

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

Tuesday, October 27, 2015 - 9:00 a.m.
Commission Chambers, 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: Kerry W. Gibson, Chair, Matthew G Bell and James Ebert.

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

- A. WELCOME** – Chair Gibson
- B. INVOCATION** – Lisa Galvez
- C. PLEDGE OF ALLEGIANCE** – Charles Ewert
- D. THOUGHT OF THE DAY** – Commissioner Bell

E. CONSENT ITEMS:

1. Purchase orders for \$41,871.86
2. Warrants #326202-#326376 for \$3,447,560.53
3. Minutes for the meeting held on October 20, 2015
4. Request from the Weber County Tax Review Committee to refund \$1,565.91 to Gary Hoxer for an error on Parcel #16-122-0005
5. Request from the Weber County Tax Review Committee to allow escaped tax of \$6,034.96 on Parcel #06-028-0015 (Holland) to be paid over a period of five years without penalty or interest
6. Change Order on a Contract with Granite Construction on the 3500 West reconstruction project – Contract C2015-375
7. Change Order on a Contract with Probuild Construction, Inc. for 2015 remobilization, 2" pump and piping revisions – Contract C2015-376

Commissioner Ebert moved to approve the consent items; Commissioner Bell seconded.
Commissioner Bell – aye; Commissioner Ebert – aye; Chair Gibson – aye

F. ACTION ITEMS:

2. **REQUEST FOR INTERLOCAL AGREEMENT WITH REDEVELOPMENT AGENCY OF NORTH OGDEN CITY TO DEFINE TERMS OF COMMUNITY DEVELOPMENT PROJECT**

This item was held.

3. **CONTRACT WITH J & R RENTAL FOR LEASE OF SPACE TO STORE SHERIFF'S OFFICE EQUIPMENT – CONTRACT C2015-377**

Kevin McLeod, with County Operations, briefly presented this contract. Commissioner Bell explained that in the process of building the Juvenile Detention Center on 12th Street a storage building that the county had used was demolished. This storage space has to be climatized and it was difficult to find such a space.

Commissioner Ebert moved to approve Contract C2015-377 with J & R Rental for the lease of space to store Sheriff's Office equipment; Commissioner Bell seconded.
Commissioner Bell – aye; Commissioner Ebert – aye; Chair Gibson – aye

4. **THREE RIGHT-OF-WAY CONTRACTS FOR THE 3500 WEST PROJECT:**

- Qwest Corporation, Parcel 101 – Contract C2015-378
- Hooper Irrigation, Parcel 102 – Contract C2015-379
- Paul Ransom – Contract C2015-380

Jared Andersen, County Engineer, presented these standard contracts.

Commissioner Bell moved to approve Contracts C2015-378 through 380, right-of-way contracts for the 3500 West extension project; Commissioner Ebert seconded.
Commissioner Bell – aye; Commissioner Ebert – aye; Chair Gibson – aye

5. **TWO RIGHT-OF-WAY CONTRACTS FOR THE 12TH STREET PROJECT:**

Michael and Karen Martin – Contract C2015-381; Randall and Hollie Thompson – Contract C2015-382

Jared Andersen, County Engineer, presented these standard contracts.

Commissioner Bell moved to approve Contracts C2015-381 and 382, right-of-way contracts for the 12th Street widening project; Commissioner Ebert seconded.

Commissioner Bell – aye; Commissioner Ebert – aye; Chair Gibson – aye

6. **RESOLUTION APPOINTING MEMBERS TO THE ARENA BOARD – RESOLUTION 40-2015**

The Golden Spike Event Center Advisory Board submitted recommendations for five appointments and reappointments. Commissioner Bell spoke of the qualifications of the applicants.

Commissioner Ebert moved to adopt Resolution 40-2015 making the following appointments/reappointments to the Arena Board: appointing Keith Buswell and Rick Koski to fill a first full term and to reappoint Hudd Hayes, Ron Remkes and Craig Smith to fill a second full term expiring 12/31/2019; Commissioner Bell seconded.

Commissioner Bell – aye; Commissioner Ebert – aye; Chair Gibson – aye

7. **RESOLUTION APPOINTING MEMBERS TO THE RECREATION, ARTS, MUSEUMS AND PARKS BOARD (RAMP) – RESOLUTION 41-2015**

Holin Wilbanks, RAMP Liaison, read the RAMP recommendations, noting that there were 17 applicants. The commissioners had interviewed applicants and were very impressed with the recommendations and the applicants' qualifications and willingness to serve.

Commissioner Ebert moved to adopt Resolution 41-2015 appointing Raquel Lee, Jeremy Dunn and Steve Crane to the Advisory Board, Helene Liebman to the Recreation and Parks Committee and Ann Parry to the Arts and Museums Committee; Commissioner Bell seconded.

Commissioner Bell – aye; Commissioner Ebert – aye; Chair Gibson – aye

1. **REQUEST FROM THE WEBER COUNTY TAX REVIEW COMMITTEE (COMMITTEE) FOR DISCUSSION AND/OR ACTION ON A REQUEST FOR A REFUND OF TAXES FOR PARCEL #22-242-0005**

Joe Olsen, of the County Assessor's Office, presented this item on behalf of the Committee. He stated that the County Assessor's Office had classified Dennis King's property as a non-primary residence. Mr. King purchased this property in 1/2013 and the previous owner used the improvement as a model home in that predominantly non-primary/secondary home area. Mr. King filed timely through the Board of Equalization (BOE) in 2015 and the primary residential exemption for 2015 has been applied. Mr. King then requested that the county go back and also apply the primary status to 2013 and 2014. The Committee had reviewed the State Tax Commissions' Standards of Practice, which identify that the burden of proof for taxable status is on the property owner. The county's ordinance allows the county to require an affidavit identifying what the taxable status of the property is. Mr. King did not appeal the taxable status timely for tax years 2013 and 2014 and statutorily does not have standing. Mr. King received proper notice by means of the 2013 and 2014 valuation notices and tax bills, which identified the taxable status, included status definitions, and the process for appealing the status. The Committee believes there was no erroneous assessment, and that this is a BOE issue. The unanimous recommendation from the Committee is to deny the request to change the taxable status for 2013 and 2014.

Mr. King, an Eden resident, noted that his home was given the non-primary classification instead of primary. Relating to the State statute that specifies the requirement to appeal by March 31, he said that possibly there are some good reasons to allow some consideration. He referred to copies of his tax notices for 2013 and 2014, under the Classification of Property, which said "Residential land with building (NP)." He said that he did not know what the "NP" stood for unless he looked on the page for it. He said that taxpayers would not peruse the tax notice.

Mr. King said that when he met with the Committee, he was told the onus was placed on the individual to inform the county of the property status. He said that his home was a primary residence, therefore the County Assessor's Office made the error, and this gave ground to possibly go against the State statute and give him a tax refund. He noted that the 2015 tax notice has been changed—under the property type it states “non-primary property,” which he says is clearer. He said that these procedures are arbitrary, confusing and unfair and possibly discriminatory for high income Ogden Valley property owners, and he intimated that the county was hiding something. Chair Gibson said that the county wants to give the benefit to the taxpayer when possible, and stated that the county was not trying to hide anything and is bound by statute. The county continually looks at the notices to see if improvement can be made.

Mr. Olsen stated that the county goes to great lengths to identify the correct taxable status and notices the status on the valuation and tax notices, with the definitions. In Mr. King's case, it was a model home—a secondary home status—and should not have received the primary residential exemption. Ownership transferred to Mr. King in January 2013 from the developer. Notices were mailed out in 2013 and 2014 identifying the taxable status of the property, but Mr. King did not appeal timely through the BOE. Mr. King said that was correct that he had not submitted the appeal timely according to State statute. He said that some other entities clearly state “primary” or “non-primary.”

Courtlan Erickson, Deputy County Attorney, stated that the State Tax Commission Standards do state that the property owner has the burden of proving that the property qualifies for an exemption. The county ordinance also puts the burden on the property owner to make the claim about the primary residence.

Commissioner Ebert stated that there are two areas on the tax notice where “NP” is indicated. The definitions are directly above the “NP” on both of the notices that Mr. King submitted with his documentation, under Classification of Notice, along with the market value percentages that are taxed. He stated that it is very easy to see; it is not hidden in the notices. Mr. Olsen addressed Commissioner Ebert's question stating that the property was correctly classified as non-primary. Property owners can appeal through the BOE when they receive the valuation notices, which have deadlines. In this case late appeals would have been accepted through March 31, of the following year, for each of the years in question.

Mr. King said that he was not disputing that there was a definition above the “NP” but that if he was not looking for that clarification he would only see “land with building” and not look directly above it for the definition. He wanted “residential” or “non-residential” in red and bolded. Mr. Olsen had conferred with several jurisdictions and if these cases are not appealed timely through the BOE, there is no remedy for past years.

Commissioner Bell moved to deny the request for a tax refund by Dennis King for parcel #22-242-0005; Commissioner Ebert seconded.
Commissioner Bell – aye; Commissioner Ebert – aye; Chair Gibson – aye

8. **PUBLIC COMMENTS:** None

9. **ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, NOVEMBER 3, 2015, 10 A.M.**

10. **ADJOURN**

Commissioner Bell moved to adjourn at 10:16 a.m.; Commissioner Ebert seconded.
Commissioner Bell – aye; Commissioner Ebert – aye; Chair Gibson – aye

Attest:

Kerry W. Gibson, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor