

**MINUTES
WEBER COUNTY COMMISSION**

Tuesday, December 22, 2020 – 10:00 a.m.

Via Zoom meeting + at Weber Center, 2380 Washington Blvd., Ogden, UT

In accordance with the requirements of Utah Code Section 52-4-203, the County Clerk records in the minutes the names of all persons who 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.

WEBER COUNTY COMMISSIONERS: Gage Froerer, James "Jim" H. Harvey, and Scott K. Jenkins.

STAFF PRESENT: Ricky D. Hatch, County Clerk/Auditor; Christopher Crockett, Deputy County Attorney; and Fátima Fernelius, of the Clerk/Auditor's Office, who took minutes.

A. WELCOME - Chair Froerer

B. PLEDGE OF ALLEGIANCE - Ashley Thoman

C. INVOCATION - Sean Wilkinson

D. THOUGHT OF THE DAY - Chair Froerer

E. PUBLIC COMMENTS: Chair Froerer had received emails & phone calls on today's ADU agenda item and that public meetings/hearings were previously held on it. All but the last comment on this section was on ADUs.

Rick Southwick represented the Northern Wasatch Association of Realtors in speaking in support of the proposed ADU ordinance. He said that Ogden City approved widespread use of ADU years ago, that it allows senior citizens to age in place, it requires the main residence to be owner-occupied, and is a much needed mechanism for affordable housing when there is a huge shortage, not just here but across the country.

Kirk Langford, of Ogden Valley, had submitted written comments to the Commission and said that an ADU in the Valley requires it to be added to a home. The Valley is a little different because resources are much more limited and economic development of that community is more tied to recreation while still trying to keep an agricultural and rural enough community as they are an amenity to resorts. He asked if ADUs for the Valley could be achieved by transferring development rights (TDRs) in order not to add density. This has come up every year since he has been involved with planning in 1995. Planning and County Commissions have considered this but have not allowed separate structured ADUs and he suggested passing ADUs on the west side of the Valley but to have further public meetings for Ogden Valley to work out more specifics on TDRs.

Lee Schussman seconded the previous comments stating that ADUs have many advantages but urged consideration of Mr. Langford's comments and tabling the issue for 30-60 days for public input to come up with specifics for Ogden Valley to meet the people's needs for a mother-in-law apartment, low income housing, etc.

Shana Francis said that the primary reason to table the item was that Ogden Valley residents only recently heard the informative presentation on the hydrology study and they discussed the Valley's water budget and contamination issues. The hydrologist recommended expanding minimum Valley lot sizes to five acres due to water quality concerns, which are critical for all of Ogden and others who rely on Pineview Reservoir. It is important to integrate the study and the ramifications of substantially increasing Valley density. Even though the county went through the public process, the water study presentation had not been made to the public and there is new information.

Dave Morby, Ogden Valley resident, former Valley planning commissioner from 1995-1999 said that this issue has been tabled for at least that long and it is time to move forward. He has been planning on an ADU for his retirement.

Tom Quinn, resident on Snowbasin Road, expressed concern that if the ADU item is adopted it will put 15+ cabins across the street from him when 2½ years ago the county required him to sign a document that he would not rent out the apartment over his accessory building, in the name of population density, and now it appears that right across the street it will be four times the density permitted to him. His other concerns are single night rentals, septic and water. He said that a lot of people are concerned with the two latter issues.

Chair Froerer said that anyone who had not read the ADU proposal should do so, that a lot of misinformation had been passed around confusing this with TDRs and overnight rentals, and that a lot of their concerns would go away because the proposal is almost density neutral.

Glen Croyden, Wild Turkey Lodge owner with his wife, in Huntsville, raised the issue of whether TDRs will really help with affordable housing in the Valley. Having TDRs being equal throughout the county is more important, with everyone under the same structure. They want affordable housing opportunities in the Valley for seasonal workers, young and transitional families, rather than having the Valley be more exclusive. If he does not spend money for TDRs, he cannot get full use of the property as income-producing because there's an unattached cabin on the property, and he would like 30+ days use. If they spend money for TDRs, they would lose the funds earmarked for the family inheritance, that as individuals and small family businesses they lose.

Sylvia Salisbury, of Ogden, is grateful for the elected officials and employees who do their best for the county, and that the Commission is willing to publicly invite Heavenly Father's influence into these meetings.

F. PRESENTATION-CHILDREN'S JUSTICE CENTER (CJC) UPDATE – ITEM HELD.

G. CONSENT ITEMS:

1. Warrants #3355-3388 and #455376-455665 in the amount of \$4,576,321.30
 2. Purchase orders in the amount of \$58,099.81
 3. Minutes for the meeting held on December 15, 2020
 4. New business license
 5. Cancellation of the December 29, 2020 regular commission meeting
 6. Retirement agreements: Kevin Wilson; Bobbie Cammack; Heather Davies; Shelli Stevenson; Tiffany Opheikens; Thomas Jackson
- Commissioner Harvey moved to approve the consent items; Commissioner Jenkins seconded.
Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye

H. ACTION ITEMS:

1. **AGREEMENTS WITH THE FOLLOWING ENTITIES TO PROVIDE CORONAVIRUS RELIEF FUNDS: OGDEN VALLEY PARKS SERVICE AREA; TAYLOR WEST WEBER WATER IMPROVEMENT DISTRICT; BONA VISTA WATER IMPROVEMENT DISTRICT; WEBER STATE UNIVERSITY; IHC HEALTH SERVICES INC.,-MCKAY DEE HOSPITAL; WEBER SCHOOL DISTRICT; OGDEN SCHOOL DISTRICT; OGDEN REGIONAL HOSPITAL; ~~OGDEN WEBER TECHNICAL COLLEGE~~**
John Bond, County Treasurer, noted that the CARES Act funding dispersing deadline had been extended for a full year. The Ogden Weber Technical College asked to withdraw as they have no further need of funds.
Commissioner Harvey moved to approve these agreements to provide them Coronavirus Relief Funds: Ogden Valley Parks Service Area; Taylor West Weber Water Improvement District; Bona Vista Water Improvement District; Weber State University; IHC Health Services, Inc.,-McKay Dee Hospital; Weber School District; Ogden School District; and Ogden Regional Hospital, less the Ogden Weber Technical College; Commissioner Jenkins seconded. Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye
2. **RESOLUTION APPOINTING TRUSTEES TO THE PLAIN CITY CEMETERY DISTRICT BOARD OF TRUSTEES – RESOLUTION 47-2020**
Stacy Skeen, of the Commission Office stated that the Cemetery Board notified her that three members' terms are expiring at the end of this year. She stated that the vacancies were noticed according to State statute.
Commissioner Jenkins amended his motion, due to a slight misunderstanding as to the number of vacancies, to adopt Resolution 47-2020 reappointing Ross M. Taylor and Joel J. Freestone and appointing Brent E. Weston, to the Plain City Cemetery District Board of Trustees; Commissioner Harvey seconded. Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye
3. **FINAL READING OF AN ORDINANCE AMENDING TITLE 12 (BUILDING REGULATIONS AND SITE PERMITS) OF THE WEBER COUNTY CODE – ORDINANCE 2020-25**
Sean Wilkinson, County Community Development Director, said that there were no changes from the first reading.
Commissioner Jenkins moved to adopt Ordinance 2020-25, final reading of an ordinance amending Title 12, Building Regulations and Site Permits, of the Weber County Code; Commissioner Harvey seconded. Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye
4. **FINAL READING OF AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO ALL WEST/UTAH, INC., FOR THE PURPOSE OF INSTALLING, OPERATING, AND MAINTAINING A COMMUNICATIONS SYSTEM WITHIN THE PUBLIC RIGHTS OF WAY OF WEBER COUNTY – ORDINANCE 2020-26**
Sean Wilkinson, County Community Development Director, gave a brief presentation on this second reading.
Commissioner Jenkins moved to adopt Ordinance 2020-26, final reading of an ordinance granting a non-exclusive franchise to All West/Utah, Inc., for the purpose of installing, operating, and maintaining a communications system within the public rights of way of Weber County; Commissioner Harvey seconded. Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye
5. **CONTRACT WITH ~~JORDAN BOYER~~ JD WADSWORTH FOR THE WEBER CENTER EXTERIOR WALL CLADDING**
Bryce Taylor, of County Property Management, stated that the item went through the bid process. It is for \$90,160.
Commissioner Jenkins moved to approve the contract with JD Wadsworth Construction for the Weber Center exterior wall cladding; Commissioner Harvey seconded. Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye
6. **BUILDING LEASE AGREEMENT WITH POST BROS., LLC, TO PROVIDE STORAGE/MAINTENANCE BUILDING AND OUTDOOR STORAGE FOR EQUIPMENT USED BY WEBER COUNTY PROPERTY MANAGEMENT**
Bryce Taylor, of County Property Management, presented this 3-month agreement extension.
Commissioner Jenkins moved to approve the contract with Post Bros., LLC, to provide storage/maintenance building and outdoor storage for equipment used by Weber County Property Management; Commissioner Harvey seconded. Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye
7. **RESOLUTION AUTHORIZING PAYMENT OF AGENCY FUNDS FOR IMPROVEMENTS TO PUBLIC INFRASTRUCTURE – RESOLUTION 48-2020**
Gary Myers, County Engineer, said that this is to use Community Reinvestment Act funds to improve 9350 W.
Commissioner Jenkins moved to adopt Resolution 48-2020 authorizing payment of agency funds for improvements to public infrastructure; Commissioner Harvey seconded. Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye
8. **CONTRACT WITH THE DEPARTMENT OF JUSTICE (DOJ) FOR FEDERAL ASSISTANCE THROUGH THE CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING PROGRAM**
As there was no presenter, Commissioner Harvey moved to move the agenda; Commissioner Jenkins seconded. Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye

9. **CONTRACT WITH CHRISTOPHER TURPIN TO HAVE 5TH DIMENSIONAL MARKETING, LLC, DBA GUNSAMMOPREPAREDNESS.COM DEVELOP AND OPERATE FIREARM SALES, FIREARM RENTALS, AMMO SALES AND GUNSMITHING CONCESSIONS AT THE WEBER COUNTY SHOOTING COMPLEX**

Todd Ferrario, County Ice Sheet and Parks & Recreation Division Director, said that the concessionaire will use half of a classroom for retailer space that is only being used to store equipment while shooting.

Commissioner Harvey moved to approve the contract with Christopher Turpin to have 5th Dimensional Marketing, LLC, dba Gunsammopreparedness.com develop and operate firearm sales, firearm rentals, ammo sales and gunsmithing concessions at the Weber County Shooting Complex; Commissioner Jenkins seconded. Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye

10. **ORDINANCE ADOPTING ACCESSORY DWELLING UNIT (ADU) REGULATIONS AND STANDARDS IN THE WEBER COUNTY LAND USE CODE, AND RELATED ORDINANCE AMENDMENTS – ORDINANCE 2020-27**

Tammy Aydelotte, of County Planning, noted that this was the continuation of the tabled December 8 County Commission public hearing. After discussion with the Commission, some adjustments were made. The proposal allows only one ADU per lot, it may be located in an existing accessory structure, it must be owner-occupied by either the ADU or the single family dwelling, no short term rentals are allowed in either the ADU or the single family dwelling where an ADU has been allowed, if it is an attached ADU, it must maintain the appearance of the single family dwelling, the footprint cannot be less than 400 square feet but no more than 1,500 square feet, and it can have up to 2,000 square feet total for either attached or detached as long as the footprint is not more than 1,500 square feet. The only size requirement exception is when an ADU occupies a basement. This ordinance has a Transfer Development Rights (TDRs) requirement. She addressed public concerns reiterating that ADUs are completely separate from short term rentals, that this item had also been on several work sessions with both planning commissions and staff felt there had been ample opportunity for public input.

Commissioner Jenkins referred to Mr. Croyden’s earlier public comment about his cabin stating that he is of the opinion that the cabin should be grandfathered in. Charles Ewert, of the County Planning Division, stated that if there are two houses on the property today and both were lawfully established or prior to zoning, both will be grandfathered in. However, as an example, if a cabin was built prior to zoning and a house was built at a time when there was a requirement for only one dwelling unit on the property, that would not be in compliance. Regarding public input, Mr. Ewert showed the list of 11 different work sessions, meetings, and public hearings on this item noting that staff has been working with the Planning and County Commissions for over a year on this. Regarding water concerns, Mr. Ewert said that the State had given the water presentation to the County Commission about a year ago and also to primary water entities in the Valley. The State finally gave a presentation to the public last week. If the county can successfully implement the TDR component, the water concerns will be reduced because of a much lesser footprint for the uses. Current code allows accessory apartments as a conditional use permit and the proposal calls for it to be a permitted use because impacts are negligible.

Mr. Ewert said that the TDR component would come into play if it is for a detached ADU that has a dwelling unit in it. Chair Froerer recapped that the water and septic impacts would be less than if the TDR was used on another existing lot because of the size requirement. On water usage Mr. Ewert said that long term ADUs are far more predictable because on the number of people/ADU compared to a larger dwelling unit on a 3-acre lot. Concerns were raised at the last meeting that there was no mechanism for TDRs to occur, that the county might be putting the horse before the cart and Mr. Ewert stated that this is not the case. The proposal is similar to what the Planning Commission originally forwarded to the County Commission. TDRs are back in where an out building or ADU would require it, however, it is not definable as a TDR but a much lighter version. A landowner who wishes to place an ADU in an unattached accessory building will need to work with another landowner who has a right to build another home on the property based on the area of the property. That lot owner will have a covenant recorded that runs with the land and is between the lot owner and the county. That document includes that they now have “x” number of dwelling units minus 1. The owners moving the development right to their property for the ADU will have a recorded covenant to their property that they now have “x” number of dwelling units plus 1. Regarding density increases, he restated that it is one ADU, whether it is inside or outside in an out building, per lot, no more. This is low impact and negates the nebulous concern regarding what TDRs are and where the sending and receiving areas need to be. Anyone who has rights can sell and through a private transaction can move one unit/one transfer. With the covenant, there will be a tracking ledger. The main TDR ordinance proposal will be addressed in the coming months.

Commissioner Jenkins expressed not wanting to affect people’s existing property rights and wants them grandfathered in. The presentation by the State was on groundwater issues in the Valley and the county has selected a firm to conduct its wastewater study. The culinary water study is about to start. He said that everything is in motion and going in the right direction, and not putting the cart before the horse. Commissioner Harvey stated that there had been 11 opportunities for the public to be heard, thus he was not in favor of tabling this item. The ordinance has great compromises that are fair. He had shared the State’s hydrology study with the GEM Committee a couple of years ago so it is not a new thing. The county continues to pay attention to it

and is taking action, but we need to move forward, which will create definable assets and thus drive other issues forward.

Commissioner Jenkins moved to adopt Ordinance 2020-27 adopting accessory dwelling unit regulations and standards in the Weber County Land Use Code, and related ordinance amendments; Commissioner Harvey seconded, wanting to absolutely ensure that the wording in Section 108-19-4 was included as he had discussed with Mr. Ewert, (i.e., the attached breezeway, etc.), as well as the grandfathered issue as discussed by Commissioner Jenkins. Mr. Ewert stated that the grandfathered issue is not in this ordinance but is in Title 108, Chapter 12, Non-conforming Buildings and Non-conforming Uses.

Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye

I. PUBLIC HEARING:

1.

Commissioner Harvey moved to adjourn the public meeting and convene the public hearing; Commissioner Jenkins seconded.

Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye

2. **A PUBLIC HEARING FOR CONSIDERATION OF A REQUESTED REZONE OF 4.57 ACRES LOCATED AT APPROXIMATELY 2137 N 5500 E, EDEN, FROM THE AV-3 ZONE TO THE CV-2 ZONE**

Charles Ewert, of the County Planning Division, showed area maps, including existing and proposed zoning, and an example of possible architectural renderings. Mr. Ewert stated that the applicant lives in Old Town Eden where the General Plan shows a village center and was seeking some commercial rights associated with the property by using the existing building onsite as a farm store to sell local products and envisions the street-oriented type retail buildings that have been contemplated for that area plan. The development agreement contains the design standards negotiated with the applicant that would compliment what the county has been working on for that small area plan. The property is on the western side of Eden Park fronting 5500 East, with the Blacksmith Village Phase 1 just to the north, and to the rear is Phase 2 of property to rebuild a historic cannery. The applicant would like to extend the CV-2 zone southward and Mr. Ewert was initially concerned that this zone had a lot of automobile uses that are not conducive to the pedestrian-oriented retail storefront operations that is hoped for the Eden areas that directly front streets. The applicant voluntarily agreed to eliminate those automobile-oriented uses and others from their allowance, and this will continue with the land if it is sold. He has also agreed to have the old west mine town design from the 1880 to 1910 architectural period style and there are some parameters in the agreement because the county has not yet adopted more clear design standards for other buildings in that area; once the county does so through the Eden area plan and the new Village Zone, the applicant can dissolve that agreement and come into compliance of the new village overlay zone. If the county has not adopted a new Village Zone by that time, the property reverts back to the AV-3 Zone. A concern at the Planning Commission was that staff had previously negotiated a 2-year term on this development agreement, after which it would expire and the zone would stay with the property. The applicant recommended extending it to 10 years and this gives the county ample time to create the Village Zone. Staff really likes their proposal to put parking behind, in the midblock area. At some point staff will propose angled parking on the street, which needs a lot of improvement first, along with a speed limit adjustment. The three options for the Zoning Agreement and for the rezone were approval, denial, or tabling. Staff and the Planning Commission recommended approval. Commissioner Harvey had seen this item 1-2 years ago. Chair Froerer said that the 10-year requirement is valid, and that the applicant agrees with the process.

3. **PUBLIC COMMENTS:**

Dave Morby asked the Commission to make sure that this development is period authentic.

Kirk Langford asked if the rezoning would specifically reduce to the CV-2 uses in the development agreement, and how it would tie-in to TDRs in the future regarding square footage. Mr. Ewert responded that the development agreement would implement the voluntary use restrictions, the applicant had not contemplated residential units for this property yet and when the Village Zone is adopted, it likely will have a TDR component. The county has not yet significantly looked into transferring residential development rights and converting them into commercial rights. Mr. Ewert suggested focusing on the residential transfers for now, that an element of simplicity is needed in order for the market to get to a more predicatable/stable level. Mr. Langford said that the Resort Plan already allows TDRs for square footage of commercial space, and by rezoning today without TDRs we do not implement an important part of the TDR ordinance. He asked how we identify the village outskirts in Old Town to stop rezoning. Mr. Ewert said that the General Plan clearly states that there are to be no strip commercial properties along long expanses of roadway but is somewhat vague as to where the commercial areas should be, including that they should be within a ¼ mile walking distance from the center of designated villages, and that small area plans should be created that helps define the center of the villages. The county is working on the Eden Old Town area plan and trying to put definition on the limits to that growth, especially in the 30-year context, and is working on 10 and 5-year plans for area predictability. This proposal is what the county has been contemplating and is as far south as the proposal for where the Old Town Eden would be.

Shawn Clegg represented Horseshoe LLC and Sunnyfield, LLC, which had asked for the rezone, and stated that they have spent a lot of time and money to be time-period correct for their projects and want quality design.

4.

Commissioner Harvey moved to adjourn the public hearing and reconvene the public meeting; Commissioner Jenkins seconded.

Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye

5. **ACTION ON THE PUBLIC HEARING:**

I.2A-ZONING DEVELOPMENT AGREEMENT WITH SUNNYFIELD LLC & HORSESHOE LLC– REZONE FROM AV-3 TO CV-2

Commissioner Jenkins moved to approve the Zoning Development Agreement with Sunnyfield LLC & Horseshoe LLC to establish considerations for a rezone from the AV-3 Zone to the CV-2 Zone and create predictable development outcomes for the community; Commissioner Harvey seconded.

Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye

I.2B-ORDINANCE REZONING 4.57 ACRES LOCATED AT APPROXIMATELY 2137 N. 5500 E., IN EDEN, FROM THE AV-3 ZONE TO THE CV-2 ZONE – ORDINANCE 2020-28

Commissioner Jenkins moved to adopt Ordinance 2020-28 rezoning 4.57 acres located at approximately 2137 North 5500 East, Eden, from the AV-3 Zone to the CV-2 Zone; Commissioner Harvey seconded.

Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye

J. COMMISSIONER COMMENTS: Commissioner Jenkins said that quite a few people had wanted the Commission to hold items today even though these had been discussed for over 20 years and that action has to come at some point, which the Commission had taken today. If further changes are needed, they will be done, and he feels good about the direction taken. The commissioners expressed appreciation for each other, the good work accomplished and for not taking the easy road on issues.

K. ADJOURN

Commissioner Harvey moved to adjourn at 12:00 p.m.; Commissioner Jenkins seconded.

Commissioner Jenkins – aye; Commissioner Harvey – aye; Chair Froerer – aye

Attest:

James H. Harvey, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor