

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

Tuesday, April 9, 2013 - 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 unreported 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:** Kerry W. Gibson, Chair, Jan M. Zogmaister, and Matt G Bell.

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

**A. WELCOME** – Chair Gibson

**B. PLEDGE OF ALLEGIANCE** – Chris Allred

**C. THOUGHT OF THE DAY** - Commissioner Bell

**D. CONSENT ITEMS:**

1. Purchase Orders for \$177,253.35
2. Warrants #296537 - #296717 for \$649,557.36
3. Minutes for the meetings held on March 26 and April 2, 2013
4. New business license
5. Contracts with the following entities for RAMP Grant funding:
  - Boys & Girls Club – Contract C2013-67
  - Eccles Community Art Center – Contract C2013-68
  - Egyptian Theater Foundation 1 – Contract C2013-69
  - Egyptian Theater Foundation 2 – Contract C2013-70
  - Egyptian Theater Foundation 3 – Contract C2013-71
  - Imagine Ballet 1 – Contract C2013-72
  - Imagine Ballet 2 – Contract C2013-73
  - Ogden Dinosaur Park 1 – Contract C2013-74
  - Ogden Dinosaur Park 2 – Contract C2013-75
  - Ogden Dinosaur Park 3 – Contract C2013-76
  - Ogden Friends of Acoustic Music 1 – Contract C2013-77
  - Ogden Friends of Acoustic Music 2 – Contract C2013-78
  - Ogden Nature Center – Contract C2013-79
  - Ogden Pioneer Heritage Foundation 1 – Contract C2013-80
  - Ogden Pioneer Heritage Foundation 2 – Contract C2013-81
  - Ogden Pioneer Heritage Foundation 3 – Contract C2013-82
  - Ogden School Foundation – Contract C2013-83
  - Ogden Symphony Ballet – Contract C2013-84
  - South Ogden City 1 – Contract C2013-85
  - Treehouse Museum 1 – Contract C2013-86
  - Treehouse Museum 2 – Contract C2013-87
  - Treehouse Museum 3 – Contract C2013-88
  - Treehouse Museum 4 – Contract C2013-89
  - Union Station Foundation 1 – Contract C2013-90
  - Union Station Foundation 2 – Contract C2013-91
  - Union Station Foundation 3 – Contract C2013-92
  - Weber Arts Council 1 – Contract C2013-93
  - Weber Arts Council 2 – Contract C2013-94
  - Weber State University Foundation 1 – Contract C2013-95
  - Weber State University Foundation 2 – Contract C2013-96
  - Weber State University Foundation 3 – Contract C2013-97
  - Weber State University Foundation 4 – Contract C2013-98
  - Weber State University Foundation 5 – Contract C2013-99
  - Weber State University Foundation 6 – Contract C2013-100
  - Weber State University Foundation 7 – Contract C2013-101

- Weber State University Foundation 8 – Contract C2013-102
- Junior League of Ogden – Contract C2013-103
- Eden Park Service District – Contract C2013-104
- Golden Spike Event Center – Contract C2013-105
- Hooper City 1 – Contract C2013-106
- Hooper City 2 – Contract C2013-107
- North Ogden City – Contract C2013-108
- Ogden City 1 – Contract C2013-109
- Ogden City 2 – Contract C2013-110
- Ogden City 3 – Contract C2013-111
- Ogden City 4 – Contract C2013-112
- Ogden City 5 – Contract C2013-113
- Ogden City 6 – Contract C2013-114
- Ogden City 7 – Contract C2013-115
- Ogden City 8 – Contract C2013-116
- Ogden Pioneer Heritage Foundation 4 – Contract C2013-117
- Ogden Weber Community Action Partnership – Contract C2013-118
- Plain City 1 – Contract C2013-119
- Plain City 2 – Contract C2013-120
- Pleasant View City – Contract C2013-121
- South Ogden City 2 – Contract C2013-122
- South Ogden City 3 – Contract C2013-123
- Washington Terrace City 1 – Contract C2013-124
- Washington Terrace City 2 – Contract C2013-125
- Weber County Parks & Recreation 1 – Contract C2013-126
- Weber County Parks & Recreation 2 – Contract C2013-127
- Weber Pathways – Contract C2013-128
- West Haven City – Contract C2013-129

Commissioner Zogmaister moved to approve the consent items as listed; Commissioner Bell seconded, all voting aye.

**E. ACTION ITEMS:**

**1. RESOLUTION OF THE BOARD OF WEBER COUNTY COMMISSIONERS APPOINTING MEMBERS TO THE LITTLE MOUNTAIN SERVICE AREA BOARD - RESOLUTION 8-2013**

Brooke Stewart, of the Commission Office, stated that there were five vacancies on this Board—two were due to resignations. Six applications were received. The vacancies were published according to statute.

Commissioner Bell moved to adopt Resolution 8-2013 making the following appointments to the Little Mountain Service Area Board: Kerry W. Gibson, Randall Runolfson and Sterling Roberts to 4-year terms beginning 1/1/2013 through 12/31/2016, and Douglas Larsen and Chris Andersen with terms ending 12/31/2014; Commissioner Zogmaister seconded.

Roll call vote:

Commissioner Bell .....	aye
Commissioner Zogmaister.....	aye
Chair Gibson.....	aye

**2. CONTRACT WITH THE STATE OF UTAH DEPARTMENT OF TRANSPORTATION (UDOT) AND PROJECT ENGINEERING CONSULTANTS (PEC) FOR CONSTRUCTION ENGINEERING MANAGEMENT WORK RELATED TO THE OLD SNOW BASIN ROAD – CONTRACT C2013-130**

Michael Tuttle, of County Engineering, briefly presented this contract.

Commissioner Bell moved to approve Contract C2013-130 with the State of Utah Department of Transportation and Project Engineering Consultants for construction engineering management work related to the Old Snow Basin Road; Commissioner Zogmaister seconded, all voting aye.

**F. PUBLIC HEARINGS:**

1. Commissioner Zogmaister moved to adjourn the public meeting and convene the public hearings; Commissioner Bell seconded, all voting aye.
2. **PUBLIC HEARING ON AN ADMINISTRATIVE APPLICATION, CONDITIONAL USE PERMIT (CUP) 2013-03, SUMMIT AT POWDER MOUNTAIN PHASE 1 (SUMMIT)—154 UNIT PLANNED RESIDENTIAL UNIT DEVELOPMENT (P.R.U.D.)**

Sean Wilkinson, of the County Planning Division, stated that on 11/19/2012 the County Commission approved a Zoning Development Agreement and Rezone Ordinance with Western America Holding, LLC, for approximately 4,297 acres at Powder Mountain, which outlined development requirements and provided an overall density entitlement of 2,800 units. He read an excerpt from the Zoning Ordinance, Chapter 22, regarding P.R.U.D.s, noting that this item deals with concepts and designs that are not typical of the FV-3 Zone, where the majority of this project is located. The project contains 594 acres, of which 463 can be used for development (due to geological issues). Of the 463 acres, 384 are left as open space. The site plan shows 116 lots with 154 total residential units (in Phase 1), and the only commercial aspect is a conference center proposed on lot 76. P.R.U.D.s act as preliminary subdivision approval but final plats are required to go back to the Ogden Valley Planning Commission (OVPC) and County Commission for approval.

The first development phase includes a Road Dedication plat for the existing dirt road from the main parking area to the end of this development, a CUP application for a 400,000-gallon water tank, culinary water well and water pump house, approved by the OVPC on 2/26/2013. There is also an Access Exception application for 8 lots that will have access at a location other than across the front lot line. On 2/26/2013 the OVPC voted to table this item to provide time for the applicant to bring additional information, which was brought back on 3/19/2013, and the OVPC recommended approval of the application subject to several conditions. Each of the items that are a part of this P.R.U.D. is addressed individually in the staff report, and Mr. Wilkinson highlighted the main points.

Lots vary from 30-acres to 500-1,000 sq. ft. and the architecture is termed “modern mountain design” by the developers. Mr. Wilkinson said that the County Commission needs to consider whether the architectural design fits with this site and with existing development. Typically, P.R.U.D. architectural renderings show the site and location of what is actually to be built on a building footprint, however, the developers provided building envelopes with setbacks and basic conceptual designs only (in order to leave flexibility for future home owners). The County Commission must determine if sufficient information was provided to show what the overall design and character of the project will be and if it fits with the purpose and intent of the P.R.U.D. Initially, the OVPC had questions about the architecture but with the additional information provided, they recommended approval of the architectural design, and planning staff feels there is sufficient detail for the County Commission to consider. Planning staff is requesting that the Summit Eden Design Review Board provide a certification letter stating that the homes coming in for building permits meet their requirements, and the developers have agreed.

There are several roads proposed. The main road coming into the development is labeled Road “A” on the site plan, which is a public road along with Road “E.” The remaining are private roads. There are some alternative paving materials in small portions of these roads and design variations on the public roads that will require variances from the County Commission when this comes back for final subdivision approval (i.e., Road “E,” is a 36 ft. right-of-way and the 22 ft. pavement width portion of Road “A”). The County Commission needs to determine whether to accept those roads as public roads. Maintenance of those roads was a concern for the OVPC because they can only be reached by Powder Mountain Road, which is currently a State road, and they recommended that the County Commission work with the developers on a maintenance agreement where the developers provide maintenance of those public roads. This can be discussed as part of the subdivision application process.

There is a secondary access road in Cache County that the developers have agreed to provide connecting Powder Mountain to Highway 39 via the existing county road through Evergreen, Sunridge and Vista. It will not be improved at this point but can be developed in the future. The proposed location may change and can be finalized as the project continues.

Access exceptions are on Lots 1, 2, 3, 4, 9, 10, 19, and 42, the majority of which have very steep slopes where access would be dangerous. Private rights-of-way will be provided and there are a few design elements that still need correcting. The County Planning and Engineering Division agree that these exceptions make sense and should be approved subject to meeting the required design standards. There are also several restricted lots that will require hillside review.

The parking exception being requested is for a one parking space/nest unit (Lots 35, 76, 116), which are for 200-400 sq. ft. dwellings and have no road access. The developers are requesting a garage or parking off of the street in a small designated parking area. The OVPC recommended that one parking space be required per nest unit.

The developers are providing an extensive network of new trails, enhancing some existing trails and access roads. After meeting with the Planning Division and Weber Pathways, the developers have committed to provide access/connections to existing trails on the Weber Pathways Ogden Valley Master Plan. The developers have stated that future applications in the DRR-1 Zone will include a trails plan for the entire Powder Mountain development (which has to come in before development reaches 250 units).

The developers show a landscaping plan in the village and nest areas with 350 additional trees. The OVPC recommended approval.

The developers have stated that there will be no signage (i.e., for advertising) and no lights as part of this P.R.U.D. submittal. The residential homes are not affected by the Ogden Valley lighting ordinance but street lights fall under the ordinance.

The commissioners' packet included a summary of the financial components of the development. The P.R.U.D.'s proponents' demonstrated ability to financially carryout the proposed project.

The county currently has feasibility letters for water and waste water from the Powder Mountain Water and Sewer Improvement District for 141 units rather than the current 154 and a request has been made for updated letters from the District. County Engineering is still waiting response to the request for a capacity assessment letter from a qualified engineer stating that the sewer system has adequate capacity for the 154 units. The Development Agreement approved on 11/2012 states that no development shall be allowed unless the developer demonstrates the ability to provide water, sewer and other necessary infrastructure in accordance with State and county regulations.

The developers have provided a parcel for the Weber County Sheriff's Office and Weber Fire District south of where the current development ends. It is not in this phase but the Sheriff Office can request at any time that the facility be constructed.

The county is currently working with Cache County on an Interlocal agreement (for several of the nest units and a couple of the lots located in Cache) to designate Weber County as the land use authority.

Mr. Wilkinson addressed Commissioner Bell's questions stating that there have been several meetings regarding trails and the commitment that the county has received is that the developers will leave open to the public the existing trails shown in the Ogden Valley Pathways Master Plan (which will be updated as part of the rezone to the DRR-1 Zone).

Mr. Wilkinson said that the County Commission should consider reasonably anticipated detrimental effects of this proposed CUP and if there are any, whether they have been substantially mitigated, and whether the proposed use complies with the Zoning Ordinance requirements and those of the applicable review agencies. He read statements that also need to be considered from Chapter 22 relating to the architectural design of the buildings, public/private streets, landscaping, signage, lighting etc.

The OVPC voted to approve the development on 3/39/13 subject to these conditions/requirements:

- The architectural design of the proposed housing units is acceptable and complies with the P.R.U.D. criteria.
- Accessory buildings are not proposed for any of the single-family dwelling units.
- The landscape plans for the village & nest areas comply with applicable ordinance requirements.
- The units in Cache County are approved subject to an Interlocal Agreement with Weber County as the land use authority, to oversee planning approvals and building inspections.
- The Trails master plan is acceptable subject to the developers providing access & connections to existing trails on the Weber Pathways Ogden Valley Master Plan.
- The road pattern and public/private designations are adequate; however, a road maintenance agreement between the developers and Weber County is required.
- Alternative road design elements will require variance to the county's Subdivision Ordinance from the Weber County Commission.
- A secondary access road in Cache County is required.
- The Access Exception application is approved subject to meeting design requirements.
- The restricted lots meet applicable standards.
- The Zoning Development Agreement has been complied with, but real estate transfer fee must remain at 1.5%.
- Delinquent property taxes within the P.R.U.D. must be paid prior to final subdivision approval from County Commission.
- Certification is required from the Summit Eden Design Review Board that each house plan submitted for a building permit complies with their design guidelines and the P.R.U.D. approval.
- The site plan with 116 lots and 154 units is approved.
- P.R.U.D. variations to the FV-3 zoning for lot size, setback, and building heights are approved.
- Time share/nightly rental units shall be designated on site plan.
- The conference center on Lot 76 is approved as non-residential accessory use.
- Parking space adjustment from 2 spaces to 1 space is allowed for the nest units.
- The conditions of approval in staff report must be complied with.

Mr. Wilkinson said that staff recommends approval of the P.R.U.D. and outlined the Commission's three options: grant approval subject to the conditions in the Planning Division's and OVPC recommendations; adopt the above findings and recommendations from the OVPC; or include additional findings/conditions. If more information is needed they can table and request specific information from the developers, or if they determine that the P.R.U.D. does not comply, they can deny the application.

Russ Watts, representing Summit, addressed the commissioners' questions. Summit has not yet determined the conference center size but it is for small business conferences. There are five nest cabin sites that are part of the conference center. Mr. Watts said that they met twice with Weber Pathways and the County Planning Division on the major trail system, and he reiterated that all trails are for public use. The trails in the village will be part of the trail system and the public is expected to check in and be respectful of the rules (i.e., to stay on the trail). The Summit Eden Design Review Committee is comprised of 6 consultant members that work for the developers to ensure compliance for the plans that go to the county. Summit met with the Weber Fire District and the county and designated the lot size for their facility, which will be dedicated to the Fire District as part of Phase 1, but it may come in later. The Sheriff's Office will be part of that complex. The facility will be paid for by the developers. They do not have the feasibility letters from the Powder Mountain Water & Sewer District because the District does not meet until tomorrow.

Mr. Watts said that the park is private. There is much open space and the trail system goes through the entire 10,000 acres. He said that the 1.5% real estate transfer fee will be used to enhance community elements—trails and the mountain for those hiking, skiing, using, etc. The transfer fee must be used strictly within the development area. He said that half of those buying homes do not have cars and will use Summit's transportation system to/from the airport. As part of the DRR-1, they will be proposing a trail head and/or parking pick-up areas to encourage people to park and buy discount tickets for Summit's transit facilities to go up/down the mountain rather than driving themselves. Employment housing will be designated in the future. With this P.R.U.D. proposal, Summit is not changing any uses off of the mountain and down the Valley floor.

Kelly Hipwell, with County Roads, expressed concerns for snow removal with the narrow road width request (from 26 ft. to 22 ft.). Mr. Watts stated that it is for one 900-1,000 ft. section of road where the conference center is located, and they want to lessen the impact of cutting/scarring into the mountainside and not take out trees. They have basic areas designated for snow storage along that road. The developers need to work with the county because they will be doing some snow removal themselves.

Chair Gibson invited public comments and following is a summary.

Shanna Francis, of Eden, noted that currently there are no residential lighting requirements for Ogden Valley, which she hopes the Commission adopts. Because of the development's location on top of Powder Mountain there may be possible affects on the night sky and she asked that there be some lighting requirements—shielding all lights, that they point downward, etc., similar to the commercial regulations. In the past, developers working on proposed development on top of Powder Mountain worked with the State/Department of Environmental Quality for critical watershed protection mitigation efforts and she hopes these developers are requested to work with the State because it affects everyone down below. She said that Snow Basin was required to do similar things. She expressed concerns with the added development and the strain on the Weber County Sheriff's Office because they decreased the number of officers for the Ogden Valley but the area covered has increased. She asked if the county has done a cost analysis for its road maintenance that will be added on top of the mountain and how that will affect road maintenance budgets. Mr. Watts said that lighting is a major issue and they have it all covered within their own guidelines and they support the night sky, particularly because they are on top of the mountain. The agreement does not address lighting.

Lee Schussman, of Eden, expressed concerns with the proposed site for a major transportation hub at the Wolf Barn area (zoned AV-3 and open space), which can have significant negative environmental community impacts and would call for changing the current zoning to commercial. He suggests the hub in an existing commercial area in Eden, where the public could access public transportation to all of Ogden Valley (i.e., North Fork Park, Huntsville, other ski areas). If located at the Wolf Barn area—one of the few open riparian areas in the Eden area that still has a plethora of wildlife, etc., the hub would only serve Powder Mountain and would suffer a huge environmental impact with 600-700 hundred people daily during the winter to use the transportation hub, in addition to the required bathrooms and other facilities to take families out of storms, serve food, etc. He stated that all Weber County citizens now have a stake on this endeavor because of the \$22 million bond to underwrite Summit's ability to borrow at good rates to build the infrastructure.

Steve Clarke, of Eden, said that in an earlier meeting Greg Mauro, of Summit, described his interest in having the P.R.U.D. be officially designated as a dark sky development by the IDA (International Dark-Sky Association). He applauds that desire and suggested that a condition of the P.R.U.D. approval be that public and residential lighting meet the IDA dark sky standards with sensitivity to limiting the light intrusion on Ogden Valley residents. He concurs with Mr. Schussman's analysis of the transportation issue. Mr. Clarke believes that Summit is working with the county on a tax increment funding and redevelopment agreement. Because this is unfamiliar to most Ogden Valley residents, he requested an explanation of the process, why it is being talked about, etc.

### 3. PUBLIC HEARING TO VACATE 6300 EAST, LOCATED BETWEEN HIGHWAY 39 AND PINEVIEW RESERVOIR

(See related item F.4. below.) Ben Hatfield, of the County Planning Division, showed an area map. The developer for the Edgewater Beach Resort P.R.U.D. (P.R.U.D.), adjacent landowner to 6300 East, is requesting to vacate any public right on that dirt road. The P.R.U.D. received a major redesign in 2012 by the County Commission with secondary access onto 6300 East. The applicant notified the county that UDOT wishes to limit the number and distance between access points along Highway 39 and is requesting that the P.R.U.D. only use their one access point for the development. The Ogden Valley Planning Commission (OVPC) heard the item on 3/26/2013 and recommended approval subject to the additional amount of property on the dirt road being deeded to the adjacent land owner, Marion Fowers Martin,)for the private access (about 12 ft.). Mr. Hatfield said that Ms. Martin's home is served by the dirt road and her property is in a Conservation Easement. No development can occur at the end of the road due to Pineview Reservoir and the easement, and staff is recommending approval of the vacation of 6300 East. Mr. Hatfield had discussed this item previously with the County Engineer, Recorder/Surveyor and Kelly Hipwell, from County Roads.

John Reeve, engineer for developer, said that this is the third time this item has come before the Commission; the first time it had 168 units and now has 57 and includes a couple of commercial units. To address UDOT's concerns about the two road accesses being so close together and that the P.R.U.D. might use the secondary access on 6300 East for more than secondary access, the developer approached Ted Black of the Weber Fire District to discuss alternatives. Mr. Black had said that if they put sprinklers in all the buildings they would be allowed to have one access. The developer desired to vacate 6300 East (a remnant of a road that went across Ogden Valley before the Reservoir was built), which had become a private driveway, and to keep it intact. Instead of vacating the road so that the other owner only received half of it, they prepared a deed giving their 12 ft. to Ms. Martin so she could have a full gravel road.

Both parties said that they had tried to contact the other to discuss the issues to no avail. Today they both expressed a desire to work together to resolve the issues. A few who spoke asked that this be tabled to resolve the issues regarding the property line.

Adjoining property owner, Marion Fowers Martin, showed pictures of her farm. Her grandfather homesteaded the property in 1892 and her family has owned it since. Ms. Martin put the farm into a Conservation Easement in 2003 so that it will remain the beautiful scenic land that it is. It will remain agricultural in perpetuity. She has received many comments about the beauty of that farm and how it enhances the entrance to the Ogden Valley. She said that there is a long history of proposed site plans for the P.R.U.D. In 2004 there were a number of hearings by the OVPC and County Commission and there was a big concern because the property to the east of the P.R.U.D. (Ski Lake Village) had built a row of very tall buildings that people in the meetings referred to as a wall of buildings. There was a lot of discussion about the Ogden Valley General Plan (OVGP) and zoning regulations (to preserve the view corridors, rural/agricultural atmosphere of Ogden Valley), and the idea then was to try to make a nice transition from this open scenic farmland to the development. The proposed P.R.U.D. is impacted by the view corridors all around the Reservoir and along Highway 39, which the past commissioners were considering as the designated scenic entry into Ogden Valley.

Ms. Martin said that in an effort to preserve the view corridors between the Highway and the Reservoir, decisions by both the Planning and County Commissions in 2004 established that there would only be two buildings on the west side of her property, with a maximum height of 25 ft., and a setback of 50 ft. from the property line for a buffer zone where there could be landscaping to soften the transition between the farm and development. The developers came back numerous times since 2004, and until March 2012 the commissioners always affirmed the plan that allowed for only two buildings and 50 ft. setback. Ms. Martin said she did not receive adequate notice for the 3/2012 Planning Commission meeting and was not able to attend, and a major revision of the site plan was made—the Commission allowed the addition of 3 buildings, access from 6300 East, and the reduction of the setback to 35 ft. She opposes those changes.

Ms. Martin said that to vacate 6300 East is complicated because of recent surveying that indicates the section line of the property is not the center line of the road, that it is offset to the east and she requested clarification. The property line had always been assumed to be the center line of the road, and if it changes to the section line it moves the whole property line over to the east. It raises questions about the overall site plan and the affect of putting three buildings in that area where only one was planned. She showed various pictures of the farm, of 6300 East and the P.R.U.D. In the original 2004 plan, which was reaffirmed for about 8 years through many hearings, there was only going to be one other building in Phase 3 and the building was to be setback 50 ft. from the property line, which at that time was 6300 East. Now, the developer has proposed changes that include a duplex along the west side and added a garage.

If the road is vacated, Ms. Martin asked if there would be a turn lane-type arrangement in the highway to get into the P.R.U.D., and if so how it would impact access to/from the farm from the highway with their tractors and large trucks hauling bales of hay, etc. The impact of the change of the property line and the setbacks needs to be reviewed. She suggests that this proposed vacation be combined with another review of the site plan and that the County Commission revert to the site plan originally approved in 2004 because it followed the guidelines of the General Plan and zoning regulations. She said that it is incumbent upon this Commission to make decisions that will preserve this as a scenic entry and the beauty of the Ogden Valley for future generations. She addressed Commissioner Bell's question stating that according to the legal description, the property line is on the section line. In the Conservation Easement the property description has the section line as the border of her property. It probably has been assumed inaccurately that the property line was the center line of the road. The dirt road is designated as a county road and has signage and the county has been responsible for its maintenance. She stated that this has been a public road and the public continues to use it for fishing and beach access. Mr. Hipwell said that at the end of 6300 East there is sufficient space for a snow plow to turn around and for possibly a couple of cars to park.

Commissioner Zogmaister stated that there are many unknowns regarding impacts of this road vacation. Ernest Rowley, County Recorder/Surveyor, said that there was a dependent re-survey conducted by the Bureau of Land Management in the early 1970's. There is a monument south of Highway 39 and another monument on Cemetery Point that are being used as a control for that property line. To the best of his knowledge they are the most accurate retracements of the original federal survey done in the 1800's for that property. As part of the work for a land exchange for the villages, the County Surveyor's Office had a contract with the U.S. Forest Service to work on their boundary, and they also identified the boundary line between the P.R.U.D. property and the federal property and the section line was identified. The section line runs approximately from the middle of the east half of the gravel that is there. He said that the road has been public since about 1885—it was the main road out of Huntsville before the Reservoir was built. It ran down Cemetery Point, went across the Reservoir and across to where that road currently is and on into the Snow Basin area. Some of the road is on the P.R.U.D. property and some is on Ms. Martin's property. Mr. Rowley said that in an order given by the Weber County Court in 1885, Book C, starting at page 245, that road was designated as 66 ft. wide, thus the current description that says 50-ft wide would not be vacating the entire width of road. It is shown as a 50-ft. wide road on Edgewater's Phase 1 and there was intent to narrow it to 50 ft. as part of that development, however, Mr. Rowley was not able to find in the public record that it ever occurred.

Mr. Reeve said that the developer thought that the property owner on the west side would be happy to get rid of the public road and have a private road but apparently that is not so. The P.R.U.D.'s road is being used and 6300 East is being used by those living on Ms. Martin's property.

Chair Gibson invited public comments and following is a summary.

Douglas Taggart, representing Ms. Martin stated that she is not necessarily objecting to the road vacation, but that there has been no dialogue between the property owners on either side of road. Ms. Martin had been told that the section line for the property, which on the deed divides the two properties, is on the

developer's property. There are impacts to the road vacation. The Ogden Valley Land Trust owns the Conservation Easement and this affects the setbacks. If everything moves east, it minimizes the setback and they want to work through this with the developers. Additionally, if the county is going to vacate the road, Ms. Martin would like it put into a good condition first.

Leslie Rinaldi, counsel for Celtic Bank, said that they are happy to work with Ms. Martin on the road vacation and to deed their portion over to her. Her boss, Mr. Howell, was on that road and was scolded to get off of it, thus it has been a quasi public road. Ms. Rinaldi requested that the vacation not be tabled as Celtic Bank has been working hard to resolve this for over a year.

Jody Smith, Ogden Valley Land Trust Chair, spoke in support of Ms. Martin's decision. She appreciates Ms. Martin being present because she was in California, lives in Montana, and had come to Utah for this meeting. She said that the farm is 110 years old, 123 of stunningly beautiful acres and this easement is a selfless gift. She read an excerpt from the Easement that states the property is bordered by the north of Pineview and bisected by State Road 39, which has been designated a scenic highway by the State, which said property provides critical winter and summer habitat for big game species and high quality habitat for a variety of other wildlife, serves as a corridor for wildlife to and from the Reservoir, it is one of the last remaining historical farms in the south end of Ogden Valley, while simultaneously acting as an undeveloped buffer zone providing watershed protection along a substantial portion of the south shoreline of Pineview. As an Eden resident, she adamantly opposes the setback being changed from 50 to 35 ft. so that dense building can occur; their view corridors and scenic by-ways should not be influenced by development. She said that at one time there was a promise by the County Commissioners and the developers for a buffer zone but this did not occur and she would like the Commission to reconsider it.

Ray Bertoldi, P.R.U.D. project architect, stated that they looked at impacts in terms of density and have 1/3 of what was previously approved, which included fairly large buildings. They have been sensitive with the transition of open space, so as to not have a wall of buildings. There is a maximum height of 23 ft. for a 1/2 to 2/3 footprint of a building and the remainder height is about 10 ft., these are two story buildings at most, have low sloped roofs, etc.

Shanna Francis, of Eden, with the Ogden Valley Land Trust, said the Trust had been told that there is a section marker near the Highway that is approximately 6 ft. from the edge of the road. She noted that there is enough confusion about where the property/section line actually exists, up to possibly 9 ft., and asked that this be tabled because the Trust needs to have setback and other issues verified.

Jon Bingham, with the Ogden Valley Land Trust, said that if the road were to be developed as proposed in the development it would be in direct conflict with the Conservation Easement because it would impact the area recorded on the Easement. The location of the county road seems to be in dispute. He said that the section line goes down the eastern side of the lane, as far as 9 ft. off of the center line of the road, and it is important to resolve the issues first. Apparently the site plan approved for the P.R.U.D. used a description of the road right-of-way using the center of the dirt road that goes down to the farm. That center line for the road was used as the point to measure for the setbacks for the P.R.U.D., not the property line. If the vacation is approved and additional property is deeded to Ms. Martin, it reduces the setback even more and this would be a major change to the approved setback on the development plan.

Mr. Reeve said that Ms. Martin's property line is the section line that was established and reestablished and was used for the P.R.U.D.'s boundary. The gravel road does not parallel with the section line, varies from 3-6 ft., runs at a different angle than the section line and puts the road more on Ms. Martin's property than on the P.R.U.D.'s. He said that the section line has always been the property line. He said that he had a copy of the survey done by Great Basin Engineering in 2004 and that he agrees with their section line. He said there is no question where the property line is and suggests vacating from the center line of the gravel road and they will give Ms. Martin 12 ft., which means the P.R.U.D. loses ground.

Commissioner Zogmaister asked Mr. Hatfield what property description he used for the proposal to vacate and he had sent the document to Mr. Rowley who had responded that he would only review it if directed by the Commission. Mr. Rowley said that the section line is well monumented and documented. He said that the section line being used as the property line between these two parties is not where the center line of the current gravel road is. He did not know whether the current gravel road is the center line of the county's easement, however, the county easement is 66 ft. wide according to a county court from 1885. Commissioner Zogmaister noted that if the vacation were to go forward it is to vacate 66 ft. and Mr. Rowley said that is correct. The description that his office reviewed on the conveyance that Edgewater would be making to Ms. Martin for the gravel road goes up the section line, west about 3 ft. and starts another bearing down the center of the gravel road and when it comes back to the section line it has about a 6 ft. difference, crosses the section line onto the P.R.U.D.'s property to the eastern edge of the gravel, runs along the eastern edge of the gravel back to the State Highway and closes to the section line.

4. **PUBLIC HEARING FOR CONSIDERATION ON AN ADMINISTRATIVE APPLICATION, CONDITIONAL USE PERMIT (CUP) 2013-8 (EDGEWATER BEACH RESORT P.R.U.D.), REQUESTING TO AMEND THE SITE PLAN BY REMOVING SECONDARY ACCESS DUE TO THE VACATION OF 6300 EAST**

(See related item F.3. above.) Ben Hatfield, of the County Planning Division, showed area maps. The applicant is requesting an amendment to the existing site plan, approved in 2012, for this P.R.U.D. If the road vacation of 6300 East is approved, the applicant wishes to terminate two interior private road stubs (in Phase 3). Staff recommends approval of the amended site plan, subject to the road vacation approval. If the vacation is not approved, staff recommends a secondary access there.

Chair Gibson invited public comments and following is a summary.

John Reeve, engineer for developer, stated that the reason to amend the site plan was subject to the vacation of 6300 East. If it is not approved, the developer will go with the original approval and have secondary/emergency access from 6300 East and will not put sprinklers on the buildings.

Douglas Taggart, representing Marion Fowers Martin, reiterated that Ms. Martin is not necessarily objecting the proposed road vacation but wants dialogue between the property owners to resolve the issues. Ms. Martin would like the setbacks to be considered, taking into account the confusion of the section line, wants confirmation of the building heights and the number of buildings. Minutes of the Planning and County Commissions refer to an appropriate landscaping buffer zone.

Leslie Rinaldi, with Celtic Bank, stated that there have been numerous meetings and would like action today because every delay costs her client, Celtic Bank, money. They have put a considerable amount of engineering and effort into the project and have been sensitive to the issue.

Ms. Martin understands the concern with a delay. She has been coming back to the OVPC meetings and writing them and the County Commission since 2004 but the developer is repeatedly making revisions. She would like to go back to the 2004 plan, which was considered repeatedly between 2004 and 2012. The vacation of 6300 East is tied to the current site plan.

John Bingham, with the Ogden Valley Land Trust, referred to the comment by the developer's attorney on the cost of tabling this item stating that by vacating the road it saves the developer many thousands of dollars on a road the developer he would not have to develop and on the extra entrance into his property. He is concerned that the developer's revised site plan still shows that there is a 35-ft. setback from the property line of the deeded property to Ms. Martin. The Planning Commission recommended the additional 10-12 ft. be deeded to Ms. Martin to ensure that the lane remains on her property but on the site plan the developer shows that the new property line is that additional 10-12 ft. to the east of the current property line. He asked how they can keep the buildings on the exact same spot, stating that it is 35 ft. setback, when it has already reduced by 10-12 ft. These issues need to be resolved before this proposal is approved.

Ray Bertoldi, P.R.U.D. project architect, stated that previously two buildings were approved adjacent to the Martin property. Those were large multi-family units, they may have had a 25-ft. height restriction, but ranged from 4-8 plex-type buildings, which means there was nothing between those buildings, so the massing of those is quite different than the buildings on the current site plan and there is less impact to the view corridors, etc. He presented this project about three times to the Planning Commission and each time there was a lot of discussion and information provided. All of this information has been available on Miradi on the county's website for a long time.

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

6. **ACTION ON PUBLIC HEARINGS:**

**F.2.-CONDITIONAL USE PERMIT (CUP) 2013-03 (SUMMIT AT POWDER MOUNTAIN PHASE 1) CONSISTING OF 154 UNIT PLANNED UNIT DEVELOPMENT (PRUD)**

Commissioner Zogmaister said that a request was made that the dark sky designation by IDA be a condition of approval and asked if Summit was interested in doing that. Mr. Watts said that it is already part of their design guidelines and that the Commission can make it a condition of approval. It is not included in phase 1 because there are no street lights but will be included in a future phase.

Commissioner Bell moved to accept the staff report on Conditional Use Permit 2013-03 consisting of 154 units at the Summit at Powder Mountain Phase 1 Planned Unit Development; Commissioner Zogmaister seconded. She said that it has been a long process. The Commission has given a lot of time to the Development Agreement and P.R.U.D. She appreciates the due diligence by the OVPC. There are still some unanswered issues that will be required to be answered and information provided. All voted aye.

**F.3.-REQUEST TO VACATE 6300 EAST, LOCATED BETWEEN HIGHWAY 39 AND PINEVIEW RESERVOIR**

Commissioner Zogmaister moved to table this item to vacate 6300 East for the two parties to have an opportunity to discuss it before vacation is considered and to ensure that the legal description is correct. Chair Gibson seconded for discussion. Commissioner Bell said that he struggled with the issue but felt that it should move forward because of the time that has been spent on it. Commissioner Zogmaister stated that a vacation of a road is fairly final and should be done correctly where both parties fully understand the impact of the vacation. Chair Gibson noted that it has been challenge for him as well and agrees with giving some time to resolve the issues but does not want it to drag on. All voted aye.

**F.4.- REQUEST ON CONDITIONAL USE PERMIT (CUP) 2013-8 (EDGEWATER BEACH RESORT PRUD), TO AMEND THE SITE PLAN REMOVING SECONDARY ACCESS DUE TO THE VACATION OF 6300 EAST**

Commissioner Zogmaister moved to table this item, Conditional Use Permit (CUP) 2013-8 (Edgewater Beach Resort PRUD), to amend the site plan removing secondary access due to the vacation of 6300 East, because it is dependent on the above item; Commissioner Bell, all voting aye.

**G. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, APRIL 16, 2013, 10 A.M.**

**H. PUBLIC COMMENTS:** None

**I. ADJOURN**

Commissioner Bell moved to adjourn at 12:36 p.m.; Commissioner Zogmaister seconded, all voting aye.

Attest:

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Kerry W. Gibson, Chair  
Weber County Commission

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Ricky D. Hatch, CPA  
Weber County Clerk/Auditor