

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

Tuesday, November 6, 2012 - 10:00 a.m.  
2380 Washington Blvd., Ogden, Utah

*In accordance with the requirements of Utah Code Annotated Section 52-4-7(1)(d), the County Clerk records in the minutes the names of all citizens who appear and speak at a County Commission meeting and the substance "in brief" of their comments. Such statements may include opinion or purported facts. The County does not verify the accuracy or truth of any statement but includes it as part of the record pursuant to State law.*

**COMMISSIONERS PRESENT:** Craig L. Dearden, Chair, Jan M. Zogmaister and Kerry W. Gibson.

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

**A. WELCOME** - Chair Dearden

**B. PLEDGE OF ALLEGIANCE** - Steffani Ebert

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

**D. PRESENTATION OF SAVANNAH LANCASTER AS THE 2013 MISS WEBER COUNTY**

This item was held.

**E. CONSENT ITEMS:**

1. Purchase Orders for \$194,428.03
2. Warrants #291398-#291573 for \$495,687.52
3. Minutes for the meeting held on October 31, 2012
4. Retirement agreements with the following:
  - Edwardo Valdez - Contract C2012-201
  - Kathryn Bardwell - Contract C2012-202
  - Chet J. Hartley - Contract C2012-203
  - Rodney L. Wilson - Contract C2012-204
5. Surplus office equipment from the Planning Division
6. Surplus 1 1998 Infinity from the Weber/Morgan Health Department
7. Surplus a riding mower and office equipment from the Sheriff's Office
8. Set public hearing for December 4, 2012, 10 a.m., regarding a request to amend the County Zoning Ordinance by adding Chapter 46 (Agri-Tourism) and amending other related Chapters as follows: Chapter 1 (General Provisions) by modifying certain existing definitions and adding new definitions; Chapters 5, 5B, 6, 7 and 12B (Agricultural-1, Agricultural Valley-3, Agricultural-2, Agricultural-3 and Forest Valley-3 respectively) adding Agri-Tourism as a Conditional Use; Chapter 18C (Ogden Valley Architectural, Landscape, and Screening Design Standards) by clarifying that agri-tourism is an agriculturally related use that is exempt from its requirements; Chapter 23 (Supplementary & Qualifying Regulations) by adding new language that addresses access standards and related criteria for agri-tourism operations; Chapter 24 (Parking and Loading Space, Vehicle Traffic and Access Regulations) by clarifying that agri-tourism is an agriculturally related use that is exempt from certain standards Chapter 34 (Home Occupation, Short Term Vendors, Temporary Outdoor Sales, and Farmers Markets) by permitting farmers markets at approved agri-tourism operations; and Chapter 36 (Design Review) by exempting agri-tourism operations from landscaping requirements
9. Waive taxes on LSN/Parcel #14-012-0064

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

**F. ACTION ITEMS:**

**1. ADOPT THE 2013 WEBER COUNTY TENTATIVE BUDGET**

Dan Olsen, County Comptroller, noted that a public hearing is scheduled for 11/27/2012, when a full presentation will be given. He gave some highlights and stated that the county's total operating budget is about \$110 million. There are some significant capital projects this year, which when combined, bring the debt service to about \$138 million. Two of the capital projects are the Ice Sheet expansion project and continuation of the flood relief efforts in western Weber County, which are mostly being paid for with federal money. It appears that the housing market has started to turn positive and the county has estimated a 2% growth in property tax revenue and a 3% growth in sales tax revenue. A 2% cost of living and a merit increase was approved in this budget for employees who receive a satisfactory performance, the first pay raise in 2½ years, and \$1.5 million for county fleet vehicles, some heavy equipment for the Roads Department and two paramedic rescue units. All residents county-wide will see a reduction in the tax rate for the General Fund, the result of working with cities to adjust their contracts with the Sheriff's Office. This better aligned the cost of services to the cities with the revenues received from them. For residents of the unincorporated areas there is a new line on their tax notice showing an increase equal to the decrease in the General Fund, which makes it a wash. There will be a truth in taxation notice published for the 11/27/12 meeting but State statute does not allow explaining all of the changes, thus it will appear as a tax increase for the unincorporated residents. The commissioners expressed thanks to Mr. Olsen, his staff and the county departments for the tremendous amount of work that went into the budget process. Chair Dearden noted that there are financially prudent department heads and elected officials in the county which allows the county to be in a great financial position, and he commended them.

Commissioner Gibson moved to adopt the 2013 Weber County Tentative Budget; Commissioner Zogmaister seconded, all voting aye.

**2. RESOLUTION APPOINTING A MEMBER TO WEBER COUNTY LIBRARY BOARD - RESOLUTION 24-2012**

Commissioner Zogmaister referred to the three names received from the Library Board in the order of their preference.

Commissioner Zogmaister moved to adopt Resolution 24-2012 appointing Robert S. Spencer to the Weber County Library Board with a term expiring June 30, 2016; Commissioner Gibson seconded.

Roll Call Vote:

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

**3. CONSIDERATION ON A REQUEST FOR A VARIANCE TO THE WEBER COUNTY SUBDIVISION ORDINANCE TO ALLOW A SECOND ADDITIONAL TIME EXTENSION OF FINAL APPROVAL FOR THE RETREAT AT WOLF CREEK UTAH SUBDIVISION PHASE 1**

Sean Wilkinson, of the County Planning Division, showed an area map. A request came before the County Commission on 7/26/2011 requesting a variance to the Subdivision Ordinance because The Retreat at Wolf Creek had already received the maximum number of extensions. The Commission granted an extension with some timelines for improvements to be made on that subdivision. The deadline for completion of some improvements was 10/31/2012. Due to the bankruptcy that Wolf Creek Resort went through earlier this year, there have been some title issues and as of now there are technically two owners of the property. As part of that bankruptcy, two of the lien holders were provided the same quit claim deed, which are being held in escrow by an attorney's office and the two parties need to resolve the title issues. Thus, no improvements have been made.

John Lewis, representing Capon Capital, a potential property owner, has requested an additional time extension; however, until there is consent from both owners, staff did not feel comfortable moving forward with establishing new timelines. Today's request was for an indefinite extension until those title issues are resolved, at which time the property owner would be able to request, within the timeframe allowed them by the Commission, a specific timeframe extension. Commissioner Zogmaister felt that a 30-day window was appropriate to allow them to make the request once the legal issues are resolved. Mr. Wilkinson concurred that 30 days would be sufficient.

Mr. Lewis stated that when they bought the note from the previous creditor, they bought title insurance and during bankruptcy they were willing to give Capon the deeds, subject to a mechanic's lien on the property, an issue to be resolved between that contractor and Capon's title company, but he said it is slowly going through the process. Mr. Lewis stated that Capon feels very confident they will end up with the property. It may be another 6-8 months before resolution and he requested six months to one year. When Capon came into possession of the property they ended up with two parcels and part of the problem is trying to keep the entitlements in place while waiting on the bankruptcy. Capon worked for the last two years with Wolf Creek and Howard Schmidt, of Eagle's Landing—because the lower parcel is part of the Eagles Landing parcel—but when Wolf Creek went through bankruptcy, they stopped making improvements. Mr. Lewis feels that the issue with the lower parcel can be remedied if Capon receives authorization to sign the extension that was prepared but never signed by Wolf Creek, and which has expired. The lower parcel had a development agreement and a Consent Agreement and the project was extended to 2017 (see Minutes, 6/7/2011) but a little more time is needed for the title to clear. Today's item only addresses the upper parcel, not the lower town homes portion.

Commissioner Gibson moved to grant a variance to the County Subdivision Ordinance to allow a 9-month time extension to clear the title for The Retreat at Wolf Creek Utah Subdivision Phase 1 and that upon clearing of the title they are granted 30 days to bring the time extension request before the County Commission to obtain the extension for final approval; Commissioner Zogmaister seconded, all voting aye.

**4. CONTRACT WITH WASATCH DISTRIBUTING FOR BUDWEISER CLYDESDALES TO DO DEMONSTRATIONS AT THE GOLDEN SPIKE EVENT CENTER ON 12/4-10/2012 - CONTRACT C2012-205**

Jim Harvey, of the GSEC, presented this contract.

Commissioner Zogmaister moved to approve Contract C2012-205 with Wasatch Distributing for the Budweiser Clydesdales demonstrations at the Golden Spike Event Center 12/4-10/2012; Commissioner Gibson seconded, all voting aye.

**5. CONTRACT WITH UTAH GUN COLLECTORS ASSOCIATION FOR A GUN SHOW AND SALE AT THE GOLDEN SPIKE EVENT CENTER ON 10/12-13/2012 - CONTRACT C2012-206**

Jim Harvey, of the GSEC, presented this contract.

Commissioner Gibson moved to approve Contract C2012-206 with Utah Gun Collectors Association for a gun show and sale at the Golden Spike Event Center on 10/12-13/2012; Commissioner Zogmaister seconded, all voting aye.

**6. CONTRACT WITH ROCKY MOUNTAIN MOTOCROSS FOR THE WINTER SERIES AT THE GOLDEN SPIKE EVENT CENTER ON 11/29/2012-12/9/2012 - CONTRACT C2012-207**

Jim Harvey, of the GSEC, presented this contract.

Commissioner Zogmaister moved to approve Contract C2012-207 with Rocky Mountain Motocross for the Winter Series at the Golden Spike Event Center on 11/29/2012-12/9/2012; Commissioner Gibson seconded, all voting aye.

**7. CONTRACT WITH FIVE CHUTE PRODUCTIONS ON THE LISTED FOR RMPRA RODEO AT THE GOLDEN SPIKE EVENT CENTER: 11/16-17/2012; 1/18-19; 2/22-23; 3/22-23/2013 - CONTRACT C2012-208**

Jim Harvey, of the GSEC, presented this contract.

Commissioner Gibson moved to approve Contract C2012-208 with Five Chute Productions for the RMPRA Rodeo at the Golden Spike Event Center; Commissioner Zogmaister seconded, all voting aye.

**8. CONTRACT WITH BROKEN HEARTS RODEO FOR BULL WARS AT THE GOLDEN SPIKE EVENT CENTER ON 12/31/2012 -CONTRACT C2012-209**

Jim Harvey, of the GSEC, presented this contract.

Commissioner Zogmaister moved to approve Contracts C2012-209 with Broken Hearts Rodeo for Bull Wars at the Golden Spike Event Center on 12/31/2012; Commissioner Gibson seconded, all voting aye.

**G. PUBLIC HEARING:**

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

2. **PUBLIC HEARING REGARDING A REQUEST TO AMEND COUNTY ZONING ORDINANCE, CHAPTER 18C (ARCHITECTURAL, LANDSCAPE AND SCREENING DESIGN STANDARDS) BY PERMITTING THE USE OF CHAIN LINK FENCING, WITHIN THE OGDEN VALLEY MANUFACTURING (MV-1) ZONE, WHERE IT IS CURRENTLY A PROHIBITED (FENCING) MATERIAL TYPE**

Scott Mendoza, of the County Planning Division, noted that a lot of time was spent on providing background information for this item (including ordinances from communities from Idaho, Utah and Colorado that are much like the Valley), reviewing the General Plan, reviewing recommendations from the Ogden Valley Planning Commission (OVPM) and County Planning staff. The Planning staff's recommendation is for denial. The General Plan addresses the importance in determining the types of building materials to be used in the Valley to ensure they fit in with the rural community and to maintain the qualities that make the Valley a unique destination.

The current ordinance language of 18C-7, Minimum Standards-Screening & Buffering, states that "Chain-link fencing shall not be allowed." The proposed language states, "Chain-link fencing shall not be allowed in any zone except for the Ogden Valley Manufacturing Zone."

Melvin Smith, attorney for petitioner, Ray Bowden, stated that the staff report was well written and he addressed some points: that a fence material is a rule within policy and is consistent with, not against, the General Plan; that the ordinance's intent is not to convert the Valley into a resort community, although true resort type communities may end up on both sides of the mountains. This development, the Valley Junction Subdivision Phase 2, is down in the Valley where there are homes, farms and a variety of uses; there are chain link fences in this area and all around the Valley, and in contrast to the communities that were used for comparison, they do not allow chain link fences.

Mr. Smith said that this issue applies to uses, not a zone, and applies to public and quasi-public uses. He stated that there is only one Manufacturing Zone in the Valley—the subject property. For clarity, he recommends adding "MV-1" to the proposed language and said that the location of that zone helps in this request—to the north it is mountainous, it is at the end of a cul-de-sac, and is not by residential areas.

Mr. Smith said that next to this property are the County Shops (used for road crews), which has chain link fencing. That fence is grandfathered in because it was installed prior to ordinance adoption on 5/2000, but an interior chain link fence within the county property was installed 4-5 years ago and would not be grandfathered in. However, he is not objecting or opposing it; the county and other property owners did what makes sense in putting up chain link fences for security. At the time the ordinance was adopted, there were many chain link fences throughout the residential areas and Mr. Smith said that this ordinance section should be updated. He referred to one of Mr. Bowden's fences (around a storage facility), that has been there for about 11 years. He noted that storage facilities are typically surrounded by chain link fences, which do not degrade over time as wood fences, that they provide visual penetration through the fence, and provide proper security. He said that Mr. Bowden has security concerns if he cannot have a chain link fence around his business, which has cost considerations, and that the typical wood fence does not provide the best security. He showed various wood fences in the Ogden Valley, indicating their dilapidated condition. Mr. Smith referred to letters from residents who own property within this subdivision showing support for the ordinance amendment and said that there is no opposition. The issue went before the Ogden Valley Planning Commission and they recommended approval of the amendment.

Chair Dearden invited public comments and following is a summary:

Thom Summers, Valley resident, the original builder of the property (lots 17 & 18 of Valley Junction Phase 2), said that he purchased the property in 2000 and started construction. The site plan showed chain link fence and it was opposed by the OVPC but he argued that the backs of the properties already had chain link fence and he wanted to match what was already there. The OVPC approved the fencing, and it was a dead issue until now, 11 years later. He supports the amendment. Chair Dearden asked if Mr. Summers had a business license at this location without any issues and he responded that was correct.

Jason Peterson, one of owners of lot 16 in the MV-1 Zone, adjacent to the subject property, and partial owner of lot 22 across the street, stated that their property is not currently fenced but supports amending the ordinance to allow chain link fencing for it makes sense because it provides the necessary security and ability to look through and see the river bottom.

Ray Bowden, petitioner/resident of Eden/owner of Valley Storage, stated that chain link fence is valuable because it protects the equipment/trailers from being vandalized and he supports the fence that has been there for 11 years. Chair Dearden asked how long he has owned Valley Storage and Mr. Bowden said it has been four years. He has received a business license every year. Mr. Bowden addressed Commissioner Zogmaister's question stating that the fence existed when he purchased the property. Mr. Smith said that at the beginning of 2000 Mr. Summers was in the process of submitting a site plan to the county, and it included the fence. The county approved it and gave him the building permit. Commissioner Zogmaister asked if there were proposals for future MV-1 zoning and Mr. Mendoza responded that the General Plan discusses a need to locate additional manufacturing zones but it has proven difficult to find others within the Valley.

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

#### 4. ACTION ON PUBLIC HEARING:

##### **G.2.-AMENDING COUNTY ZONING ORDINANCE CHAPTER 18C BY PERMITTING THE USE OF CHAIN LINK FENCING WITHIN THE MV-1 ZONE - ORDINANCE 2012-18**

Chair Dearden noted that one email was received in opposition to this issue due to concerns that the fence would detract from the Valley's aesthetics, etc. He noted that there is a canal by Snow Crest Jr. High School, which is fenced on both sides with chain link, and that the Seminary building and County shops also have that fencing. Mr. Mendoza addressed Chair Dearden's questions. He noted that schools are exempted from following aesthetics regulations. The county acquired the shops property in 1986 and he believed that the fencing was done prior to adoption of the General Plan 1998, thus it is grandfathered.

In 1998 the Upper Valley community went through a very intense process to develop its General Plan and its guidance was used to develop the current ordinances. Chapter 18C was adopted in May of 2000 and Mr. Bowden's property received site plan approval later, in October of 2000. Chain link fencing was shown on the site plan, however, in the staff report to the Planning Commission at that time staff made an error by indicating the "chain link fencing may need to be screened." The staff at that time did not have the authority to make that type of condition or restriction because the ordinance is very clear when it states, "Chain-link fencing shall not be allowed." Mr. Mendoza said that the Zoning Ordinance addresses approvals that are contrary to the ordinances by stating that they are void, thus the approval for the chain link fence that is in place today is technically not approved. Regarding this issue, Chair Dearden noted that since then business licenses have been given even though they have been out of compliance. Mr. Mendoza said that the county is currently discussing the best way to review business license applications to make certain that the sites are still in compliance with the regulations at the time of the original approval. He said that the preferred method is for a site to be reviewed prior to signing off on renewal business license applications. At the time of the original approval this issue did not comply and today continues to be out of compliance.

Commissioner Zogmaister prefers looking at a wood fence rather than at all the stuff someone has stored behind that fence and Pathways prefers not having chain link lining their pathways in order to allow the rural experience. Mr. Mendoza stated the county has an obligation to enforce the laws and a business owner has the obligation to know and comply with those laws. Chair Dearden concurred but noted that the fence has been there for years, the previous owner had a business license, and the county did not say anything regarding the chain link fence when Mr. Bowden applied for a new business license.

Mr. Mendoza stated that staff's recommendation is generated through research and study of the General Plan. He looked at other communities and disagrees that the Valley is not anticipated to be a resort community. There is a significant amount of this fencing in the Valley today and the ordinances put in place to not allow them were looking to the future—they were intended to preserve that rural atmosphere from that time forward. He echoed Chair Dearden's comment that the site across the street is unsightly and stated that there are standards for fences, such as height and screening. Part of the General Plan's goal is not only to preserve the aesthetic qualities of the Valley but to preserve its atmosphere so that the existing resorts are more successful. The vision for the Valley is to have successful resorts that are not exactly like all the other intense mountain resort communities, but to be an open, natural looking Ogden Valley. He stated that there are a lot of allowed types of fencing materials.

Commissioner Zogmaister noted that there are inconsistencies in enforcement and licensing as well as lack of compliance. She would like these issues corrected and moved to accept the recommendation not to allow chain link fencing in the MV-1 Zone or anywhere in the Valley. Commissioner Gibson made a substitute motion to amend the Zoning Ordinance, Chapter 18C, to permit the use of chain link fence within the MV-1 Zone but nowhere else in the Valley; Chair Dearden seconded for discussion. Commissioner Gibson said that the issue is the MV-1 Zone, which is a small section. He feels that this item can be approved and still fall within the ordinance and Master Plan because chain link is uniquely suited for a manufacturing zone due to security/safety reasons. The resort part of this issue is very important to the Valley but there are various uses in that area. Even though the county's fence is grandfathered in, Commissioner Gibson feels it is difficult for the county to have chain link and to tell neighbors that they cannot. However, the county fence serves its purposes and looks good and makes sense in that particular area. Commissioner Zogmaister noted that the discussion is whether to allow chain link fencing going forward, and whether screening should be required, particularly chain link because there is an opportunity to have an eye sore there. Mr. Mendoza noted that as part of a permitted use site plan approval the county would not have the discretion to assign additional conditions. Commissioner Zogmaister feels this amendment is going in the wrong direction for the Valley. Chair Dearden stated that if another MV-1 zone is developed and it is along a highway he would not want chain link around it. He said that the subject fence is not visible from the road and to get to it one passes 2-3 chain link fences and it does not make sense to deny this one. He feels the county should not have allowed the fence to be put in when the plans were submitted but this one has been there for 12 years and approved for business licenses numerous times.

Roll Call Vote:

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

**H. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, NOVEMBER 13, 2012, 10 A.M.**

**I. PUBLIC COMMENTS:** None

**J. ADJOURN**

Commissioner Gibson moved to adjourn at 12:11 p.m.; Commissioner Zogmaister seconded, all voting aye.

Attest:

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 Craig L. Dearden, Chair  
 Weber County Commission

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 Ricky D. Hatch, CPA  
 Weber County Clerk/Auditor