

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

Tuesday, March 22, 2011 - 10:00 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 PRESENT: Jan M. Zogmaister, Chair, Craig L. Dearden and Kerry W. Gibson.

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

- A. **WELCOME** - Chair Zogmaister
- B. **PLEDGE OF ALLEGIANCE** - Ernest Rowley
- C. **THOUGHT OF THE DAY** - Chair Zogmaister

D. CONSENT ITEMS:

- 1. Purchase Orders in the amount of \$90,472.63
- 2. Warrants #272136-#272328 in the amount of \$2,198,983.08
- 3. Minutes for the meeting held on March 15, 2011
- 4. New beer license
- 5. ACH payment to US Bank in the amount of \$68,632.45 for purchasing cad transactions made through the billing cycle ending March 15, 2011

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

E. ACTION ITEMS

- 1. **FINANCIAL GUARANTEE IN THE AMOUNT OF \$500 FOR THE FUTURE REMOVAL OF A TEMPORARY TRAILER FOR A SHORT TERM VENDOR AT 2612 N. HWY 162**

Ben Hatfield, of the County Planning Division, stated that Pat Brennan wishes to open a sandwich shop out of a trailer on a vacant commercial lot in Eden. In installing this trailer, Mr. Brennan has buried it by putting in fill around the trailer. As part of the Planning Commission's approval, they required a financial guarantee for removal of the trailer, if necessary, after the 120-day temporary vendor permit expires.

Commissioner Dearden moved to accept the financial guarantee in the amount of \$500 for the future removal of a temporary trailer for a short term vendor at 2612 N. HWY 162; Commissioner Gibson seconded, all voting aye.

- 2. **DISCUSSION ON OPTIONS FOR DEFERRALS OF PUBLIC IMPROVEMENTS (CURB, GUTTER, SIDEWALK, ASPHALT)**

Sean Wilkinson, of the County Planning Division, stated that he met individually with each commissioner on this issue and needs their direction regarding how to address these agreements in the future, what body should approve the deferrals (responsibility can be delegated to staff or Planning Commission, which would help with small subdivisions less than 5 lots), etc.

Mr. Wilkinson read from the pertinent ordinance section that included: curbs and gutters shall be installed on existing and proposed streets by the subdivider; deferrals will be required for lots in the Ogden Valley (Valley); curbs and gutters shall be installed by the subdividers in subdivisions along the abutting Utah State Highways if required by UDOT; sidewalks shall be required by the Planning Commission for safety reasons and where the proposed subdivision is located within the walking distance as established by the School District; deferrals for sidewalks will be required for lots in the Valley; and approved walking paths may be substituted for sidewalks.

County representatives from Planning, Engineering, Operations, Attorney and Commission discussed the current deferral agreement in April 2010 and decided to research potential options to amend it.

Option 1: Keep existing agreement in place. The developer signs the agreement but it applies to all future subdivision lot owners. It requires the lot owner to install the deferred improvements within 60 days of the county's request, or a lien is placed on the property and the county can secure installation of the improvements. If the county creates a special improvement district instead of collecting on the individual agreements, the lot owners agree not to protest full participation in the special district. Ernest Rowley, County Recorder/Surveyor, requested adding such language to the ordinance. Some drawbacks to this option include that the developer does not bear the cost/responsibility of installing the deferred improvements, which are passed on to subsequent lot owners who may not be aware of the agreement. The County Commission has the responsibility of deciding whether the deferral agreement is used. This can create a confrontational situation with property owners who are unaware of the agreement and may not be able to afford the cost for the improvement installation.

Option 2: Require participation in a special improvement district only. The new agreement would require full participation without protest in a future special improvement district. This option allows the county to recoup the improvement costs without requiring full payment or actual improvement installation upfront. The cost would be the true cost at the time of installation, rather than collecting money upfront and falling short due to increased prices when installation actually occurs. The drawbacks include that the burden is still on the lot owner rather than the developer, the county bears the cost/burden of creating, implementing and tracking the special improvement district. In addition, such districts generally require large areas to be feasible and to spread the cost sufficiently. If there is not the number of deferral agreements in a certain area, even those without those improvements in a district may be subject to the cost. Mr. Wilson explained that these special districts were different from typical special service districts; they are simply a district for financing purposes. He would need to address these districts with the county's financial advisor.

Option 3: Require the developer to pay the full cost of improvements prior to recording the subdivision. This is the method used by Salt Lake County and other area jurisdiction. However, it puts a larger burden on individuals who are creating minor subdivisions, and may not be able to afford the full cost of improvements upfront (i.e., currently improvements on 1-lot subdivisions with 150 feet of frontage typically cost about \$7,500). Questions to consider include whether 1-lot subdivisions that may not need improvements presently should be treated differently than larger subdivisions where improvements are necessary, and how will the county manage the money that is not used immediately.

Option 4: Eliminate the option for deferrals. This would guarantee the installation of improvements, but connecting the improvements in the future would be an engineering challenge. The Weber School District prefers this option because it provides the best measure of safety for students walking to school. For this option, the Valley needs to be addressed separately from the western Weber County because currently deferral agreements are required for subdivisions in the Valley since urban improvements are not desired. If the county does not desire curb, gutter and sidewalk there, it needs to be addressed, which can be accomplished in the ordinance. Questions to consider include whether the Valley should be exempt from deferral agreements or whether a deferral agreement for pathways in the Valley should be established instead.

This issue was presented to both Planning Commissions. The Western Weber County Planning Commission asked for Curtis Christensen, County Engineer, to come and speak with them about these types of improvements, but no feedback has been received from them yet.

Chair Zogmaister noted that this issue has needed clarification for a long time. Commissioner Gibson preferred Option 1. He felt that if the decision needs to be made arbitrarily it should be made by an elected body, and because of unique situations, these should be looked at individually. Commissioner Dearden preferred Option 3. He said that the property owner either pays later for these improvements or the price is added into the property purchase price. He did not feel it realistic to create a special improvement district for every subdivision in this circumstance, and if the money is put into escrow, it should be determined how long to keep it there. David Wilson, Deputy County Attorney, stated that the county should record the deferrals, and he recommended adding language that the deferrals run with the land to put people on notice. He noted that in past Commission meetings developers have stated that if they would be required to put money in escrow, they preferred just putting in the improvements because they improve the lot values. Chair Zogmaister prefers Option 3 and she would like to hear discussion on small lots, i.e., should they be given any special consideration. The commissioners wish to receive input from both Planning Commissions prior to making a decision and no action was taken today.

3. CONTRACT WITH PRESORT ESSENTIALS FOR MAIL PRESORTING AND ASSOCIATED SERVICES - CONTRACT C2011-39

David Wilson, Deputy County Attorney, stated that Requests for Proposals were issued and Presort Essentials was selected. This is a 5-year contract.

Commissioner Gibson moved to approve Contract C2011-39 with Presort Essentials for mail presorting and associated services; Commissioner Dearden seconded, all voting aye.

F. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, MARCH 29, 2011, 10 A.M.

G. PUBLIC COMMENTS:

Christine Melvick, of South Ogden, expressed concerns with the display of nudity at the Pleasant Valley Library. She and other mothers researched this issue and found it is illegal. She gave a copy of the pertinent Utah law, Indecent Public Displays, to the commissioners. She said that they took their concerns to the library board and found that they were not very interested in their concerns or comments and wanted to move the discussion away from it being a public library to it being a community center. She stated that it is not a community center. They want the law to be enforced and the art on display to be appropriate for children. They do not feel the nudity there is appropriate.

Sylvia Salisbury asked if Weber County has an Office of Sustainability and read portions of an article where Carroll County, Maryland, abolished such an office because they felt it is ultimately an attack on private property rights and invokes government power to enforce activists' views of environmentalism. Chair Zogmaister said that the county did not have such an office and did not have plans for one.

In response to the above public comment regarding centralization of property and property rights, Ernest Rowley stated that the County Recorders Association of Utah is very concerned about it. One thing they have seen recently is that the national mortgage crisis has created a mindset in a number of attorneys and others around the country dealing with Mortgage Electronic Recording System (MERS), which banks setup through Fannie Mae and Freddie Mac to deal with recording of mortgages. Because the system of recording was removed from counties' Recorders' offices and placed with a private entity, it is one of the issues that precipitated the real estate system crash. The movement now to fix this is to federalize the recording systems of the U.S.A. and is part of some legislation that Congress has been considering recently dealing with problems that MERS has been creating. The National Association of Recorders Clerks and Election Officials is working very closely with Congress to try and defeat at least the provisions to nationalize that system.

Referring to item E.2. above, Brice Penrod, of Pleasant View, said that he agreed with Commissioner Dearden that option 3 is probably the best idea. He said that the playing field should be level for developers and he did not agree with the option of any developer not having to pay for the improvements. He said that the Commission should be very careful about this. He agrees with Commissioner Gibson that it is not appropriate, particularly in very rural settings, to require those improvements.

Gretchen Burch attended the library board meeting about the nudity issue. She looks to the Commission as those she voted in to ensure laws are enforced. Ms. Burch will be attending the library board meeting next month and sometime before then would like some conclusion to be made regarding the issue. From research and from those they have spoken with, the issue is very much against the law and is in fact a misdemeanor--it is spelled out very clearly that such items cannot be shown. She wants to ensure the library director knows she does not have the right to display that art, whether she thinks it has artistic merit or not. She needs to be warned or informed about this, and she did not seem apologetic in any way in the meeting, but rather aggressive trying to explain the merit of the art. It can be fabulous art but does not belong there. Ms. Burch wants to make sure the law is upheld and that the correct decision is made, and if it is not, they may press charges, although they would prefer to handle this issue quietly. Chair Zogmaister said that the process involves going before the library board first, and the issue is scheduled for their next agenda for discussion and/or action.

H. ADJOURN

Commissioner Gibson moved to adjourn at 10:49 a.m.; Commissioner Dearden seconded, all voting aye.

Jan M. Zogmaister, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor