

COMMISSION WORK SESSION MINUTES

The Board of Davis County Commissioners met for a Work Session on August 27, 2018 at 3:30 p.m. in room 306 of the Davis County Administration Building, 61 South Main Street, Farmington, Utah. Notice of this meeting was given in accordance with the requirements of UCA 52-4-202.

Present were: Commissioner Randy B. Elliott, Chair; Commissioner P. Bret Millburn, Vice-Chair; Commissioner James E. Smith; Curtis Koch, Davis County Clerk/Auditor; Neal Geddes, Chief Civil Deputy County Attorney; Michael Kendall, Civil Deputy County Attorney; and Shairise Bills, Deputy Clerk/Auditor. Also present were: Rhett Nicks, Davis County Animal Care and Control Director; Mack MacDonald, Davis County Facilities Director; Heidi Voordeckers, Chief Deputy Clerk/Auditor; and Camille Cook, Davis County Finance Director.

All documents from this meeting are on file in the office of the Davis County (DC) Clerk/Auditor.

OPENING

The meeting convened at 3:40 p.m.

**DISCUSSION OF
AUTHORITY TO
APPROVE,
EXECUTE AND
TERMINATE
CONTRACTS**

This work session was held to address the authority to approve, execute, and terminate contracts.

Mike Kendall was asked to lead this discussion. The current ordinance was reviewed and it was explained that the negotiation and termination of contracts are not sufficiently addressed in the current ordinance. Typically a contract is executed, put on the agenda, approved in Commission meeting, and attested to by the Clerk. By special motion, the Commission has authorized certain department heads to negotiate and execute contracts of a low-dollar amount. Community and Economic Development (CED), Library, Events, and Animal Care and Control have all been authorized in this way as it relates to low-dollar contracts. This motion allowed for more efficiency so as not to utilize so much time in Commission meeting reviewing hundreds of small contracts.

The two issues that need to be addressed are the termination of contracts and dealing with the negotiation of the contracts. Some of the contracts in question may go above the low-dollar threshold sometimes by thousands of dollars and may additionally extend beyond a year, both of which may happen without the knowledge of the attorney's office or the Commission office. It was agreed upon that it's important to be able to delegate authority in order to be efficient, but also to ensure that an abuse of authority is not being exercised by those taking the liberty to negotiate these contracts outside of what they have been allowed.

It was suggested to create a team to include department heads or elected officials, procurement, and legal counsel, all of which would take part in the negotiation of complex, and more challenging contracts. The language in the current policy was discussed, and it was decided that language needs to be clarified and additional language added to include who may have authority to terminate contracts as well. Even though the motions have been made to authorize certain department heads to negotiate and execute low-dollar contracts and they have been recorded in Commission minutes, it is difficult to locate those motions. Instead, having a formalized, concise policy would be more transparent and much more accessible to all.

APPROVED

Mike suggested that the Commissioners amend the ordinance and add some language to address the termination of contracts and to clarify "County Officers and their deputies." Discussion was had about some of the issues with these contracts being poorly negotiated no matter what the dollar amount. It was explained that there were two competing interests: On the one side, the ability to move forward on contracts in an efficient manner without the expectation that the Commission will be negotiating every contract on behalf of the county; on the other side is the need to have safeguards in place and have the level of experience and skill proportionate to the level of contract being negotiated, including the contract dollar amount and risk involved. Mike explained that the negotiating position is significantly disadvantaged when departments negotiate a contract and bring it back to be reviewed by legal only to find that it needs to be further negotiated to be a sound contract. It also puts the county in a position of being accused of not negotiating in good faith, which may result in a loss of credibility.

There was discussion of the level of accountability that should fall on the Administrative Officers (AO) when negotiating contracts, even at the lowest levels, as it pertains to their fiduciary responsibilities. (This means that even though the legal and Clerk/Auditor departments take part in the approval process of a contract, the sole fiduciary responsibility would be with the AO and they would and should be held accountable when it falls short.) Examples of contracts in which the department head failed in its fiduciary responsibilities were given.

Comments were made concerning the county's growth and the changes that will need to be made to facilitate that growth and change. The AOs will need to be educated to start with, and they will be relied on to use their judgement and to delegate those contracts that are outside of their ability to handle them on their own. They would delegate to the "team" earlier referred to in this discussion. Along with that education resources would be available to each of them to help equip them for success.

NEXT STEPS

The question was asked by Mike, "Where do we go from here?" He suggested an ADHOC Committee. Commissioner Smith asked Mike to get together a committee consisting of the legal department, Clerk/Auditor, a Commissioner, and some AOs to make recommendations of practical levels of tiers and controls. The Commissioners will consider which AOs will be on the committee, and it was said that it would be ideal to have this committee in place before the new Commission takes over in January. Mike said that they have been asking for a tool for the last six years to better manage contracts and their expiration dates.

Commissioner Smith stated on record that when you are managing an organization of this size, it's an exercise in managing exceptions. He did not want the perception to be that the county is filled with inept, ill-intentioned employees. To the contrary, he spoke of how most people try and do the right thing and if they are lacking in education the Commission takes responsibility for that.

Meeting was adjourned at 5:00 p.m.

MEETING ADJOURNED

All publicly distributed materials associated with this meeting are noted as follows:

A. Agenda

Minutes prepared by:
Shairise Bills
Deputy Clerk/Auditor

Minutes approved on: 09/18/2018

APPROVED

Curtis Koch
Davis County Clerk/Auditor

Randy B. Elliott
Commission Chair