Minutes of the Centerville **City Council** meeting held Tuesday, October 6, 2015 at 7:00 p.m. at Centerville City Hall, 250 North Main Street, Centerville, Utah.

MEMBERS PRESENT

Mayor	Paul A. Cutler
Council Members	Ken S. Averett Tamilyn Fillmore John T. Higginson Stephanie Ivie Lawrence Wright
STAFF PRESENT	Steve Thacker, City Manager Lisa Romney, City Attorney Kevin Campbell, City Engineer Randy Randall, Public Works Director David Miller, Centerville Justice Court Judge Jacob Smith, Management Assistant Katie Rust, Recording Secretary
STAFF ABSENT	Blaine Lutz, Finance Director/Assistant City Manager
VISITORS	Interested citizens (see attached sign-in sheet)
PLEDGE OF ALLEGIANCE	
PRAYER OR THOUGHT	Mayor Cutler

OPEN SESSION

Dale McIntyre – Mr. McIntyre quoted from a letter of refusal from the Childress Texas Police Chief responding to a request from a representative of the Freedom From Religion Foundation requesting removal of the National motto from patrol units. He also expressed that he would prefer official Council meeting minutes to reflect what is said verbatim. A copy of his comments is attached.

David Youngberg – Mr. Youngberg referred to a discussion during the first Council meeting in September regarding a proposed county-wide sales tax for transit, and asked where he could find more information related to the inclusion of UTA in the allocation of the proposed tax. He asked what the UTA portion would specifically fund, and whether the funds would be used for UTA projects within the County. Mayor Cutler responded that allocation of 40% of the proposed county-wide local option sales tax to the transit authority is enabled by the State Legislature. The Mayor added it is his understanding the tax revenues must be used within the county in which they are collected. He explained that the cities and towns would have preferred a different allocation formula, as well as the ability to impose the tax on a city basis. Lisa Romney, City Attorney, suggested the Davis County election website and the Utah League of Cities and Towns website as good resources. Councilman Averett added that prop1utah.com is also a good source of information. Mr. Youngberg complimented and expressed appreciation for Police Chief Child's visible presence in the community.

William Ince, Centerville Planning Commission – Commissioner Ince stated that, as a candidate for City Council, several citizens have expressed to him complaints about the current mosquito and white fly problem, particularly on the west side of the City. As Council liaison to the Mosquito Abatement District, Councilman Higginson reported that the heavy rains

experienced in the community, followed quickly by 90 degree weather, caused more mosquitoes to hatch than usual this time of year. The Mosquito Abatement District is preparing to spray again soon.

Referring to the proposal to convert the South Davis Metro Fire Agency to an independent taxing district, Commissioner Ince asked if the City plans to reduce property taxes by an amount similar to the proposed district levy. He said it is his understanding that the Agency currently meets no Federal guidelines for fire protection for a city the size of Centerville, and stated he feels the revenue from any tax increase should go directly to the proposed district rather than the city. Commissioner Ince asked why South Davis Metro Fire receives less in impact fees than Parks and Recreation, and expressed concern that the Agency's resources are inadequate. Mayor Cutler explained that the current proposal is to decrease property tax by the same amount as the district levy in the first year for a neutral impact on citizens. It is anticipated that the fire district board would raise taxes in future years to fund needed improvements. City assessments, based on property values, would continue to fund operations. The Fire District would receive all revenues from the new levy. Mr. Thacker explained State requirements regarding impact fee analyses and collection. Park impact fees can only be collected from residential development. Fire impact fees can be collected from all types of development. If a fire district is created, it is anticipated that the fire impact fee study will be updated in 2016. At that point, fire impact fees would be levied by the district rather than the cities. Mayor Cutler commented that there are many standards set within the fire industry, and it is difficult to find a balance between the budget and providing a maximum amount of protection. Mr. Thacker added that South Davis County experiences relatively few structure fires per year, and only a small portion of those require human rescue. Many factors are taken into account when considering the issue of an appropriate staffing level. Commissioner Ince expressed concern for liabilities the City might suffer if the services provided do not meet standards.

Related to Commissioner Ince's first comment, Councilman Averett stated that any citizen can call the Mosquito Abatement District and request services.

Kyle Green – Mr. Green agreed with Commissioner Ince's comments regarding the Fire Agency, and added that structure issues are created daily with new development. He also commented that the garden in his yard is eaten by deer living within the city. Mr. Green pointed out the UTOPIA advertising flier that was included in the most recent utility bill, and asked if the cost of postage was paid by UTOPIA, or by the City. He also held up the RAP Tax Voter Information pamphlet that was mailed to citizens at the expense of the City. Mr. Green asked if other independent companies are allowed to include advertising in City mailers at the City's expense, and asked why the City is subsidizing UTOPIA advertising. Regarding the RAP Tax Voter Information Pamphlet, Ms. Romney explained that by State statute the Voter Information Pamphlet is required to be mailed separate from a utility mailing. The voter information was sent to all postal customers within Centerville, and the utility mailer is only sent to those who receive a utility bill. Mayor Cutler explained that the City has had a policy of allowing entities associated with the City to include inserts in the utility mailer if they pay the incremental cost. He confirmed that UTOPIA paid the incremental cost for the most recent insert. Later in the meeting the Council is scheduled to discuss whether other entities should be allowed to use the City's newsletter or utility bill inserts. Mr. Green responded that he feels every business in the city has a direct interest in the city as every business pays taxes. He said it seems like a great financial benefit to any entity allowed to include advertising in the City utility mailer. Mr. Green said he would like more information regarding the oversight of taxes that would be levied by the proposed fire district. Mayor Cutler volunteered to share more information with him outside of the meeting.

CENTENNIAL/4TH OF JULY CELEBRATION REPORT

Daken and Carolee Tanner, Centennial Committee Co-chairs, reported on the 2015 community celebrations, and recognized the many volunteers and City employees that made the celebrations possible. Their financial report shows a positive balance of $12,627.96, with one invoice that has not been received by the City for the facility for the May 17th event (approximately $5,000). Mr. Thacker complimented the Tanner's prudent fiscal management. Mr. and Mrs. Tanner recognized the fundraising efforts of Jack Dellastatious, Chair of the Centerville Community Foundation, and pointed out that the positive balance shown does not reflect the significant funds raised for the celebrations that went through the Foundation. The Tanners reported that, in response to many suggestions, serious effort was put into researching the possibility of lengthening the 4th of July parade route, with the conclusion that the parade is expanded as far as possible considering staging requirements. They expressed that the opportunity to celebrate Centerville brought citizens together and united them in a common purpose. The Mayor and Council thanked the Tanners for their amazing contribution to the community.

APPOINTMENT

Mayor Cutler recommended that Dan Loewen be appointed to the Landmarks Commission. Councilman Wright made a **motion** to appoint Dan Loewen to the Landmarks Commission. Councilwoman Ivie seconded the motion, which passed by unanimous vote (5-0).

MINUTES REVIEW AND ACCEPTANCE

The minutes of the September 15, 2015 Council meeting were reviewed. Ms. Romney and Councilman Wright requested amendments. Councilman Averett made a **motion** to accept the minutes as amended. Councilman Higginson seconded the motion, which passed by unanimous vote (5-0).

SUMMARY ACTION CALENDAR

a. Award bid to Ferguson Waterworks in the amount of $48,927.90 plus tax for materials and to Ormond Construction in the amount of $82,877.75 for labor for the Porter Walton Townhomes waterline
b. Municipal Code Amendments – Title 1 – General Provisions – Ordinance No. 2015-21
c. Approve termination of warranty period – Legacy Crossing Lot 4 (Amended)
d. Accept Sidewalk Easement and Public Utility Easement for Cosper Residence at 85 South 300 East
e. Approve commencement of warranty period – Randy Cosper Site – 85 South 300 East
f. Approve list of poll workers for 2015 municipal general election
g. Approve purchase of 2016 Toyota Tundra truck for the Water Department from Tony Divino Toyota in the amount of $29,306.35

Mayor Cutler expressed a desire to discuss item (b) on the Summary Action Calendar later in the meeting. Councilwoman Ivie expressed a desire to discuss item (a) separately, and Councilman Wright requested discussion of item (g). Councilman Higginson made a **motion** to approve items (c), (d), (e), and (f) on the Summary Action Calendar. Councilwoman Fillmore seconded the motion, which passed by unanimous vote (5-0).

Kevin Campbell, City Engineer, explained the bid, construction, and payment process for the Porter Walton Townhomes waterline project, item (a) on the Summary Action Calendar. All costs are paid by the developer, including engineering. Mr. Campbell stated the City has more oversight on culinary water projects by administering the contracts.

Staff confirmed that the truck for the Water Department, item (g) on the Summary Action Calendar, was included in the budget. Councilman Wright asked if staff considered purchasing a four-wheel drive truck rather than a two-wheel drive truck to increase usability during winter months. Randy Randall, Public Works Director, responded that the City has plenty of four-wheel drive vehicles; a two-wheel drive truck was selected to reduce cost.

Councilman Wright made a **motion** to approve items (a) and (g) on the Summary Action Calendar. Councilman Higginson seconded the motion, which passed by unanimous vote (5-0).

JUSTICE COURT RECERTIFICATION

Ms. Romney explained that State statutes require municipal justice courts to be recertified by the Utah Judicial Council every four years. Judge Miller expressed gratitude for the opportunity to serve in Centerville. Councilman Wright asked how the Judge would respond to those who ask how the City justifies maintaining a justice court in Centerville. Judge Miller responded that he is reminded of the valuable educational tool provided when he sees young people such as scouts sitting in the court room listening and learning – an opportunity that will no longer be provided at the County level. Councilman Averett commented he feels it is good customer service for court services to be provided by the City. Councilman Averett complimented the Judge on being a great representative of the City, and for discharging his duties with integrity, fairness, honesty, and compassion.

Mayor Cutler asked the Judge to comment on the reordering of local municipal courts. Judge Miller responded that it is a difficult moving target right now. He said he feels the County decision to cease providing court services is the wrong decision for the long-run, adding that he feels the State should require every county to provide a justice court. Judge Miller stated he suspects that Farmington will find a full-time justice court judge, and that other cities in the same position will probably take their cases to Farmington. A municipal justice court with an average case load of 500 cases per month or more must have a dedicated court facility, a requirement that would make it difficult for Centerville to welcome the caseload from neighboring cities. The Centerville Court currently handles a caseload of approximately 300 cases per month.

Responding to a comment from Councilwoman Fillmore, Mr. Thacker confirmed that the Court brings in twice as much as the direct cost, and at least breaks even if overhead costs are factored in. Councilwoman Ivie pointed out that holding court later in the day provides an additional service to citizens by not conflicting with the traditional work-day schedule.

Councilman Higginson made a **motion** to adopt Resolution No. 2015-16 requesting the recertification of the Centerville City Justice Court. Councilman Wright seconded the motion, which passed by unanimous vote (5-0).

MUNICIPAL CODE AMENDMENT – TITLE 1 – GENERAL PROVISIONS – ORDINANCE NO. 2015-21

Ms. Romney explained that recommended amendments to Title 1 of the Centerville Municipal Code bring Title 1 into alignment with State statutes. Councilwoman Ivie expressed concern regarding enforcement power granted for continuing violations in Section 1-05-040. Ms. Romney explained the standard clause, adding that it is rarely used by the City.

Councilwoman Fillmore pointed out that in situations with continued violations enforcement attempts have been ignored, possibly impacting many people. Councilwoman Fillmore said she feels it could be detrimental if the City were unable to pull out all the stops when necessary, but knows that in even the most extreme situations this tool has not been used. Councilwoman Ivie said she feels the stops would be better placed in the form of additional trained police officers. Councilwoman Ivie asked who the administrative hearing officers are. Ms. Romney responded that the intent would be to hire an independent third party when needed.

Ms. Romney explained the numbering system used by the City for Municipal Codes, and stated that the same numbering system may not be available when the Code is put online. The substance of the Code will remain the same, but the numbering may differ slightly. Councilwoman Fillmore made a **motion** to approve Ordinance No. 2015-21 amending and recodifying Title 1 of the Centerville Municipal Code regarding general provisions. The motion was seconded by Councilman Higginson and passed by majority vote (4-1), with Councilwoman Ivie dissenting. She repeated that she is uncomfortable with the enforcement power of classifying repeat violations as individual Class B misdemeanors.

MUNICIPAL CODE AMENDMENTS – TITLE 4 – JUSTICE COURT – ORDINANCE NO. 2015-22

Ms. Romney explained that the recommended amendments to Title 4 are in line with State statutes. Councilman Wright stated he had found a grammatical error previously, but could not remember where it was. Councilman Averett made a **motion** to adopt Ordinance No. 2015-22 amending various provisions of Title 4 of the Centerville Municipal Code regarding the City Justice Court, allowing any grammatical corrections as needed. Councilwoman Ivie seconded the motion, which passed by unanimous vote (5-0).

PUBLIC HEARING – ZONING CODE TEXT AMENDMENTS, SOUTH MAIN STREET CORRIDOR (SMSC) OVERLAY ORDINANCE, CHAPTER 12-48

Councilman Wright expressed concern that the Council is running out of time with the TZRO and has been relying too much on the Planning Commission to do the heavy lifting. Councilman Higginson asked if, when the Council receives the Planning Commission's recommendation, further changes desired by the Council would need to be sent back to the Planning Commission or if the Council could go ahead and act. Ms. Romney explained the process that has been followed by the Planning Commission, and expressed confidence that the Commissioners understand the time constraints. The Planning Commission most recently held a work session on September 30th, gave staff additional direction, and will consider the amendments on October 14th. The TZRO will expire on November 12th at the earliest. Councilman Wright stated the Council is now in the position of being pressed for time, which is unfortunate. Mayor Cutler said he hopes all Council members have been studying the notes and staff reports throughout the process. The Council discussed the possibility of scheduling another work session or special Council meeting. Councilwoman Fillmore said she has been impressed at the last two Planning Commission meetings by the Commission's work and sensitivity to comments that have been made, wanting to send a truly considered recommendation to the Council. Councilman Averett shared Councilwoman Fillmore's sentiment, and stated that as a former Planning Commissioner, he is aware of how disheartening it is for Planning Commission work to be disregarded by a Council. He said he believes the Planning Commission wants to serve and make a difference, and has been charged with the heavy lifting for this particular aspect of government. It is a delicate balance. Councilman Averett said he is frustrated that things have not moved faster, but the Council needs to let the Planning Commission do their job while studying the issue simultaneously.

Mayor Cutler suggested the Council invite a representative of the Planning Commission to present the recommendation. Councilman Wright stated he would prefer that staff present the recommendation to allow the Council an unbiased environment for discussion. The Council scheduled a work session for October 20th prior to regular Council meeting. Councilwoman Fillmore suggested Council members attend the October 14th Planning Commission meeting to gain important background and enable a decision to be made quickly. Commissioner Ince stated it is his impression that the Planning Commission intends to reach a majority recommendation for the Council at the October 14th meeting.

Councilman Higginson made a **motion** to table the public hearing to the October 20th Council meeting. Councilwoman Ivie seconded the motion, which passed by unanimous vote (5-0).

PARRISH LANE SIDEWALK PROJECT

Kevin Campbell, City Engineer, relayed a message from Nathan Peterson with UDOT that UDOT is grateful the City has taken over administration of the sidewalk project. He reported that, given the time of year, only one bid was received. The bid, from ACME Construction, is higher than the engineer's estimate, and UDOT is willing to cover the full cost of the bid plus 10% contingency for change orders. Mr. Campbell stated that, since most of the work is above ground, he does not foresee many unknowns coming up. UDOT has also agreed to pay $53,000 (approximately 15%) for engineering fees and $18,000 (approximately 5%) for administrative expenses. Councilwoman Fillmore said she is worried the contingency is a little low. Mr. Campbell stated the City has worked with ACME before, and he does not foresee ACME being aggressive on seeking change orders. Mr. Thacker expressed optimism that some of the contingency will be available to apply toward fencing. The fencing will be bid separately, hopefully by the end of October.

Mr. Thacker confirmed for Councilwoman Fillmore that the $33 per foot credit for chain link fencing includes installation cost. Staff has not yet heard from UDOT regarding removal of the poles installed by the previous contractor. Mr. Campbell explained the changes that will be made during the sidewalk project. The sidewalk project should be substantially completed by the end of November. The fence contract is a 30-day project, but Mr. Thacker pointed out that the 4-8 week order time will postpone work. It was suggested the Council could hold a special electronic meeting to award the bid during the last week of October. Councilwoman Fillmore asked if electrical groundwork for future lighting could be included in the construction. The Council and staff discussed future lighting plans for the area. Mr. Randall added it would not be hard to connect power for lighting at 800 West. UDOT requires two lanes to be open during construction, unless work is done at night. It is anticipated that reconstruction of the center median would be the first step. Councilman Wright suggested the width of the median is taking space away from the left turn lane on Parrish Lane at the 400 West/Parrish Lane intersection.

Ms. Romney explained changes to the proposed Cooperative Agreement with UDOT, and City Manager Thacker explained the financial amounts involved. Staff will look into the possibility of purchasing some of the fencing ordered with the previous contractor at a discount for the western portion of the project. Mr. Thacker reported the City will need to pay for freeway closures for one or two nights of construction (estimated by Nathan Peterson at $6,000 per night). Councilwoman Fillmore suggested it would be reasonable to ask UDOT to cover that cost since it would have been included in the arrangement with the previous contractor. Mr. Campbell responded he does not think UDOT will be willing to give more. Councilman Higginson agreed it should not be a City cost. Mr. Thacker suggested the Council approve the Agreement with direction to seek the additional amount, but give staff the ability to proceed regardless. Councilman Wright pointed out that the City was originally told a pedestrian

walkway would never happen. He said he feels it needs to get done, and he would not want to delay the project over $12,000. The Council and staff discussed how to fund the additional cost. Mr. Thacker presented photographs of potential fencing, and the Council discussed the options. Councilman Wright expressed preference for a fence style that would discourage anyone from climbing up and jumping. Mr. Randall expressed concern that two construction nights for the pedestrian bridge fencing might not be enough.

Councilman Wright made a **motion** to approve a Cooperative Agreement with UDOT regarding sidewalk and fencing improvements in connection with the Parrish Lane Overpass Pedestrian Bridge with direction to staff to negotiate with UDOT to provide traffic control or compensate the City for traffic control during construction, with the understanding that staff can proceed either way. Councilwoman Ivie seconded the motion, which passed by unanimous vote (5-0).

Councilman Higginson made a **motion** to award bid for Parrish Lane Sidewalk Project to ACME Construction in the amount of $354,117.30. Councilwoman Ivie seconded the motion, which passed by unanimous vote (5-0).

At 10:02 p.m. the Council took a break, returning at 10:11 p.m.

MUNICIPAL CODE AMENDMENTS – TITLE 5, CHAPTER 9 – RECREATIONAL, ARTS, AND PARKS (RAP) TAX – ORDINANCE NO. 2015-23

Ms. Romney explained that if the RAP Tax is reauthorized by voters in November, the City must adopt a new ordinance describing how the funds would be collected, administered, and disbursed. She explained proposed amendments to Chapter 9 of Title 5 clarifying the current voter-approved RAP Tax, including its expiration date. Councilwoman Ivie made a **motion** to approve Ordinance No. 2015-23 amending various provisions of Title 5, Chapter 9 regarding the Recreational, Arts and Parks (RAP) Tax. Councilwoman Fillmore seconded the motion, which passed by unanimous vote (5-0).

COMPLETE STREETS IMPLEMENTATION STRATEGY

Councilwoman Ivie made a **motion** to table this issue. Councilwoman Fillmore seconded the motion, which passed by unanimous vote (5-0).

MAYOR'S REPORT

- Mayor Cutler provided South Davis Metro Fire Agency financial reports.
- Responding to a question asked at a previous Council meeting, Mayor Cutler reported that UTOPIA has not paid any funds to Macquarie at this point.
- The Mayor reported that he, Cory Snyder, and Ms. Romney met with representatives of Brighton Homes regarding the O'Brien property on Main Street. Brighton Homes is interested in the concept of putting a nursing facility on the property, with single-family homes behind. Application cannot be made until the TZRO expires.

CITY COUNCIL LIAISON REPORT

Councilman Wright reported on volunteer hours and in-kind donations to the Whitaker Museum, the success of activities held by the Museum during the summer, and provided handouts advertising upcoming Museum events. He expressed the Museum Board's appreciation for the Council's support, and asked for staff help in facilitating Board meetings.

MISCELLANEOUS BUSINESS

The Council chose to table miscellaneous business to the October 20th meeting.

ADJOURNMENT

At 10:32 p.m. Councilman Wright made a **motion** to adjourn the meeting. Councilwoman Ivie seconded the motion, which passed by unanimous vote (5-0).

Marsha L. Morrow, City Recorder

10-20-2015
Date Approved

Katie Rust, Recording Secretary

CENTERVILLE CITY UT
CORPORATE SEAL

Dale McIntyre, Centerville

Two items

First

A letter from the Childress Texas Police Chief, Adrian Garcia, in response to a request from Annie Gaylor of the Freedom From Religion Foundation

"Re: United States national motto 'In God we trust' on Patrol units

Dear Annie,

After carefully reading your letter I must deny your request in [sic] the removal of our National motto from our patrol units, and ask that you and your Freedom From Religion Foundation go fly a kite.

Respectfully,

(Signed)

Chief Adrian Garcia", and I have an Internet reference.

(https://twitter.com/12NewsNow/status/648631218112606212/photo/1?ref_src=twsrc%5Etfw)

Second Item

Verbatim minutes of our City Council meetings, either text or video.

I have looked for things that I have said in the Open Session, and usually what I find in the minutes is a fair synopsis of what I said, but it is not *exactly* what I said. Each City Council Agenda has an item titled Minutes Review and Acceptance. This gives council members the opportunity to make changes to the minutes. I have heard various Council members make corrections to the minutes to clarify what they believe is what they said. I have even heard Council members give specific language which has been questioned by the other Council members. In one such instance the Council member in question responded, "That was my intent."

I would prefer to have the *official minutes* show what was actually said, not what was intended to be said, because there may be a difference, and because the citizens of Centerville deserve no less.

(1)

CENTERVILLE CITY COUNCIL MEETING

Tuesday, October 6, 2015

7:00 p.m.

NAME (PLEASE PRINT)	ADDRESS**
Daken Tanner	1846 N. 350 East
Carolee Tanner	" "
Bill Ince	1145 N 300 East
Dan Loewen	1509 N. Homestead Cir
Dav's Yoanking	269 E 1200 N.
Dale McIntyre	Centerville
Grace McIntyre	"
Kyle Green	Centerville 433 E 200 N.
Reva Johnson	393 E. LINDA LOMA DR.
Bekie [illegible]	
[illegible]	Cent

** Your address will be used only in the event the City staff needs to contact you pertaining to an issue discussed in the City Council meeting.