ON SECOND READING OF ORDINANCE AMENDING THE SEWER ORDINANCE TO RAISE THE FEES**

This item was incorrectly listed; it is not a public hearing. Chad Meyerhoffer, of County Engineering, stated that the first reading was done in July and the second in August 2012, however, an ordinance had not been prepared at that time and today's action is to adopt the ordinance. David Wilson, Deputy County Attorney, suggested that this item be placed on next week's agenda with correct wording. Mr. Meyerhoffer said that there were some in attendance wishing to comment.

Mr. Meyerhoffer said that over the past few years Central Weber Sewer Improvement District (CWSD) has made some required upgrades to the sewer treatment plant. Weber County collects the sewer fees and needs to increase them from \$30 to \$37/month for those in unincorporated areas that discharge to CWSD.

John Cardon, finance director/CWSD, said that the CWSD began operation in 1959 and the original plant served intact all those years. In mid 2004-5 the Division of Water Quality determined that to renew CWSD's permit it would require a major upgrade of the facility. An engineering study was completed in 2006 which showed that in order to meet the new discharge limits into the Weber River a new plant needed to be constructed at an estimated \$162 million. Impact fees were increased and property tax rates were increased to the maximum allowed. It was determined that service fees needed to be about tripled to cover cost of bonds. In 1/1/09 CWSD doubled its fees and on July 1 of 2010 and 2011 and 2012 those fees were increased by 25%. The plan was approved by CWSD (consisting of mayors of cities served and a County Commissioner). The rate CWSD charged the county per residential sewer connection for many years was \$7.50 but on 1/1/2009 it increased to \$12/month (a 60% increase), on 7/1/10 it increased to \$13.50 (a 12.5% increase) and on 7/1/2011 it increased to \$16.87 (a 25% increase) and finally on 7/1/12 it increased to \$21.10.

Chair Dearden invited public comments and following is a summary:

Larry Charlton, of western Weber County, said that at the last public meeting regarding the sewer he suggested that a Commissioner or someone appointed be the advocate for the unincorporated areas to ensure that the rates they are being charged are justifiable. The fee has been \$30, which is twice as much as municipalities on the average are charged. They are going to be increased again. At one time the \$30 fee was to decrease once the trunk line was put in and paid for.

Phil Hancock said that about 20 homes in West Weber along 900 S 4100 W were affected by the mandatory sewer hookups and he was asked to bring a few points to the Commission in consideration of this increase. When the sewer was being installed, Lance Wood, of CWSD, and Pat Dean, with the county, came through the area and made presentations. The fee was set at \$30 with a very positive explanation about it being decreased overtime but at a meeting with Mr. Meyerhoffer it appeared to be “bait and switch” and those promises did not occur. The county is charging a fee for maintenance of the sewer line that goes in front of these homes but it does not maintain that line. He indicated that Mr. Meyerhoffer said that the county is treating all connections that it is responsible for as an area sewer district. The major concern is that residents are paying for a service that the county does not provide for most areas along the main trunk line.

Mr. Meyerhoffer addressed Commissioner Gibson’s question stating that when he started working with this item, all the fees were already enacted and he could not speak to how the fees were set up. There are people throughout the county being charged the same fee who are hooked directly to CWSD’s main line and there are also tributaries off of that main line that the county maintains. Commissioner Gibson asked if the county has the ability to charge different rates for subdivisions such as the one Mr. Hancock mentioned and Mr. Meyerhoffer responded he needed to look into that with the Commission if they wish to develop different fees for people on different lines and different areas of unincorporated county.

Commissioner Gibson asked if the total sewer fees charged to the unincorporated county are higher than other municipalities served by CWSD and Mr. Meyerhoffer responded that it varies—West Haven’s is about \$36/month, Hooper about \$50/month, these have the highest fees—and higher populated areas have lower fees because more people contribute. Commissioner Gibson wants to ensure that the county is not overcharging and that Mr. Meyerhoffer feels comfortable with the fees and can explain them. To develop the monthly fee, Mr. Meyerhoffer looked at all the infrastructure that the county manages and tried to put a dollar amount for replacing it in 75 years (about the number of years it should last), along with the regular general maintenance. He said that the monthly fee for everyone in the county came out a little higher than what they are being charged for but he felt comfortable with that. Mr. Meyerhoffer addressed Commissioner Zogmaister’s question stating that the county does no maintenance on CWSD’s main trunk line and the laterals going to each home are the homeowners’ responsibility. The county manages any lines in the unincorporated county that come from CWSD’s main line.

Blaine Cutler, of West Weber, showed a document stating that it is the one that Pat Dean brought around to residents and that it showed the lines that the county is responsible for. He noted that it states that the fee would be reduce after the main trunk line was paid off, which was 10 years ago, and he calculates that for 30 homes at \$15/month they have paid the county \$54,000 for maintenance that they will never receive. He requested some sort of break for those residents, some of which are elderly.

**3. PUBLIC HEARING TO PROVIDE THE OPPORTUNITY FOR REPRESENTATIVES FROM NON-PROFIT ORGANIZATIONS AS WELL AS OTHERS TO DISCUSS POTENTIAL PROJECTS FOR THE 2013 COMMUNITY DEVELOPMENT BLOCK PROGRAM**

This public hearing is being held to supply information regarding the 2013 Community Development Block Grant (CDBG) program, to solicit possible projects that may be eligible for the funds, and to field possible suggestions and questions about the projects from the citizens.

The national objective is for grant money to primarily be spent to benefit low-to-moderate income persons but other national objectives include using funds to aid in the prevention or elimination of slums or blight and may be used to meet urgent needs because existing conditions pose a serious and immediate threat to health and welfare. Eligible activities are identified in the CDBG application guide that is available for review by interested parties.

Examples for possible CDBG project activities include ADA improvements, public works infrastructure projects in areas that would qualify, property acquisition, public services such as food banks, homeless shelters and loan programs for private businesses that hire low income persons or for persons who own rental housing and rent to low income persons.

This year, projects within the Wasatch Front Region will compete between Weber, Morgan, and Tooele Counties and can expect approximately \$1,000,000 in CDBG funds for 2013. Projects will be rated by a regional review committee made up of an elected official and a staff member from each county to determine what projects can proceed with final application. All pre-applications must be submitted to the Wasatch Front Regional Council by February 1, 2013. The unincorporated county does not currently have any active grant projects. The county as a whole has sponsored the Weber Housing Authority in an active project that offers incentives for first time home buyers. In the past, Weber County has received grants for modification of restrooms for the Weber County Library to bring them more in compliance with ADA standards and an emergency housing rehabilitation project that is administered through the Weber County Housing Authority, developing ADA compliant campsites, installing ADA compliant door hardware at the fairgrounds. Installing storm drains in low-to-moderate income communities to reduce flooding, installing wheelchair ramps at street intersections to make pedestrian sidewalks more accessible, as well as sponsoring non-profit agencies such as Your Community Connection, Ogden Weber Community Action Agency, Catholic Community Services.

All possible projects in which funding may be applied for are indicated in the regional Consolidated Plan and is available for review in the Weber County Planning Office. A possible county project for the 2013 funding year is ADA upgrades as well as upgrades at the Weber Memorial Park Water System. The Weber County Housing Authority would like to apply for funds to offer down payment assistance and a land acquisition program. Your Community Connection and the Wasatch Front Community Funding, non-profit agencies which were at the CDBG “How to Apply Workshop,” would like the county to sponsor them and want to submit pre-applications for a grant.

Chair Dearden invited public comments and following is a summary.

Andi Watkins, with the Weber Housing Authority, stated that they are requesting funds for two projects—the down payment assistance program (\$250,000) to provide assistance to 45 low-moderate income persons in the county, outside of Ogden City. The program has been very successful and to date they have funded 32 households. They are also interested in using CDBG funds for land acquisition to build homes for low-to-moderate income households.

Rebekah Clements, of Your Community Connection (YCC), said that they are interested in applying for funding (\$30,000) for the Senior Life Care program which provides minor but critical home repairs to extreme low income elderly and disabled people in the county outside of Ogden City. The funds are to purchase a vehicle for the handyman, and they are looking at extending the services into Morgan County if they have a reliable vehicle.

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

#### 4. ACTION ON PUBLIC HEARING:

##### **E.2. 2013 COMMUNITY DEVELOPMENT BLOCK PROGRAM**

No action is required and Mr. Meyerhoffer will proceed with the CDBG pre-applications for 2013. Commissioner Zogmaister stated that the down payment assistance program has been very successful and the land acquisition is the next step for people to be self sufficient. Regarding the YCC’s request, she said that CDBG now covers Weber, Morgan and Tooele, which is the first time it may potentially cross county lines, which is unique.

**E.3. - ORDINANCE SEWER NEXT WEEK. COMMISSIONER GIBSON APPRECIATES CONCERNS**

This item will be placed on next week's agenda. Commissioner Gibson stated his appreciation of those who expressed their concerns.

**F. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, DECEMBER 18, 2012, 10 A.M.**

**G. PUBLIC COMMENTS:** None

**H. ADJOURN:**

Commissioner Zogmaister moved to adjourn at 11:32 a.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