



CENTERVILLE CITY

250 North Main • Centerville, Utah 84014-1824 • (801) 295-3477 • Fax: (801) 292-8034

Incorporated in 1915

Mayor

Paul A. Cutler

City Council

Tamilyn Fillmore

William Ince

Stephanie Ivie

George McEwan

Robyn Mecham

City Manager

Steve H. Thacker

interoffice MEMORANDUM

to: Mayor Cutler
City Council
cc: Department Heads
Planning Commission
from: Steve H. Thacker, City Manager *S. Thacker*
subject: City Manager's Summary of May 2, 2017 Meetings
date: April 28, 2017

E.1. Minutes Review and Acceptance – The minutes to be approved include a work session on April 11 and a work session, regular meeting and closed meeting on April 18. The preliminary minutes are available online via NovusAgenda.

E.2. Summary Action

- a. Easements** – The Planning Commission's approval of this storage units project on 1250 West is conditioned upon Council's acceptance of several easements.
- b. UDOT Cooperative Agreement Amendment** – This action would amend the existing agreement between UDOT and the City regarding the Connector Trail to the Legacy Parkway Trail. This pathway was constructed by the developer of the Legacy Apartments project. The amendment would revise fencing details to match changes recently approved in a PDO amendment. One of those changes is the elimination of the requirement for a fence between the trail and Parrish Lane.

E.3. Public Hearing—Zoning Code Amendment – This amendment would allow a church or place of worship as a conditional use in the Industrial High (I-H) zone. The amendment was initiated by the Bridge Community Church, which intends to move from the Pages Lane corridor to the industrial area west of I-15. The application was to make this a permitted use in the I-H zone, but the Planning Commission recommends it be allowed only as a conditional use.

E.4. Revocable Encroachment License – This agreement would allow two adjacent property owners to access the rear of their property from a "stub road" subject to several conditions, including the requirement for a temporary easement for a turnaround.

E.5. Municipal Code Amendments re Budgets – Recent changes in State law require several revisions to the City Code relating to the annual budget process. One of these changes—the requirement for a public hearing before adoption of the Tentative Budget—may have been unintentional, but the City Attorney advises that we comply with this revision; hence the reason for the agenda showing a public hearing in the next agenda item, even though a public hearing will be held again in June prior to adoption of the Final Budget.



- E.6. **FY 2018 Budget** – State law requires the City’s budget officer (i.e. the City Manager) to present his Proposed Budget to the City Council no later than their first regular meeting in May. My Proposed Budget is not yet ready for public release but will be by Tuesday’s meeting. The Council has the option of holding the first public hearing on the budget Tuesday evening, or continuing it to the May 16 meeting, after which the Council would adopt a Tentative Budget that is then subject to scrutiny by the Council and public before adoption of a Final Budget on June 20.
- E.7. **Mayor’s Report** – Although no topics are identified under this heading, Mayor Cutler may report on matters of City interest.
- E.8. **City Manager’s Report** – At this time I have not identified any topics under this heading, but may update the Council on some matters.
- E.9. **Miscellaneous Business** – No business is identified at this time under this heading.
- E.10. **Closed Meeting** – The City Attorney has sent to the Council a draft agreement containing terms and conditions relating to the transfer of a portion of County-owned land on 100 South Street to the City. If acceptable to the City Council, the draft document would be provided to the County for their review before either entity considers action in open meeting. If the Council wants to discuss this draft before it is sent to the County, they could do so in a closed meeting on Tuesday evening. If this is the case, I suggest the Council finish the business on the regular City Council agenda as well as the RDA meeting to follow—then hold the closed meeting. After all this, the Council could reconvene in a work session about my Proposed Budget for FY 2018.
- E.11. **Appointments to Boards/Committees** – Mayor Cutler may recommend appointments.
- E.12. **Adjourn to RDA Meeting** – A meeting of the Centerville Redevelopment Agency will be held following the regular City Council meeting. Business includes presentation of the RDA Proposed Budget for FY 2018, an Assignment & Assumption Agreement pertaining to the Iggy’s Restaurant parcel, a letter of support for CenterPoint Theatre’s application for a County tourism grant, and a report by the Executive Director (City Manager) on several RDA matters, including water damage in January at the performing arts center.
- E.13. **Work Session re FY 2018 Proposed Budget** -- In lieu of a work session before the regular Council meeting, I recommend one be held afterwards to allow me to provide an overview of my Proposed Budget, highlighting significant issues and decisions to be made by the Council during the budget review period prior to adoption in June. The Council could then decide what other budget work sessions are needed and schedule these.

Potential Agenda Items for May 16, 2017 City Council meeting (subject to change):

- FY 2018 Budget Work Session
- Report by Youth Mayor and recognition of outgoing Youth City Council Members
- Public Hearing - Zoning Code Amendment - Accessory Building Setbacks and Height Restrictions in Agricultural Zones - CZC 12.31 (Agricultural Zones)
- Public Hearing - Zoning Map Amendment - Cottage on the Corner at 323 East Pages Lane - From R-L and R-H to R-M
- City Council Liaison Report - Council McEwan - Mosquito Abatement District and UTOPIA
- Financial report for 10 months ending April 30, 2017

CENTERVILLE CITY COUNCIL AGENDA

NOTICE IS HEREBY GIVEN THAT THE CENTERVILLE CITY COUNCIL WILL HOLD ITS REGULAR PUBLIC MEETING AT 7:00 P.M. ON TUESDAY, MAY 2, 2017 AT THE CENTERVILLE CITY COMMUNITY CENTER AND CITY HALL COUNCIL CHAMBERS, 250 NORTH MAIN STREET, CENTERVILLE, UTAH. THE AGENDA IS SHOWN BELOW.

Meetings of the City Council of Centerville City may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207, as amended. In such circumstances, contact will be established and maintained via electronic means and the meeting will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.

Centerville City, in compliance with the Americans With Disabilities Act, provides accommodations and auxiliary communicative aids and services for all those citizens in need of assistance, including hearing devices. Persons requesting these accommodations for City-sponsored public meetings, services, programs, or events should call Jacob Smith, Centerville City Assistant to the City Manager, at 801-295-3477, giving at least 24 hours notice prior to the meeting.

A notebook containing supporting materials for the business agenda items is available for public inspection and review at City Hall and will be available for review at the meeting. Upon request, a citizen may obtain (without charge) the City Manager's memo summarizing the agenda business, or may read this memo on the City's website: <http://centerville.novusagenda.com/agendapublic>.

Tentative - The times shown below are tentative and are subject to change during the meeting.
Time:

- 7:00 **A. ROLL CALL**
 (See City Manager's Memo for summary of meeting business)
- B. PLEDGE OF ALLEGIANCE**
- C. PRAYER OR THOUGHT**
 Pastor Joshua Knight – Flourishing Grace Church
- 7:05 **D. OPEN SESSION (This item allows for the public to comment on any subject of municipal concern, including agenda items that are not scheduled for a public hearing. Citizens are encouraged to limit their comments to two (2) minutes per person. Citizens may request a time to speak during Open Session by calling the City Recorder's office at 801-295-3477, or may make such request at the beginning of Open Session.) Please state your name and city of residence.**
- E. BUSINESS**
- 7:10 1. **MINUTES REVIEW AND ACCEPTANCE**
 April 11, 2017 work session; April 18, 2017 work session, regular Council meeting and closed meeting
- 7:10 2. **Summary Action Calendar**
 a. Accept Public Utility Easements for Legacy Crossing Storage
 b. Consider Amendment No. 1 to Cooperative Agreement between UDOT and Centerville City regarding Maintenance of the Connector Trail to the Legacy Parkway Trail

(OVER)

- 7:10 3. Public Hearing - Zoning Code Amendment - Church or Place of Worship in I-H Zone
Consider Zoning Text Amendment to permit churches and places of worship in Industrial-High (I-H) Zone - Ordinance No. 2017-10
- 7:20 4. Revocable Encroachment License and Maintenance Agreement - 170 West - Bleaks and Goodfellow-Tullius Trust
Consider Revocable Encroachment License and Maintenance Agreement between the Bleaks, Goodfellow-Tullius Trust, and Centerville City for a temporary turn-around and access at the end of 170 West – Consider Ordinance No. 2017-10
- 7:40 5. Municipal Code Amendments - Chapter 5.03 (Budgets)
Consider Municipal Code Amendments to Chapter 5.03 (Budgets) regarding noticing and hearing requirements for tentative and final budgets and new statutory reference for enterprise fund transfers - Ordinance No. 2017-11
- 7:50 6. FY 2018 Budget
a. Presentation of City Manager's Proposed Budget
b. Public Hearing
c. Adopt Tentative Budget and set dates for work sessions and public hearing
- 8:10 7. Mayor's Report
- 8:15 8. City Manager's Report
- 8:20 9. Miscellaneous Business
- 8:20 10. Closed meeting, if necessary, for reasons allowed by state law , including, but not limited to, the provisions of Section 52-4-205 of the Utah Open and Public Meetings Act, and for attorney-client matters that are privileged pursuant to *Utah Code Ann.* § 78B-1-137, as amended.
- 8:30 11. Possible action following closed meeting, including appointments to boards and committees
- 8:30 12. Adjourn to RDA meeting
- 8:45 13. Reconvene City Council in a work session re FY2018 Proposed Budget

F. ADJOURNMENT

Items of Interest (i.e., newspaper articles, items not on agenda); Posted in-meeting information

Marsha L. Morrow, MMC
Centerville City Recorder

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Marsha L. Morrow, MMC
Centerville City Recorder

CENTERVILLE

**Staff Backup Report
5/2/2017**

Item No.

Short Title: (See City Manager's Memo for summary of meeting business)

Initiated By:

Scheduled Time:

SUBJECT

RECOMMENDATION

BACKGROUND

ATTACHMENTS:

Description

- City Manager Summary of May 2, 2017 meetings

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No.

Short Title: Pastor Joshua Knight - Flourishing Grace Church

Initiated By:

Scheduled Time:

SUBJECT

RECOMMENDATION

BACKGROUND

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No. 1

Short Title: Minutes Review and Acceptance

Initiated By: City Recorder

Scheduled Time: 7:10

SUBJECT

April 11, 2017 work session; April 18, 2017 work session, regular Council meeting and closed meeting minutes

RECOMMENDATION

BACKGROUND

ATTACHMENTS:

Description

- ☐ April 11, 2017 work session minutes
- ☐ April 18, 2017 work session minutes
- ☐ April 18, 2017 Council meeting minutes

PRELIMINARY DRAFT

Minutes of the Centerville City Council **work session** held Wednesday, April 11, 2017 at 5:00 p.m. in the Centerville City Council Chambers, 250 North Main Street, Centerville, Utah.

MEMBERS PRESENT

Mayor	Paul A. Cutler
Council Members	Tamilyn Fillmore William Ince (arrived at 5:15 p.m.) Stephanie Ivie George McEwan Robyn Meham

STAFF PRESENT

Steve Thacker, City Manager
Lisa Romney, City Attorney
Jolene Jackson, Treasurer
Jacob Smith, Assistant to the City Manager
Katie Rust, Recording Secretary

FY 2018 BUDGET WORK SESSION

Employee Health Insurance Plan Renewal

Steve Thacker, City Manager, reported that the Select Share health insurance network suggested recently by an independent consultant is only available to employers with more than 100 employees needing coverage, making it unavailable to Centerville. The Select Value network, also recommended by the consultant, is the smallest network offered by SelectHealth, and only offers around 1,500 providers. The Select Med network offers approximately 4,000 providers, and Select Care offers approximately 6,000 providers. Mr. Thacker said the City's brokers suspect there would be a negative reaction from employees regarding the lower selection offered by the Select Value network. He commented that premiums for the Select Value network are generally 8% lower than premiums for Select Med. Jacob Smith, Assistant to the City Manager, presented the rates for health insurance renewal options, both traditional and HSA. He explained the current 90/10 arrangement, with the City paying 90% of the premium cost and employees paying 10%, and showed how the numbers change if the percentage is adjusted.

Mayor Cutler said he has been encouraging the City to move to an HSA plan for a long time. He said he believes it is good public policy for employees to have more control of their own health care costs. He added that the cost of HSA plans is increasing at a slower rate than the cost of traditional plans. Councilman McEwan said he understands the County is offering an HSA plan for the first time this year, and is incentivizing the switch by changing from a 90/10 premium cost share to an 80/20 model for those choosing a traditional plan. Councilman McEwan said he is interested in how the County employees react to the change, and said it is his impression that HSAs are good for people who are young and healthy. Mayor Cutler said it is his experience that HSAs are good for those on both ends of the usage spectrum – i.e., those who only use a little health care, and those who use a lot of health care.

Jolene Jackson, Treasurer, reported that the first education session held with employees ended with a lot of employees thinking the change would be a disaster. She said the idea of changing to an HSA caused a lot of heartache for a lot of employees. Mr. Thacker said he put together a committee after that first meeting that included five or six employees. The employees were against the HSA option at first, but now view the option more favorably having learned more. He suggested a couple more education sessions for all employees, including one in the evening. Mr. Thacker encouraged the Council to offer an HSA plan as well as a

1 traditional plan, and to incentivize the HSA plan. The City's brokers have offered to meet with
2 each employee individually to discuss which plan might be best for them. Mayor Cutler said he
3 is in favor of using some of the savings to incentivize participation in the HSA option with
4 contributions to the accounts.

5
6 Councilwoman Fillmore said she likes the idea of offering the Select Value option as an
7 affordable choice, particularly for new employees. She suggested it would be helpful to
8 compare what other governmental agencies are doing. Councilwoman Fillmore commented
9 that sometimes individuals accept lower incomes in governmental jobs, with better benefits as
10 the tradeoff. She said she would not want the City's employees to all move to other agencies
11 for better benefits. Councilwoman Mecham agreed, saying that her particular concern is the
12 police officers. The Council discussed whether or not a separate insurance option could be
13 arranged for police officers. Councilman McEwan said he is not opposed to offering an HSA,
14 but he is disinclined to pull back benefits below a level that would be acceptable. Councilman
15 McEwan commented that health care in general is the hardest benefit to look at and talk about
16 changing. He asked if the HSA option would be approached as an experiment, or as the only
17 option that will be offered within a few years. Mayor Cutler said he envisions continuing to offer
18 a traditional plan. Ms. Jackson pointed out that not all employees are eligible for the HSA
19 option.

20
21 Councilman McEwan asked if HSAs are FDIC insured deposits, or if they are at risk to
22 market losses. Councilman Ince responded that investment is possible. For some accounts a
23 minimum deposit is required before investment is an option. Employees make their own risk
24 decisions. Mr. Thacker said he suspects the Council would be uncomfortable making a cost
25 share decision at this time since they have not yet seen the FY 2018 Budget. Council members
26 Ivie and Fillmore agreed. Councilwoman Ivie said she feels the City should definitely offer an
27 HSA option. Mr. Thacker said he will ask the broker if adding the Value network is possible.
28 Councilwoman Fillmore said she leans toward taking away the higher level and offering the Med
29 and Value networks. Ms. Jackson advised against removing the Select Care network because
30 there are many employees with providers that would not be available through Select Med and
31 Select Value. The cost to the City is the same either way. Ms. Jackson emphasized that
32 education will be important for the employees.

33
34 Councilwoman Fillmore said she leans toward a lower annual City contribution and a
35 higher one-time bonus for HSA enrollment. Councilman McEwan asked if employees will be
36 allowed to go back to a traditional plan after changing to an HSA for one year. Mayor Cutler
37 said it is his understanding that employees can go back to a traditional plan the next year, and
38 commented that the first year may not be the time to offer a big one-time incentive. The Council
39 discussed incentive possibilities.

40
41 Mr. Thacker proposed the following timeline:

- 42 • May 2 – FY 2018 Budget submitted to Council
- 43 • May 9 – Budget work session
- 44 • Employee education sessions within a week of the May 9 work session
- 45 • Enrollment by the end of May

46
47 Councilwoman Ivie asked if it would be possible for individual employee consultations
48 with the broker to be mandatory. Mr. Thacker said he is not comfortable insisting on a
49 mandatory consultation. Ms. Jackson responded that the broker plans to offer the opportunity at
50 the education session. Councilwoman Ivie said she believes the consultations will not happen if
51 employees are left to sign up for a consultation on their own.

52

Accounting Services Contract

Finance Director Blaine Lutz is no longer with the City. Mr. Thacker said he proposes the City enter into a contract for high-level accounting expertise with a CPA firm for the foreseeable future, possibly going into years. He recommended contracting with the firm that provided the most recent audit, for a fee of \$4,000 per month and an average of 60-70 hours per month. The City would contract the annual audit to another firm while Keddington & Christensen are providing accounting services. Councilman Ince said he would like to know how many years of experience each of the team members have. Mr. Thacker said he is pleased with the scope of services offered by the accounting firm, and he feels it is a cost effective way to go. Mr. Thacker said he intends to stay directly involved with the Finance Department for the next several months.

Councilman Ince asked if someone should review the last 15 years worth of City Council meeting minutes looking for things that have been missed by finance staff. Councilwoman Fillmore said a process needs to be in place to ensure that finance staff follows through with decisions made by the Council. Mr. Thacker said he has been with the City for 19 years, and he can say with confidence that he is not aware of any other fund that should have been created and was not, other than the ones recently identified. Mr. Thacker said the scope of contracted services includes working with staff to prepare monthly reports.

Councilwoman Mecham asked if the City would be better off hiring an in-house accountant instead of contracting long-term with an outside firm. Mr. Thacker responded he feels the City would be better off getting the targeted accounting assistance needed by contract. He proposed a new management structure that would cost the City less than the current structure. Councilwoman Fillmore said they should not plan on the cost savings being permanent. She said she feels the two most important things the City Council does is decide how and where money is spent, and land-use planning. Mayor Cutler said he is inclined to support trying the proposed accounting services for a few months, with the understanding that the Council may chose not to continue. Councilman McEwan said he suspects more than five or six months would be necessary to really get an understanding. He said he is comfortable going with an outside accountant for an extended period of time, even an entire fiscal year. Some tasks may be absorbable by existing staff members, and some may not. Councilwoman Fillmore said she completely agrees, and she would want to hold the personnel savings in reserve while evaluating what is absorbable and what is not. Ms. Romney pointed out that accounting is only part of the Finance Director responsibilities. Councilman McEwan said he would like to give employees an opportunity to rise to the challenge and see what is absorbable. Mr. Thacker agreed, and said he would like to give existing employees a chance to see what they can do. Councilman Ince said he suspects Mr. Thacker has already taken on a significant chunk of the Finance Director responsibilities. Mr. Thacker agreed that a fair number of the responsibilities have been reallocated in recent years. Councilman McEwan said he agrees with Councilwoman Fillmore's suggestion to not spend the savings yet.

ADJOURNMENT AND CLOSED MEETING

At 6:36 p.m., Councilman McEwan made a **motion** to adjourn the work session and move to a closed meeting in the conference room for the purpose of discussing the character and competence of individuals. Councilwoman Ivie seconded the motion, which passed by unanimous vote (5-0). In attendance at the closed meeting were: Paul A. Cutler, Mayor; Council members Fillmore, Ince, Ivie, McEwan, and Mecham; Steve Thacker, City Manager; and Lisa Romney, City Attorney.

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Marsha L. Morrow, City Recorder

Date Approved

Katie Rust, Recording Secretary

PRELIMINARY DRAFT

Minutes of the Centerville City Council **work session** held Tuesday, April 18, 2017 at 5:45 p.m. in the Centerville City Council Chambers, 250 North Main Street, Centerville, Utah.

MEMBERS PRESENT

Mayor Paul A. Cutler

Council Members Tamilyn Fillmore
William Ince (arrived at 6:05 p.m.)
Stephanie Ivie
George McEwan
Robyn Mecham

STAFF PRESENT

Steve Thacker, City Manager
Lisa Romney, City Attorney
Jacob Smith, Assistant to the City Manager
Katie Rust, Recording Secretary

VISITORS

Roger Timmerman, UTOPIA Executive Director
Kim McKinley, UTOPIA Marketing Director
Kurt Sudweeks, UTOPIA Chief Financial Officer

UTOPIA/UIA UPDATE

Roger Timmerman, UTOPIA Executive Director, updated the Council regarding the current status, progress and future plans of UTOPIA (presentation available with the agenda on the City website). Responding to a question from Councilwoman Mecham, Mr. Timmerman estimated that net profits may possibly be returned to member cities to help alleviate the debt burden in about five years at the current rate of investment toward system completion. However, without backing from member cities to draw on additional bonds to complete the system, the rate of growth will slow, pushing completion to seven or eight years. Mr. Timmerman commented that revenues would increase and completion could occur sooner if non-member cities were to issue their own bonds and partner with UTOPIA. Mayor Cutler commented that commercial businesses in non-member cities obtaining connection to UTOPIA through franchise agreements are another good source of revenue. Mr. Timmerman said UTOPIA would be willing to consider any connectivity model that would benefit the system and the member cities.

Councilwoman Fillmore asked if a cost benefit analysis has been done to compare targeting higher-return areas versus complete build out of all member cities, including lower-return areas. Mr. Timmerman responded there is still a lot of good area left to build out. They will continue to build out both high and low-return areas. All of the areas combined meet a sufficient take-rate to pay off the debt of those projects. UTOPIA will continue in the goal to completely build out all member cities. Mr. Timmerman said he feels everything UTOPIA has done since 2009 proves that cities can build sustainable networks that pay back the debt. Mr. Timmerman estimated that revenues returned to the cities upon completion of the system would cover around 30% of bond payments. It is in everyone's best interest to get other cities involved. Councilman McEwan said he does not think people understand how little of a one gigabit per second (Gbps) connection a residential customer could use.

Mr. Timmerman explained that UTOPIA stopped directly providing video about two years ago because video is available through service providers. Councilman Ince asked Mr. Timmerman what would be the most important thing that could be done to improve the overall position of the eleven member cities. Mr. Timmerman responded that higher take-rates would improve revenues and move toward debt relief. The best solution, although probably not

1 politically feasible, would be for member cities to authorize more bonding to complete the
2 project quicker and increase net revenues quicker. UTOPIA will finish build out as aggressively
3 as possible with the funds available, as well as seek out other revenue opportunities.
4 Councilwoman Fillmore said it sounds like reaching out to other cities would bring more revenue
5 than completing the build out. Kurt Sudweeks, UTOPIA Chief Financial Officer, commented that
6 the best revenue is from cities already built out – it would be great to move Centerville from a
7 33% take-rate to a 40% take-rate. Councilwoman Fillmore asked how UTOPIA leadership is
8 finding the correct balance between build out and bringing in prime return areas. Mr.
9 Timmerman responded that, organizationally, the goal is to complete build out. However, he is
10 personally being aggressive in reaching out to other cities. Councilwoman Fillmore said that, as
11 a resident of a member city, she would rather UTOPIA invested revenues in areas that will give
12 a higher take-rate and return.

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14 Mr. Timmerman stated that Centerville has benefited more from UIA than any other city.
15 Before it was built out, Centerville was adamant about the need for build out. It is now time for
16 other cities to be built out. Councilwoman Fillmore suggested that along the way, parallel with
17 build out, UTOPIA continue to do a cost benefit analysis. Mr. Timmerman said he understands
18 the pressure, but UTOPIA is going to complete the footprint. Kim McKinley, UTOPIA Marketing
19 Director, commented they are on track to hit take-rates similar to Centerville in some of the
20 newly built out areas. Councilman McEwan said he believes the bonds will run their course.
21 The question of how much offset will come in from the final footprint is yet to be determined.
22 Mr. Sudweeks emphasized there are a lot of good areas yet to build.

23
24 Mayor Cutler commented that a number of Centerville PUDs still do not have access to
25 UTOPIA. Mr. Timmerman responded they want to build those areas, but pointed out that
26 Centerville has an outstanding OPEX assessment balance of \$78,643. He said UTOPIA would
27 commit to spend those funds in Centerville to build out remaining areas if the balance is paid.
28 He said it would be hard to justify spending the money to build remaining areas in Centerville
29 when the City has the political disadvantage of an unpaid balance. The money is no longer
30 needed to cover operating expenses, but it needs to be paid to bring Centerville into good
31 standing with UTOPIA. Councilwoman Fillmore said it was her understanding that OPEX
32 assessments were a loan that would be repaid to the cities as soon as revenue became
33 positive, taking priority over build out. Mayor Cutler said it is his understanding that Centerville
34 did not pay the full assessment because the assessment formula differed from the ownership
35 formula, and some on the Council at that time felt Centerville should pay a portion closer to the
36 ownership formula. Councilman McEwan pointed out that the timing of payback was unclear
37 then, and is unclear still. Mr. Timmerman responded that the operational assessment will be the
38 first thing to be paid back, when payback happens. The plan at this time is to pay back when all
39 UIA cities are built out. Mayor Cutler said he hopes the Council will support getting the City into
40 good standing when it is possible. This year the City has a difficult budget situation. The total
41 unpaid OPEX assessment across all member cities is between \$900,000 and \$1,000,000.

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43 Responding to Councilman McEwan, Mr. Timmerman confirmed that build outs in
44 Centerville will not happen until the shortfall is paid. Councilwoman Fillmore said she would not
45 want UTOPIA to build out areas unless they were going to bring in revenue. She asked that
46 UTOPIA build out the more profitable areas first.

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48 **ADJOURNMENT**

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50 The work session was adjourned at 6:54 p.m.
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Marsha L. Morrow, City Recorder

Date Approved

Katie Rust, Recording Secretary

PRELIMINARY DRAFT

Minutes of the Centerville **City Council** meeting held Tuesday, April 18, 2017 at 7:00 p.m. at Centerville City Hall, 250 North Main Street, Centerville, Utah.

MEMBERS PRESENT

Mayor	Paul A. Cutler
Council Members	Tamilyn Fillmore William Ince Stephanie Ivie George McEwan Robyn Mecham

STAFF PRESENT

Steve Thacker, City Manager
Lisa Romney, City Attorney
Jacob Smith, Assistant to the City Manager
Bruce Cox, Parks and Recreation Director
Chief Paul Child, Centerville Police Department
Lt. Von Steenblik, Centerville Police
Katie Rust, Recording Secretary

VISITORS

Lynn Keddington, Parks and Recreation Committee Chair
Mark Dimond, Trails Committee
Interested citizens (see attached sign-in sheet)

PLEDGE OF ALLEGIANCE Led by Dionne Stevenson detachment Marine Corps League

PRAYER OR THOUGHT Councilman McEwan

CONTRIBUTION TO DARE PROGRAM

Kent Survass presented a check for \$300 to Police Chief Child for the DARE program on behalf of the Marine Corps League, Dionne Stevenson detachment.

OPEN SESSION

Florence Farnsworth – Ms. Farnsworth thanked the City Council for their efforts to have the fence around the County-owned property on 100 South removed and something done with the catch basin. She said there are numerous residents in the neighborhood interested in what happens on that property. Ms. Farnsworth asked for an update on the property. Mr. Thacker responded that he, Mayor Cutler, and City Attorney Lisa Romney met with County officials regarding proposed terms of an agreement. He said he believes they are close to an agreement. The County does not plan to remove the fence until an agreement is reached for liability reasons. Mayor Cutler said the hope is to conclude negotiations soon, and get feedback from neighbors regarding possible improvements. The north half would be deeded to the City and the south half would be developed by the County.

MINUTES REVIEW AND ACCEPTANCE

The minutes of the April 4, 2017 work session and regular Council meeting were reviewed. Councilwoman Mecham made a **motion** to approve both sets of minutes. Councilman Ince seconded the motion, which passed by unanimous vote (5-0).

EMERGENCY DISPATCH SERVICE AGREEMENT WITH DAVIS COUNTY

The Davis County Sheriff's Office has been providing dispatch services for several public safety entities, including the Centerville Police Department, for many years. Police Chief Child explained how the emergency dispatch system works. The proposed agreement represents a 3% increase over the amount paid by Centerville for services in FY 2017. Councilwoman Fillmore asked Chief Child if he has considered switching to the Bountiful dispatch. Chief Child responded there would be advantages and disadvantages to contracting with the Bountiful dispatch, but he believes right now the County is able to provide the better service. Centerville generates a lot of calls and a lot of dispatch time. The number of police calls is significantly higher than the number of fire/EMS calls.

Councilwoman Mecham asked if there is any way to reduce the number of questions callers have to answer before dispatch occurs. Chief Child responded that all dispatch services follow the same basic protocols. While one dispatcher takes down information, another dispatcher initiates the dispatch as soon as enough information is obtained. Mr. Thacker commented that the proposed agreement, as drafted, does not lock the City into a long-term agreement. Councilwoman Fillmore asked if the Council would want staff to look into the possibility of changing to the Bountiful dispatch. Councilwoman Ivie responded that Davis County already has the necessary staff and infrastructure in place, and she does not feel it would be worth looking into changing, knowing that Bountiful does not have the necessary staff. Chief Child said he has talked to the Bountiful dispatch, and to cities contracted with the Bountiful dispatch, and he feels Centerville is getting good service through the County.

Councilwoman Fillmore made a **motion** to approve Resolution No. 2017-08 approving an Interlocal Cooperation Agreement between Davis County and Centerville City for the provision of dispatch services, with any revisions recommended by staff. Councilman Ince seconded the motion, which passed by unanimous vote (5-0). Chief Child said the City has a good relationship with Davis County, and the County has been very responsive to any concerns.

GRANT APPLICATION REGARDING ISLAND VIEW PARK RENOVATION

Bruce Cox, Parks and Recreation Director, reported that the Parks and Recreation Committee met with members of the focus group regarding concerns related to the grant application for the Island View Park renovation. No changes were made to the conceptual plan, but it was agreed that elements within the plan could possibly be changed to address concerns if funding is received. The Parks and Recreation Committee recommend the Council approve the grant application, which is due May 1st. Awards will be determined near the end of the year, and funded projects can begin as soon as spring of 2018.

Councilwoman Ivie said she is still hesitant, partly because of the significant increase to the cost of the Community Park Expansion Project. She said the City's required match for the Island View Park project would be obligating the City with more than she is comfortable, with both park projects at the same time. Mr. Cox clarified the City would have two years to complete the project after funds are awarded. Councilwoman Fillmore said she feels the City's goal to be fiscally conservative is a reason to support the grant application, because the grant would allow the City to do more with less. Lynn Keddington, Parks and Recreation Committee Chair, explained that grant funds are given through a reimbursement process. Councilwoman Ivie responded that a reimbursement process makes the grant even less appealing to her. Mr. Thacker suggested staff ask for clarification on the timeframe allowed to complete the project, and the payment process. Councilman McEwan agreed that cash flow is a concern for the City,

1 and said he would be less hesitant with a window in which the project could occur. Mayor
2 Cutler said he fully supports the grant application.
3

4 Councilman McEwan made a **motion** to approve Resolution No. 2017-09, approving the
5 application for a Land and Water Conservation Fund grant for assistance with the development
6 of the Island View Park Phase 1. Councilwoman Fillmore seconded the motion, which passed
7 by unanimous vote (5-0).
8

9 **MOUNTAIN BIKE TRAILS PROPOSAL**
10

11 On a map, Mr. Cox showed the Council a proposed single-track bike trail, with parking
12 and trail access at Twin Hollow Park (Cheese Park) in Bountiful. The Trails Committee has had
13 contact with Davis County and Bountiful City representatives since the Council last discussed
14 this matter. Trails Committee members will be walking the proposed trail alignment later in the
15 week. Mayor Cutler showed a drone video of a mountain bike flow trail created in Provo. Mr.
16 Cox emphasized that the proposed trail in Centerville would be a single-track trail. Councilman
17 McEwan asked if the Public Works Director has any thoughts regarding erosion control, water
18 shed, and maintenance. Mr. Cox responded that all of those factors will need to be taken into
19 consideration. He said he is a big advocate of low maintenance trails. Mark Dimond, Trails
20 Committee member, commented that single-track trails are generally low maintenance. He said
21 International Bike Trail Building Standards include a lot of proactive measures to create low
22 maintenance trails. Councilwoman Fillmore asked if the Trails Committee will be donating labor.
23 Mr. Dimond responded that Trails Committee members and a lot of local biking enthusiasts
24 have volunteered to help.
25

26 Mr. Thacker asked what the City needs to do to comply with its own ordinances. Ms.
27 Romney responded that the General Plan will need to be amended to add the new trail to the
28 Trails Map. Mr. Cox stated that both Public Works Director Randy Randall and Community
29 Development Director Cory Snyder have seen the plan and not voiced concerns.
30 Councilwoman Mecham said she would like to check with Mr. Randall and Mr. Snyder to make
31 sure the City is moving in the right direction.
32

33 Councilwoman Ivie said she has concerns because the proposed location is in her
34 neighborhood and she knows how sandy the soil is. She said she would like to see more
35 concrete evidence that erosion control has been considered before dirt is moved. She said she
36 is also concerned that cyclists will park at the top of 100 South to access the trail, despite the
37 suggestion to park elsewhere, and create more of a hazard than already exists. Councilwoman
38 Ivie said everyone needs to remember that as soon as something nice is built, people will come
39 from farther out to use it.
40

41 Mr. Cox explained that restrictions regarding use of the trail will be decided by the
42 Council. The idea is for the trail to be bicycle/pedestrian use only. Councilwoman Ivie said she
43 thinks it is a great idea for a lot of people, but will cause a lot of grief for many others. She said
44 she would like to alleviate the conflict points before they happen. Responding to Councilman
45 Ince, Mr. Cox confirmed that motorcycle use would be banned on the mountain bike trail.
46 Councilman Ince said he sees more motorcycle users than bicyclists on the Bonneville
47 Shoreline Trail. Mayor Cutler commented that vandalism and mischief often reduces when
48 responsible use of trails increases. Councilman McEwan said he is in support of getting more
49 public comment. At 8:04 p.m., Mayor Cutler allowed public comment.
50

1 Sam Erickson – Mr. Erickson said he knows from experience that if the proposed trail is
2 like the one shown in the video, use by cyclists would increase. If it is a good trail, it will get a
3 higher percentage of use by cyclists than motorcyclists.
4

5 Mr. Dimond reported that the problem of motorcycles on the hillside was discussed at a
6 Bonneville Shoreline Trail meeting. He said it was suggested that it is a County problem, for the
7 County to address, and the real solution would be to build something bigger and grander to
8 attract motorcyclists. Mayor Cutler agreed that Davis County is trying to encourage biking and
9 hiking in the foothills rather than motorcycle/ATV use. Mr. Cox confirmed that new portions of
10 the proposed trail would be on City-owned property.
11

12 Council members Fillmore, Ivie, and Mecham expressed a desire to learn more about
13 erosion concerns from Mr. Randall and Mr. Snyder. Mayor Cutler suggested holding a public
14 hearing in May. Councilman Ince suggested better signage than usual for the public notice. Mr.
15 Dimond estimated that the trail could be built within a month. Councilman McEwan agreed with
16 the desire to gauge public support. Mayor Cutler suggested the Trails Committee come back
17 with a proposed date for a public hearing, and the City create awareness on the City website
18 and social media. He commented that Centerville has tried to keep the hillside open to ATV
19 use, and this may help keep that possible, with cyclists reporting unauthorized motor use on the
20 hillside. The Council requested that Mr. Randall and Mr. Snyder answer questions from the
21 Council at the next Council meeting.
22

23 **ACCOUNTING SERVICES PROPOSAL**

24
25 Councilman Ince reported that he and City Manager Thacker met with representatives of
26 both the former and current auditors following their meeting each other. He they discussed the
27 long list of adjustments reported by the current auditors. Councilman Ince said that, in his
28 opinion, four of the adjustments are significant. He said it is the City's lack of controls that
29 allowed the situation to get out of hand. Councilman Ince said he is comfortable with the
30 proposal submitted by Keddington & Christensen for accounting services, and he is comfortable
31 with the subcontracting arrangement for the next audit. Mr. Thacker reported on the
32 professional experience of the four members of the Keddington & Christensen team who will
33 handle the City's account.
34

35 Councilman Ince made a **motion** to accept the proposal from Keddington & Christensen
36 for accounting services to assist the Finance Department. Councilwoman Ivie seconded the
37 motion, which passed by unanimous vote (5-0).
38

39 **MAYOR'S REPORT**

- 40
41 • Mayor Cutler reported that he met with representatives of Weber Basin Water
42 Conservancy District to confirm earlier discussions about water rates and working
43 together on projects. The Mayor said he feels the ground water project at
44 Community Park is the right decision long-term.
45 • Mayor Cutler reported he was pleasantly surprised that most of the Recreation
46 District Board members were supportive of granting the City a bigger loan to
47 complete the Community Park Expansion Project sooner. However, the Recreation
48 District attorney and some staff members voiced concerns. The Recreation District
49 Board would like the City to proceed with obtaining a bid for landscaping, and
50 continue to work with their attorney. Councilwoman Fillmore said she feels the
51 arrangement would be mutually beneficial – the two groups just need to agree on a

1 payback period. Councilman McEwan said he is comfortable with a verbal intent to
2 repay the loan sooner, but he would want to keep the five-year payback agreement
3 in the contract.

- 4 • The Mayor updated the Council on UTA bus service enhancements that will involve
- 5 Centerville.
- 6 • Councilwoman Fillmore emphasized that an interfund loan needs to be set up for the
- 7 Community Park Expansion—between the RAP Tax Fund and Parks Capital
- 8 Improvement Fund.
- 9 • South Davis Metro Fire Service Area financial statements are included online with
- 10 the agenda. Mayor Cutler encouraged Council members to direct citizen concerns to
- 11 him, and he will relay them to Chief Bassett.

12
13 **CITY COUNCIL LIAISON REPORT**

14
15 Councilwoman Mecham reported on upcoming Trails Committee events. She explained
16 that pedestrian bridge signage has been a concern, and the Trails Committee is trying to find
17 signage that would better indicate bicycle/pedestrian crossing. She updated the Council
18 regarding the Davis County Transportation Committee.

19
20 **CITY MANAGER'S REPORT**

- 21
22 • A retirement party for Ken Williams is scheduled for April 19th at City Hall.
- 23 • Mr. Thacker reported on a police chase that took place on April 17th and ended in
- 24 damage to a Centerville Police vehicle.
- 25 • Mr. Thacker updated the Council on the City recreation program. Lisa Summers had
- 26 previously informed him that the 2017 summer season will be her last as Recreation
- 27 Director. She has now indicated willingness to continue being involved in the
- 28 planning process, but would prefer that her assistant run the program in the summer.

29
30 **MISCELLANEOUS BUSINESS**

31
32 Councilwoman Fillmore said she contacted the manager of the Village on Main, west of
33 the Pages Lane Commercial Area. He told her there has been a lot of interest recently in the
34 corner pad (southwest corner of Pages Lane/Main Street intersection), which is under contract
35 and scheduled to close in June. She listed several businesses that are doing well, and said he
36 expressed a desire to work together to understand what is viable and what can be done to
37 benefit the two corners together. She said in his opinion condos would be the highest and best
38 use of the east portion of the Pages Lane Commercial Area. Mr. Thacker said information on
39 both the Pages Lane Corridor public forum and the mountain bike trail public hearing could be
40 included in the next utility insert.

41
42 **ADJOURNMENT AND CLOSED MEETING**

43
44 At 9:02 p.m., Councilman McEwan made a **motion** to adjourn the Council meeting and
45 move to a closed meeting in the Council Chambers for the purpose of discussing the sale or
46 purchase of real property following a short break. Councilwoman Ivie seconded the motion,
47 which passed by unanimous vote (5-0). In attendance at the closed meeting were: Paul A.
48 Cutler, Mayor; Council members Fillmore, Ince, Ivie, McEwan, and Mecham; Steve Thacker,
49 City Manager; Lisa Romney, City Attorney; Jacob Smith, Assistant to the City Manager; and
50 Katie Rust, Recording Secretary.

PRELIMINARY DRAFT

Centerville City Council
Minutes of Meeting of April 18, 2017

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Marsha L. Morrow, City Recorder

Date Approved

Katie Rust, Recording Secretary

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No. 2

Short Title: Summary Action

Initiated By:

Scheduled Time: 7:10

SUBJECT

- a. Accept Public Utility Easements for Legacy Crossing Storage
- b. Consider Amendment No. 1 to Cooperative Agreement between UDOT and Centerville City regarding Maintenance of the Connector Trail to the Legacy Parkway Trail

RECOMMENDATION

- a. Approve Public Utility Easements for Legacy Crossing Storage located at 150 North 1250 West.
- b. Approve Amendment No. 1 to Cooperative Agreement between UDOT and Centerville City regarding Maintenance of the Connector Trail to the Legacy Parkway Trail.

BACKGROUND

- a. On November 9, 2016, the Planning Commission approved the final site plan for Legacy Crossing Storage located at approximately 150 North 1250 West. As a condition of approval, the property owner is required to provide certain Public Utility Easements for the property. The attached easements, including public utility, waterline, storm drain, and sidewalk easements, have been prepared for acceptance by the Council. Staff recommends the Council accept the easements and direct the City Recorder to record the easements with the Davis County Recorder's Office.
- b. The City recently approved amendments to the fencing details and locations for the Legacy Trails Apartments PDO, including fencing details for the connector trail to the Legacy Parkway Trail. The City and UDOT have previously entered into a Cooperative Agreement regarding maintenance of the connector trail, including fencing details and locations, that now need to be amended to correspond with the PDO amendments. Amendment No. 1 to the Cooperative Agreement with UDOT is attached, along with the revised fencing details and locations to be set forth in Exhibit B to the original agreement. Staff recommends approval of these amendments to the Cooperative Agreement.

ATTACHMENTS:

Description

- ☐ Public Utility Easement - Legacy Crossing Storage
- ☐ Storm Drain Easement - Legacy Crossing Storage
- ☐ Waterline Easement - Legacy Crossing Storage
- ☐ Sidewalk Easement - Legacy Crossing Storage

WHEN RECORDED, MAIL TO:

Centerville City
Attn: City Recorder
250 North Main
Centerville, Utah 84014

Affects Parcel No.: 06-008-0122

PUBLIC UTILITY EASEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Grantors, **LEGACY CROSSING STORAGE, LLC** and **TWO BY FOUR, LLC**, hereby grant, convey, sell and set over unto **CENTERVILLE CITY**, a municipal corporation of the State of Utah, as Grantee, its successors, assigns, licensees, franchisees, and public utilities (collectively referred to as Grantee), a perpetual right-of-way and public utility easement to install, maintain, operate, repair, inspect, protect, remove, replace, and relocate public utility structures and facilities, hereinafter called the "Facilities," said right-of-way and easement being situated in Davis County, State of Utah, over and through a parcel of Grantors' land, which easement is more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference.

To have and to hold the same unto said Grantee, perpetually, with right of ingress and egress in said Grantee, its officers, employees, agents, contractors and assigns, to enter upon the above described property with such equipment as is necessary to install, maintain, operate, repair, inspect, protect, remove, replace, and relocate said Facilities. During construction periods, Grantee and its contractors may use such portions of the property along and adjacent to said right-of-way and easement as may be reasonably necessary in connection with the construction or repair of the Facilities. The contractor performing the work shall restore all property, through which the work traverses to as near its original condition as is reasonably possible. Grantors shall have the right to use said premises except for the purpose for which the right-of-way and easement is granted to the Grantee, provided such use shall not interfere with the Facilities, or with Grantee's use thereof, or any other rights provided to the Grantee hereunder.

Grantors shall not build or construct, or permit to be built or constructed, any building or other improvement over or across said right-of-way and easement, nor change the contour thereof, without the written consent of Grantee. Pursuant to Utah law, if the property owner places buildings or improvements to land that interfere with the easement rights granted herein, the property owner shall bear the risk of loss or damage to those improvements resulting from the exercise of the easement rights granted herein.

This right-of-way and easement grant shall run with the land and shall be binding upon and inure to the benefit of the Grantors and Grantee and their respective heirs, representatives, successors and assigns.

IN WITNESS WHEREOF, the Grantors have executed this right-of-way and easement this 14th day of April, 2017.

"GRANTORS"

LEGACY CROSSING STORAGE, LLC

By: [Signature]
Its: as member

TWO BY FOUR, LLC

By: [Signature]
Its: as member

Accepted for Recordation by Centerville City:

[Signature]
Marsha L. Morrow, City Recorder

4-14-17
Date

LEGACY CROSSING STORAGE ACKNOWLEDGMENT

STATE OF UTAH)
COUNTY OF Davis)
:SS

On the 14 day of April, 2017, personally appeared before me Stephen Garner, who being by me duly sworn, did say that (s)he is the Managing Member of LEGACY CROSSING STORAGE, LLC, a limited liability company, that the limited liability company is the legal property owner of record of the property subject to this easement, and that the foregoing instrument was duly authorized by the limited liability company by authority of its operating agreement and signed in behalf of said limited liability company.



Jeannine R Teel
Notary Public

My Commission Expires:

Residing at:

June 7, 2020

Centerville City

TWO BY FOUR ACKNOWLEDGMENT

STATE OF UTAH)
COUNTY OF Davis)
:SS

On the 14 day of April, 2017, personally appeared before me Stephen Garner, who being by me duly sworn, did say that (s)he is the Managing Member of TWO BY FOUR, LLC, a limited liability company, that the limited liability company is the legal property owner of record of the property subject to this easement, and that the foregoing instrument was duly authorized by the limited liability company by authority of its operating agreement and signed in behalf of said limited liability company.



Jeannine R Teel
Notary Public

My Commission Expires:

Residing at:

June 7, 2020

Centerville City

Exhibit A

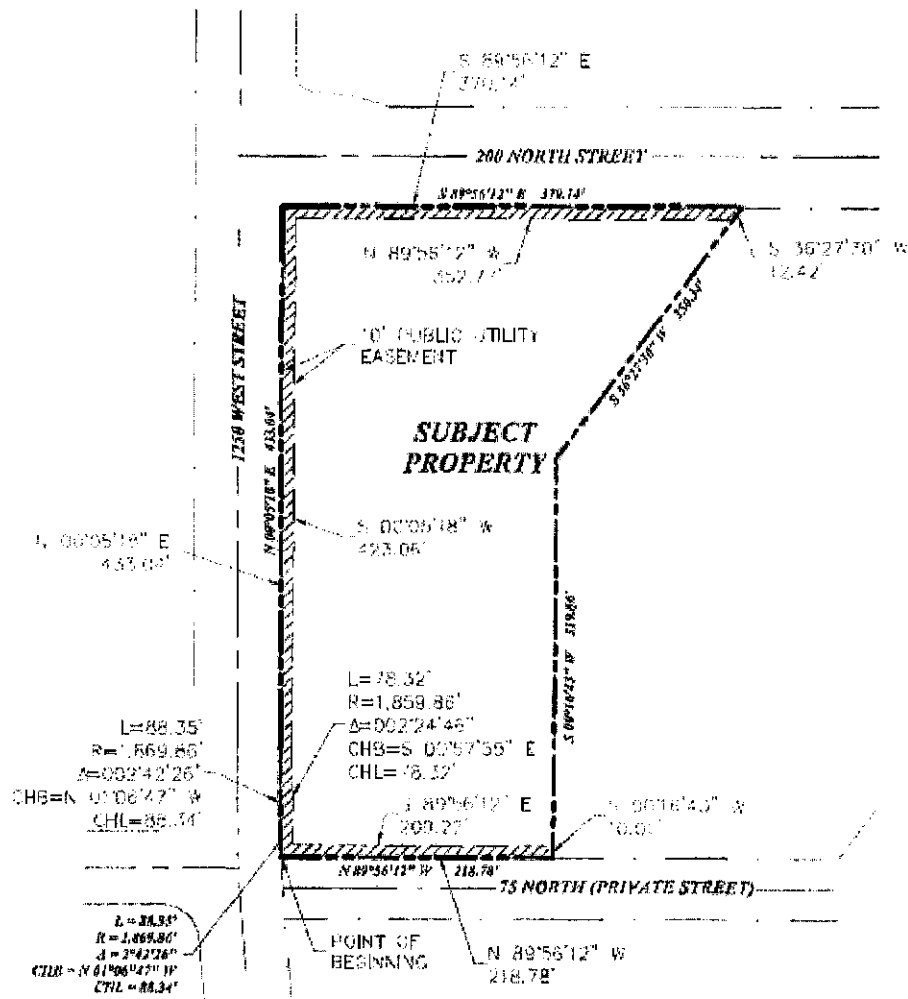
Legal Description of Public Utility Easement

A 10 FOOT WIDE PUBLIC UTILITY EASEMENT ALONG THREE SIDES OF THE GRANTORS PROPERTY, ABUTTING 200 NORTH STREET, 1250 WEST STREET, AND THE GRANTOR'S SOUTH PROPERTY LINE , FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF PUBLIC UTILITIES, FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE GRANTOR'S SOUTH PROPERTY LINE, AND ON THE EAST LINE OF 1250 WEST STREET; SAID POINT BEING LOCATED NORTH 0°05'33" WEST ALONG THE SECTION LINE 956.34 FEET, AND NORTH 89°56'12" WEST 1357.06 FEET FROM THE SOUTH EAST CORNER OF SECTION 12, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING ALONG SAID EAST LINE OF 1250 WEST STREET THE FOLLOWING TWO CALLS: 88.35 FEET ALONG THE ARC OF A 1869.86 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 2°42'26", (CHORD BEARS NORTH 1°06'47" WEST 88.34 FEET); NORTH 0°05'18" EAST 433.04 FEET TO THE SOUTH LINE OF 200 NORTH STREET; THENCE SOUTH 89°56'12" EAST ALONG SAID SOUTH LINE OF 1250 WEST STREET 370.14 FEET TO THE EAST LINE OF GRANTOR'S PROPERTY; THENCE SOUTH 36°27'30" WEST ALONG SAID EAST LINE OF GRANTOR'S PROPERTY 12.42 FEET; THENCE NORTH 89°56'12" WEST 352.77 FEET; THENCE SOUTH 0°05'18" WEST 423.06 FEET; THENCE 78.32 FEET ALONG THE ARC OF A 1859.86 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 2°24'46", (CHORD BEARS SOUTH 0°57'55" EAST 78.32 FEET); THENCE SOUTH 89°56'12" EAST 209.22 FEET TO THE EAST LINE OF GRANTOR'S PROPERTY; THENCE SOUTH 0°16'43" WEST ALONG SAID EAST LINE OF GRANTOR'S PROPERTY 10.00 FEET TO THE SOUTH LINE OF GRANTOR'S PROPERTY; THENCE NORTH 89°56'12" WEST ALONG SAID SOUTH LINE OF GRANTOR'S PROPERTY 218.78 FEET TO THE EAST LINE OF 1250 WEST STREET AND THE POINT OF BEGINNING.

CONTAINS 0.250 ACRES.

PUBLIC UTILITY EASEMENT EXHIBIT



WHEN RECORDED, MAIL TO:

Centerville City
Attn: City Recorder
250 North Main
Centerville, Utah 84014

Affects Parcel No.: 06-008-0122

STORM DRAIN EASEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Grantors, **LEGACY CROSSING STORAGE, LLC** and **TWO BY FOUR, LLC**, hereby grant, convey, sell and set over unto **CENTERVILLE CITY**, a municipal corporation of the State of Utah, as Grantee, its successors, assigns, licensees, franchisees, and public utilities (collectively referred to as Grantee), a perpetual right-of-way and easement to install, maintain, operate, repair, inspect, protect, remove, replace, and relocate storm drain pipelines and related facilities, hereinafter called the "Facilities," said right-of-way and easement being situated in Davis County, State of Utah, over and through a parcel of Grantors' land, which easement is more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference.

To have and to hold the same unto said Grantee, perpetually, with right of ingress and egress in said Grantee, its officers, employees, agents, contractors and assigns, to enter upon the above described property with such equipment as is necessary to install, maintain, operate, repair, inspect, remove, replace, and relocate said Facilities. During construction periods, Grantee and its contractors may use such portions of the property along and adjacent to said right-of-way and easement as may be reasonably necessary in connection with the construction or repair of the Facilities. The contractor performing the work shall restore all property, through which the work traverses to as near its original condition as is reasonably possible. Grantors shall have the right to use said premises except for the purpose for which the right-of-way and easement is granted to the Grantee, provided such use shall not interfere with the Facilities, or with Grantee's use thereof, or any other rights provided to the Grantee hereunder.

Grantors shall not build or construct, or permit to be built or constructed, any building or other improvement over or across said right-of-way and easement, nor change the contour thereof, without the written consent of Grantee. Pursuant to Utah law, if the property owner places buildings or improvements to land that interfere with the easement rights granted herein, the property owner shall bear the risk of loss or damage to those improvements resulting from the exercise of the easement rights granted herein.

This right-of-way and easement grant shall run with the land and shall be binding upon and inure to the benefit of the Grantors and Grantee and their respective heirs, representatives, successors and assigns.

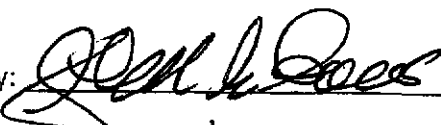
IN WITNESS WHEREOF, the Grantors have executed this right-of-way and easement this 14th day of April, 2017.

"GRANTORS"

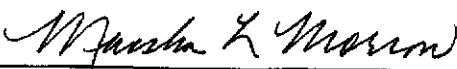
LEGACY CROSSING STORAGE, LLC

By: 
Its: Mr. Member

TWO BY FOUR, LLC

By: 
Its: Mr. Member

Accepted for Recordation by Centerville City:


Marsha L. Morrow, City Recorder

4-14-2017
Date

STATE OF UTAH)
COUNTY OF Davis) ss

 **JEANNINE R TEEL**
NOTARY PUBLIC - STATE OF UTAH
My Comm. Exp. 06/07/2020
Commission # 689461

TWO BY FOUR ACKNOWLEDGMENT

STATE OF UTAH)
COUNTY OF Davis) ss

 **JEANNINE R TEEL**
NOTARY PUBLIC - STATE OF UTAH
My Comm. Exp. 06/07/2020
Commission # 689461

Exhibit A

Legal Description of Storm Drain Easement

A 20 FOOT WIDE EASEMENT ABUTTING 1250 WEST STREET AND 200 NORTH STREET, FOR THE OPERATION AND MAINTENANCE OF A STORM DRAIN, FURTHER DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE SOUTH LINE OF 200 NORTH STREET, AND ON THE EAST LINE OF 1250 WEST STREET, SAID POINT BEING LOCATED NORTH 0°05'33" WEST ALONG THE SECTION LINE 1477.70 FEET, AND NORTH 89°56'12" WEST 1357.27 FEET FROM THE SOUTH EAST CORNER OF SECTION 12, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING; SOUTH 89°56'12" EAST ALONG SAID SOUTH LINE OF 200 NORTH STREET 20.00 FEET; THENCE SOUTH 0°05'18" WEST 128.00 FEET; THENCE NORTH 89°56'12" WEST 20.00 FEET TO SAID EAST LINE OF 1250 WEST STREET; THENCE NORTH 0°05'18" EAST ALONG SAID EAST LINE 128.00 FEET TO SAID SOUTH LINE OF 200 NORTH STREET, AND THE POINT OF BEGINNING.

CONTAINS 0.059 ACRES.

waterline-(legacy storage)



WHEN RECORDED, MAIL TO:

Centerville City
Attn: City Recorder
250 North Main
Centerville, Utah 84014

Affects Parcel No.: 06-008-0122

WATERLINE UTILITY EASEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Grantors, **LEGACY CROSSING STORAGE, LLC** and **TWO BY FOUR, LLC**, hereby grant, convey, sell and set over unto **CENTERVILLE CITY**, a municipal corporation of the State of Utah, as Grantee, its successors, assigns, licensees, franchisees, and public utilities (collectively referred to as Grantee), a perpetual right-of-way and easement to install, maintain, operate, repair, inspect, protect, remove, replace, and relocate culinary water pipelines and related facilities, hereinafter called the "Facilities," said right-of-way and easement being situated in Davis County, State of Utah, over and through a parcel of Grantors' land, which easement is more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference.

To have and to hold the same unto said Grantee, perpetually, with right of ingress and egress in said Grantee, its officers, employees, agents, contractors and assigns, to enter upon the above described property with such equipment as is necessary to install, maintain, operate, repair, inspect, remove, replace, and relocate said Facilities. During construction periods, Grantee and its contractors may use such portions of the property along and adjacent to said right-of-way and easement as may be reasonably necessary in connection with the construction or repair of the Facilities. The contractor performing the work shall restore all property, through which the work traverses to as near its original condition as is reasonably possible. Grantors shall have the right to use said premises except for the purpose for which the right-of-way and easement is granted to the Grantee, provided such use shall not interfere with the Facilities, or with Grantee's use thereof, or any other rights provided to the Grantee hereunder.

Grantors shall not build or construct, or permit to be built or constructed, any building or other improvement over or across said right-of-way and easement, nor change the contour thereof, without the written consent of Grantee. Pursuant to Utah law, if the property owner places buildings or improvements to land that interfere with the easement rights granted herein, the property owner shall bear the risk of loss or damage to those improvements resulting from the exercise of the easement rights granted herein.

This right-of-way and easement grant shall run with the land and shall be binding upon and inure to the benefit of the Grantors and Grantee and their respective heirs, representatives, successors and assigns.

IN WITNESS WHEREOF, the Grantors have executed this right-of-way and easement this 14th day of April, 2017.

"GRANTORS"

LEGACY CROSSING STORAGE, LLC

By: [Signature]
Its: m. member

TWO BY FOUR, LLC

By: [Signature]
Its: m. member

Accepted for Recordation by Centerville City:

[Signature]
Marsha L. Morrow, City Recorder

4-14-2017
Date

STATE OF UTAH)
COUNTY OF Garfield) ss

 **JEANNINE R TEEL**
NOTARY PUBLIC - STATE OF UTAH
My Comm. Exp. 06/07/2020
Commission # 689461


Notary Public

June 7, 2020

Centerville City

STATE OF UTAH)
COUNTY OF Davis) SS

 **JEANNINE R TEEL**
NOTARY PUBLIC - STATE OF UTAH
My Comm. Exp. 06/07/2020
Commission # 689461


Notary Public

June 7, 2020

Centerville City

Exhibit A

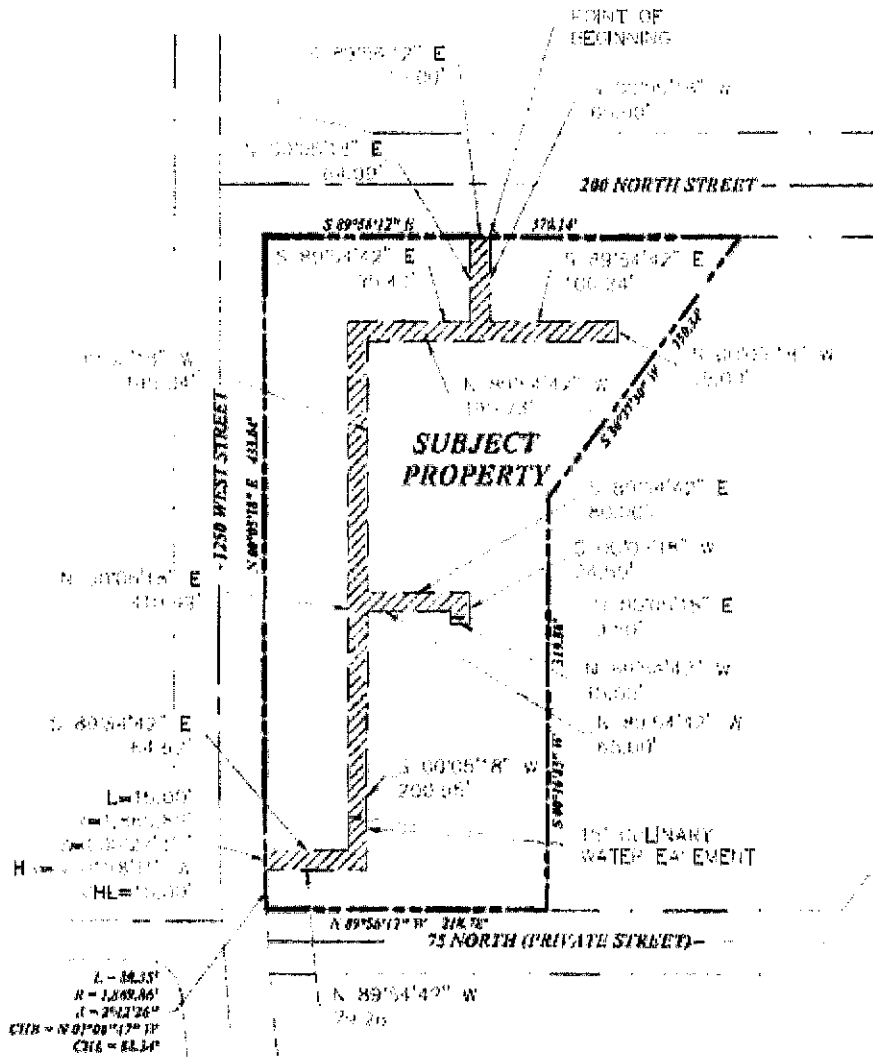
Legal Description of Waterline Easement

A 15 FOOT WIDE EASEMENT FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF CULINARY WATER MAINS AND HYDRANTS, FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF 200 NORTH STREET SAID POINT BEING LOCATED NORTH 0°05'33" WEST ALONG THE SECTION LINE 1477.70 FEET, AND NORTH 89°56'12" WEST 1181.78 FEET FROM THE SOUTH EAST CORNER OF SECTION 12, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING; SOUTH 0°05'18" WEST 65.00 FEET; THENCE SOUTH 89°54'42" EAST 100.24 FEET; THENCE SOUTH 0°05'18" WEST 15.00 FEET; THENCE NORTH 89°54'42" WEST 195.73 FEET; THENCE SOUTH 0°05'18" WEST 195.04 FEET; THENCE SOUTH 89°54'42" EAST 80.00 FEET; THENCE SOUTH 0°05'18" WEST 24.50 FEET; THENCE NORTH 89°54'42" WEST 15.00 FEET; THENCE NORTH 0°05'18" EAST 9.50 FEET; THENCE NORTH 89°54'42" WEST 65.00 FEET; THENCE SOUTH 0°05'18" WEST 200.95 FEET; THENCE NORTH 89°54'42" WEST 79.26 FEET TO THE EAST LINE OF 1250 WEST STREET; THENCE 15.00 FEET ALONG SAID EAST LINE OF 1250 WEST STREET, AND THE ARC OF A 1869.86 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 0°27'35", (CHORD BEARS NORTH 1°18'11" WEST 15.00 FEET); THENCE SOUTH 89°54'42" EAST 64.62 FEET; THENCE NORTH 0°05'18" EAST 410.99 FEET; THENCE SOUTH 89°54'42" EAST 95.49 FEET; THENCE NORTH 0°05'18" EAST 64.99 FEET TO THE SOUTH LINE OF 200 NORTH STREET; THENCE SOUTH 89°56'12" EAST ALONG SAID SOUTH LINE OF 200 NORTH STREET 15.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 0.290 ACRES.

CULINARY WATER EASEMENT EXHIBIT



WHEN RECORDED, MAIL TO:

Centerville City
Attn: City Recorder
250 North Main
Centerville, Utah 84014

Affects Parcel No.: 06-008-0122

PEDESTRIAN ACCESS AND SIDEWALK EASEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Grantors, **LEGACY CROSSING STORAGE, LLC** and **TWO BY FOUR, LLC**, hereby grant, convey, sell and set over unto **CENTERVILLE CITY**, a municipal corporation of the State of Utah, as Grantee, its successors, assigns, licensees, franchisees, and public utilities (collectively referred to as Grantee), a perpetual pedestrian access and sidewalk easement to install, maintain, operate, repair, inspect, protect, remove, replace, and relocate sidewalk and pedestrian access facilities and related improvements, hereinafter called the "Facilities," said right-of-way and easement being situated in Davis County, State of Utah, over and through a parcel of Grantors' land, which easement is more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference.

To have and to hold the same unto said Grantee, perpetually, with right of ingress and egress in said Grantee, its officers, employees, agents, contractors and assigns, to enter upon the above described property with such equipment as is necessary to install, maintain, operate, repair, inspect, remove, replace, and relocate said Facilities. During construction periods, Grantee and its contractors may use such portions of the property along and adjacent to said right-of-way and easement as may be reasonably necessary in connection with the construction or repair of the Facilities. The contractor performing the work shall restore all property, through which the work traverses to as near its original condition as is reasonably possible. Grantors shall have the right to use said premises except for the purpose for which the right-of-way and easement is granted to the Grantee, provided such use shall not interfere with the Facilities, or with Grantee's use thereof, or any other rights provided to the Grantee hereunder.

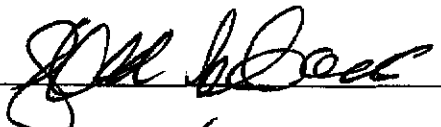
Grantors shall not build or construct, or permit to be built or constructed, any building or other improvement over or across said right-of-way and easement, nor change the contour thereof, without the written consent of Grantee. Pursuant to Utah law, if the property owner places buildings or improvements to land that interfere with the easement rights granted herein, the property owner shall bear the risk of loss or damage to those improvements resulting from the exercise of the easement rights granted herein.

This easement grant shall run with the land and shall be binding upon and inure to the benefit of the Grantors and Grantee and their respective heirs, representatives, successors and assigns.

IN WITNESS WHEREOF, the Grantors have executed this right-of-way and easement this 14th day of April, 2017.

"GRANTORS"

LEGACY CROSSING STORAGE, LLC

By: 

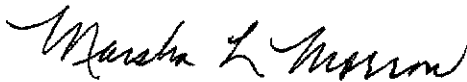
Its: W. Member

TWO BY FOUR, LLC

By: 

Its: W. Member

Accepted for Recordation by Centerville City:



Marsha L. Morrow, City Recorder

4-14-2017

Date

STATE OF UTAH)
COUNTY OF Spencer) ss

 **JEANNINE R TEEL**
NOTARY PUBLIC - STATE OF UTAH
My Comm. Exp. 06/07/2020
Commission # 689461


Notary Public

June 7, 2020

Centerville City

STATE OF UTAH)
COUNTY OF Darwin) :SS

JEANNINE R TEEL
NOTARY PUBLIC - STATE OF UTAH
My Comm. Exp. 06/07/2020
Commission # 689461

Leanne A. Tull
Notary Public

June 7, 2020

Centerville City

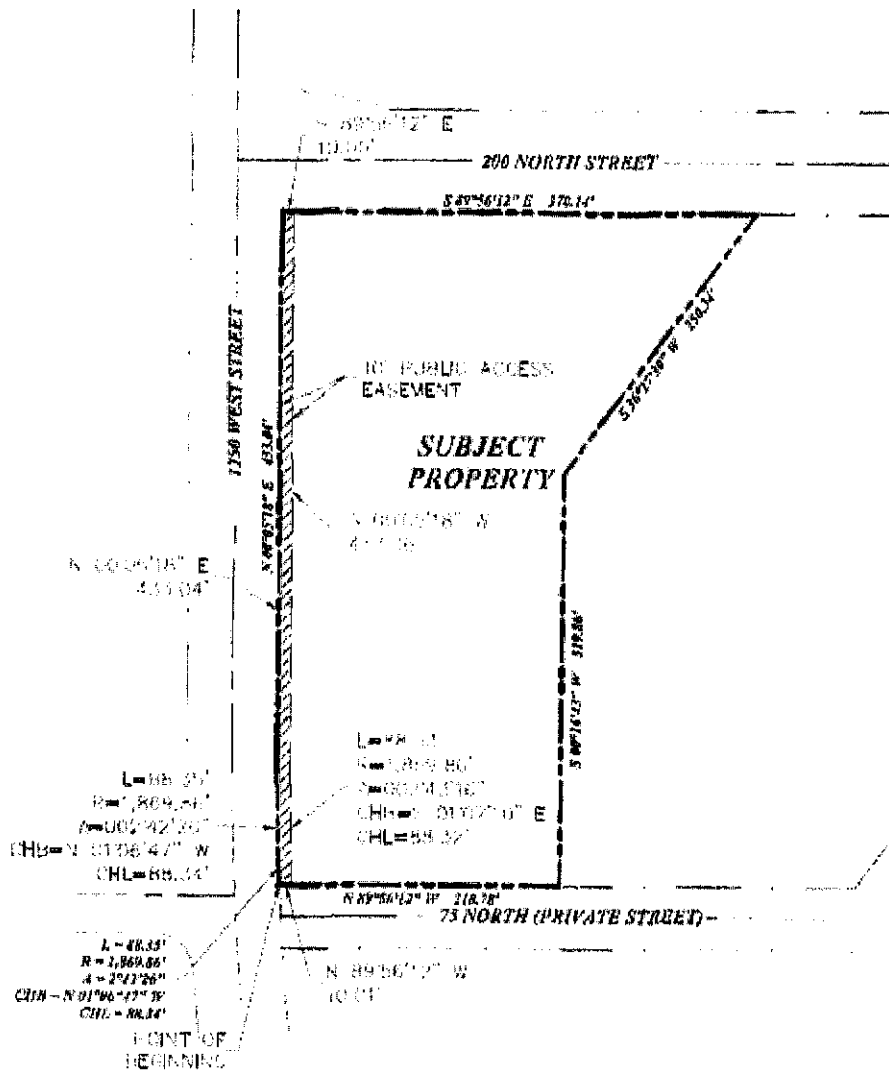
Exhibit A

Legal Description of Sidewalk and Pedestrian Access Easement

A 10 FOOT WIDE EASEMENT ABUTTING 1250 WEST STREET FOR SIDEWALK AND PEDESTRIAN ACCESS ADJOINING THE PUBLIC RIGHT-OF-WAY:

BEGINNING AT A POINT ON THE GRANTOR'S SOUTH PROPERTY LINE, AND ON THE EAST LINE OF 1250 WEST STREET; SAID POINT BEING LOCATED NORTH 0°05'33" WEST ALONG THE SECTION LINE 956.34 FEET, AND NORTH 89°56'12" WEST 1357.06 FEET FROM THE SOUTH EAST CORNER OF SECTION 12, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING ALONG SAID EAST LINE OF 1250 WEST STREET THE FOLLOWING TWO CALLS: 88.35 FEET ALONG THE ARC OF A 1869.86 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 2°42'26", (CHORD BEARS NORTH 1°06'47" WEST 88.34 FEET); NORTH 0°05'18" EAST 433.04 FEET TO THE SOUTH LINE OF 200 NORTH STREET; THENCE SOUTH 89°56'12" EAST ALONG SAID SOUTH LINE OF 200 NORTH STREET 10.00 FEET; THENCE SOUTH 0°05'18" WEST 433.06 FEET; THENCE 88.33 FEET ALONG THE ARC OF A 1859.56 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 2°43'16", (CHORD BEARS SOUTH 1°07'10" EAST 88.32 FEET); THENCE NORTH 89°56'12" WEST 10.01 FEET TO THE EAST LINE OF 1250 WEST STREET AND THE POINT OF BEGINNING.

CONTAINS 0.120 ACRES

PUBLIC ACCESS EASEMENT EXHIBIT

AMENDMENT NO. 1 TO THE
COOPERATIVE AGREEMENT
BETWEEN
THE UTAH DEPARTMENT OF TRANSPORTATION
AND
CENTERVILLE CITY
PROVIDING FOR
MAINTENANCE OF A CONNECTOR TRAIL TO
THE LEGACY PARKWAY TRAIL SYSTEM

THIS AMENDMENT ("Amendment") is made and entered into as of the ____ day of _____, 2017, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, an agency of the State of Utah, hereinafter referred to as "UDOT", and **CENTERVILLE CITY**, a political subdivision of the State of Utah, hereinafter referred to as the "Local Entity."

WITNESSETH:

WHEREAS, UDOT is an agency of the State of Utah and the Local Entity is a public agency located within Davis County, State of Utah, both of which are empowered to own, operate and maintain public trails, trailheads and related structures and facilities for the benefit of the public; and

WHEREAS, UDOT and the Local Entity have previously entered into that certain Cooperative Agreement dated April 21, 2015, providing for maintenance of a connector trail to the Legacy Parkway Trail System as more particularly described therein ("Connector Trail"); and

WHEREAS, the private developer responsible for constructing the Connector Trail to the Legacy Parkway Trail System within the UDOT right of way has requested changes to the decorative fencing design details and locations; and

WHEREAS, UDOT has approved the revised decorative fencing design details and locations for the Connector Trail, as more particularly set forth in **Exhibit 1**, attached hereto and incorporated herein by this reference.

NOW, THEREFORE, in consideration of mutual covenants contained herein, and other good and valuable consideration, the adequacy of which is hereby acknowledged, the parties hereby agree as follows:

1. **AMENDMENT TO DECORATIVE FENCING.** Section 5 of the Cooperative Agreement is hereby amended to read in its entirety as follows:

5. **DECORATIVE FENCING.** A private developer will be installing a 4-5' tall wrought iron and intermittent brick/rock pillar ~~three-rail~~ decorative fencing along the

interior side ~~both sides~~ of the Connector Trail along Parrish Lane as more particularly shown in **Exhibit BA**, one side of which will be in the UDOT right-of-way and the other side of which decorative fencing will be on private property. The private developer will also be installing a 6' tall vinyl coated open chain-link fence with 5"x5" decorative tube poles every 40' ~~three rail decorative fencing~~ along the east side of the Connector Trail along the Legacy Trail Parrish Lane off-ramp as more particularly shown in **Exhibit BA**, which decorative fencing will be on private property. The private developer/property owner of the adjacent property shall be responsible for maintaining the wrought iron and vinyl coated chain-link ~~three rail decorative~~ fencing described herein in accordance with applicable Centerville City Ordinances and specific approvals for the Legacy Trail Apartments planned development zoning, subdivision, and site plans.

2. **FULL FORCE AND EFFECT.** All other terms and conditions of the Cooperative Agreement not modified by this Amendment shall remain in full force and effect and are hereby ratified and affirmed.

3. **SEVERABILITY.** If any portion of this Amendment is held unenforceable or invalid for any reason by a court of competent jurisdiction, the remaining provisions hereof shall continue in full force and effect.

4. **EFFECTIVE DATE.** The effective date of this Amendment shall be upon final execution by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

UTAH DEPARTMENT OF
TRANSPORTATION

By: _____

Its: _____

CENTERVILLE CITY

ATTEST:

Marsha L. Morrow, City Recorder

By: _____
Mayor Paul A. Cutler

Approved as to Form and Legality:

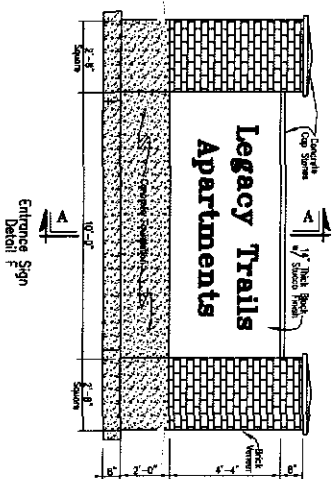
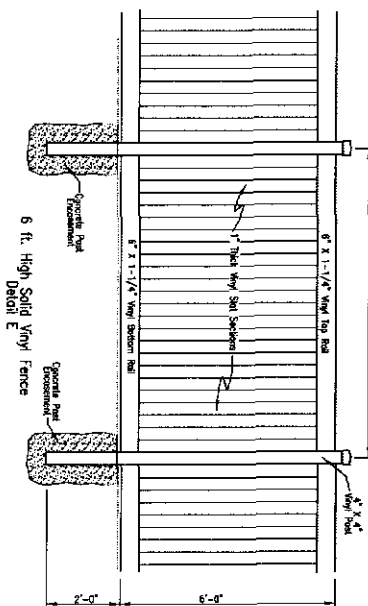
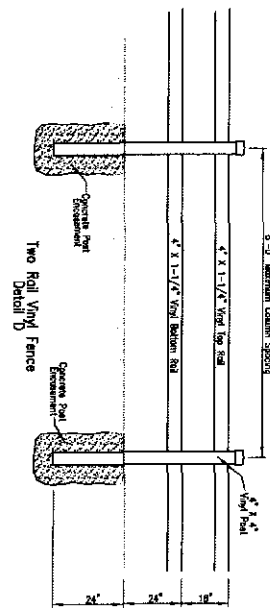
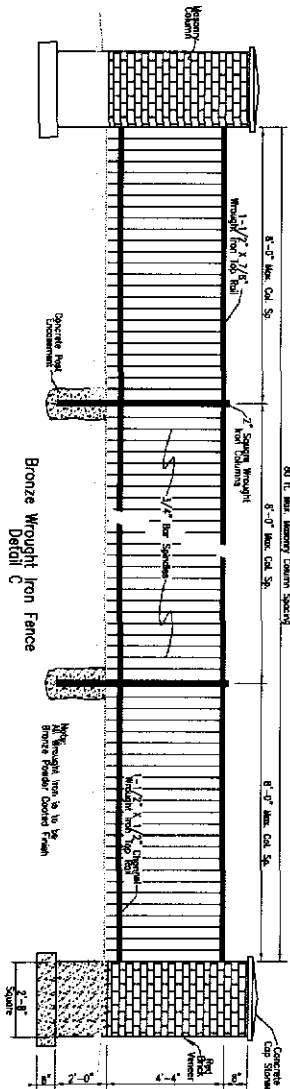
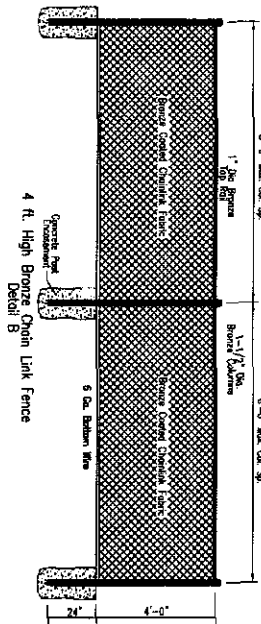
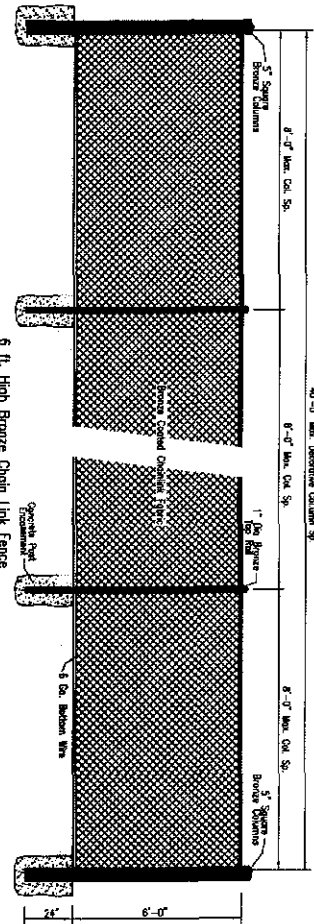
Centerville City Attorney

UDOT Attorney

Exhibit 1 to Amendment

Exhibit B to Cooperative Agreement

Decorative Fencing Detail



C101-B
Sheet 3 of 18

Revisions	By
Surveyor: D.K. Belling	
Date Surveyed: 12-30-13	
Drafting: J. S. Belling	
Checked By: J. S. Belling	
Submittal Date: 03-22-17	
File Number:	

Legacy Trail Apartments
Proposed Fence Details
For Fred Hale
c/o Colonial Lumber
Email: fred@coloniallumber.com
530 No. 400 West
Centerville, Utah
Phone: (801) 298-9471

Balling Engineering
Civil Engineering * Surveying * Planning
323 East Pages Lane
P.O. Box 805
Centerville, Utah 84014
Phone: (801) 295-7237
Fax: (801) 299-0419
Email: scott@ballinginc.com

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No. 3.

Short Title: Public Hearing - Zoning Code Amendment - Church or Place of Worship in I-H Zone

Initiated By: Loren Pankratz, Applicant

Scheduled Time: 7:10

SUBJECT

Consider Zoning Text Amendment to permit churches and places of worship in Industrial-High (I-H) Zone - Ordinance No. 2017-10

RECOMMENDATION

Approve Ordinance No. 2017-10 amending Section 12.36.030 of the Centerville Zoning Code to allow churches or places of worship as a conditional use in the Industrial-High (I-H) Zone.

BACKGROUND

On April 12, 2017, the Planning Commission reviewed and recommended for approval the proposed amendments to the Centerville Zoning Code to allow churches or places of worship as a conditional use in the Industrial-High (I-H) Zone. The Staff Transmittal Report for this application is attached.

ATTACHMENTS:

Description

- ☐ 05-02-17-CC Staff Transmittal Report-Churches
- ☐ Ordinance No. 2017-10 - Churches in I-H Zone
- ☐ PC Staff Report--Zone Text Amendment--Church or Place of Worship in the I-H Zone
- ☐ The Bridge Community Church Submittal

**CENTERVILLE CITY
COMMUNITY DEVELOPMENT DEPARTMENT
655 North 1250 West, Centerville, Utah 84014
(801) 292-8232**

PLANNING COMMISSION TRANSMITTAL REPORT

APPLICANT: LOREN PANKRATZ
THE BRIDGE COMMUNITY CHURCH
P.O.BOX 504
CENTERVILLE, UTAH 84014
(loren@thebridgeutah.org)

APPLICATION: ZONING ORDINANCE TEXT AMENDMENT

APPLICANT REQUEST: AMEND THE ZONING CODE TO ALLOW "CHURCHES
OR PLACE OF WORSHIP" IN THE I-H (INDUSTRIAL-
HIGH) ZONE, AS A PERMITTED USE

PC RECOMMENDATION: PLANNING COMMISSION RECOMMENDS
APPROVAL WITH A MODIFICATION TO A
CONDITIONAL USE PERMIT

BACKGROUND

The petitioner, Mr. Loren Pankratz of the Bridge Community Church, is considering moving their place of worship to a location on the West Centerville area. The area of interest is currently zoned Industrial High (I-H). However, according to Chapter 12.36 (Table of Uses) of the Zoning Ordinance, a "Church or place of worship" is not permitted within the I-H Zones. Therefore, the petitioner is asking the City to reconsider the allowable uses of the I-H Zone to include "Church or place of worship" as a "Permitted" use. In most cases, "Church or place of worship" is allowed upon approval of a Conditional Use Permit, which include the A-L, R-L, R-M, R-H, C-M, C-H and C-VH Zones. Although this use is customarily associated with residential neighborhoods. It is not uncommon for this use to be located in commercial or industrial locations. More particularly, it is seen in metropolitan areas with a high concentration of worshipers needing a large assembly area, often referred to as a "megachurch." Due to parking demand, traffic, emergency services, and other needs such worship facilities may also be better suited to be located in commercial and industrial locations.

SUMMARY OF PLANNING COMMISSION'S ACTIONS, MOTION, AND VOTE

On April 12, 2016, the Planning Commission reviewed the matter, held a public hearing, debated, and then voted to recommend APPROVAL of the proposed Zoning Ordinance Amendment, with a modification, as follows:

“Section 12.36 (Table of Uses Allowed), shall be amended to allow “Church or place of worship” within the Industrial High (I-H) Zone to be allowed as upon approval of a Conditional Use Permit.”

Suggested Reasons for the Action (Findings):

- a. The Planning Commission finds that the “decision to amend the...zoning ordinance is a matter of within the legislative discretion of the City Council as described in Section 12.21.060.a.1.B.
- b. The Planning Commission finds that the Land Use Hierarchy Standards in the General Plan only gives clarity on the classification of a church use intensity, and not what zone is appropriate for a church to be located within.
- c. The Planning Commission further finds that the intensity policy states that such church uses with facilities less than 10,000 square feet are appropriate at “all levels of intensity.”
- d. The Planning Commission finds that Section 12-480-6 (West Centerville Neighborhood) lists a goal to “Enhance the Business Park District,” which is predominately comprised of the I-H Zoning District.
- e. The Planning Commission further finds that Objective 1.H of the same Goal states a desire to limit lands uses to light manufacturing, office, professional service, and specialty retail type uses.
- f. The Planning Commission also finds that the other listed allowable uses of the I-H Zone, which include vocational schools and other personal instruction uses. Therefore, a church use is compatible due to its primary focus in providing a place of worship for personal instruction and edification.
- g. The Planning Commission finds that although the General Plan uses an “level of intensity” measurement, it appears that the Zoning Ordinance does not make a distinction between worship facilities above or below the 10,000 square feet measurement.
- h. The Planning Commission finds that a church or place of worship is predominately currently listed as a Conditional Use within the A-L, R-L, R-M, R-H, C-M, C-H and C-VH Zones.
- i. The Planning Commission finds that it appears that the Zoning Ordinance chooses to use the Conditional Use Permit process to allow a level of scrutiny to mitigate any potential conflicts or excess burdens on a case by case basis.
- j. The Planning Commission further finds that the maximum size building for the I-H Zone is 50,000 square feet. Therefore, a worship facility at this size may have need of mitigating some impacts such as traffic, parking, or other such matters.
- k. Therefore, the Planning Commission finds favor in recommending a text change. However, the recommendation is to modify the petition in support of using the Conditional Use Permit approval process.

Planning Commission Vote (6-0):

Commissioner	Yes	No	Not Present
Hirschi (Chair)			X
Hirst	X		
Johnson	X		

Daley	X		
Hayman	X		
Wright	X		

LIST OF PREVIOUS PLANNING COMMISSION MEETINGS

➤ APRIL 12, 2016 Planning Commission Meeting

ORDINANCE NO. 2017-10

AN ORDINANCE AMENDING SECTION 12.36.030 OF THE CENTERVILLE ZONING CODE TO ALLOW CHURCH OR PLACE OF WORSHIP AS A CONDITIONAL USE IN THE INDUSTRIAL-HIGH (I-H) ZONE

WHEREAS, an applicant requested amendments to the Zoning Code to allow church or place of worship as a permitted use in the Industrial-High (I-H) Zone; and

WHEREAS, the proposed amendments to the Zoning Code to allow church or place of worship as a permitted use in Industrial-High (I-H) Zone were reviewed and revised by the Planning Commission with a positive recommendation to allow such use as a conditional use in the Industrial-High (I-H) Zone; and

WHEREAS, City Council has determined that the proposed amendments to the Zoning Code to allow a church or place of worship as a conditional use in the Industrial-High (I-H) Zone are in the best interest of the City and the public to encourage additional uses within the area; and

WHEREAS, the proposed amendments to the Zoning Code as set forth herein have been reviewed by the Planning Commission and the City Council and all appropriate public notices have been provided and appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed revisions to the Zoning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Amendment. Section 12.36.030 of the Centerville Zoning Code regarding Table of Uses for Public and Civic Uses is hereby amended to allow church or place of worship as a conditional use in the Industrial-High (I-H) Zone as more particularly provided as follows:

12.36.030 Table of Uses for Public and Civic Uses

Legend: "P" - permitted use, "C" - conditional use, "N" - not permitted

Public and Civic Uses	Zones														
	A-L	A-M	R-L	R-M	R-H	PF-L	PF-M	PF-H	PF-VH	C-M	C-H	C-VH	I-M	I-H	I-VH
Church or Place of Worship	C	N	C	C	C	N	N	N	N	C	C	C	N	C	N

* * *

Section 2. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

Section 3. Omission Not a Waiver. The omission to specify or enumerate in this ordinance those provisions of general law applicable to all cities shall not be construed as a waiver of the benefits of any such provisions.

Section 4. Effective Date. This Ordinance shall become effective immediately upon publication or posting, or thirty (30) days after passage, whichever occurs first.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF CENTERVILLE CITY,
STATE OF UTAH, ON THIS _____ DAY OF MAY, 2017.**

ATTEST:

CENTERVILLE CITY

Marsha L. Morrow, City Recorder

By: _____
Mayor Paul A. Cutler

Voting by the City Council:

	"AYE"	"NAY"
Councilmember Fillmore	_____	_____
Councilmember Ince	_____	_____
Councilmember Ivie	_____	_____
Councilmember McEwan	_____	_____
Councilmember Mecham	_____	_____

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provisions of the U.C.A. § 10-3-713, as amended, I, the municipal recorder of Centerville City, hereby certify that foregoing ordinance was duly passed by the City Council and published, or posted at: (1) 250 North Main; (2) 655 North 1250 West; and (3) RB's Gas Station, on the foregoing referenced dates.

MARSHA L. MORROW, City Recorder

DATE: _____

RECORDED this ____ day of _____, 2017.

PUBLISHED OR POSTED this ____ of _____, 2017.

**CENTERVILLE CITY
COMMUNITY DEVELOPMENT DEPARTMENT
655 North 1250 West, Centerville, Utah 84014
(801) 292-8232**

**STAFF REPORT
AGENDA: ITEM 4**

APPLICANT: LOREN PANKRATZ
THE BRIDGE COMMUNITY CHURCH
P.O.BOX 504
CENTERVILLE, UTAH 84014
(loren@thebridgeutah.org)

APPLICATION: ZONING ORDINANCE TEXT AMENDMENT

APPLICANT REQUEST: AMEND THE ZONING CODE TO ALLOW “CHURCHES OR PLACE OF WORSHIP” IN THE I-H (INDUSTRIAL-HIGH) ZONE, AS A PERMITTED USE

RECOMMENDATION: CONSIDER RECOMMENDING THE PROPOSED CHANGE, BUT MODIFY THE PETITION TO ALLOW THE USE UPON APPROVAL OF A CONDITIONAL USE PERMIT

BACKGROUND

The petitioner, Mr. Loren Pankratz of the Bridge Community Church, is considering moving their place of worship to a location on the West Centerville area. The area of interest is currently zoned Industrial High (I-H). However, according to Chapter 12.36 (Table of Uses) of the Zoning Ordinance, a “Church or place of worship” is not permitted within the I-H Zones. Therefore, the petitioner is asking the City to reconsider the allowable uses of the I-H Zone to include “Church or place of worship” as a “Permitted” use. In most cases, “Church or place of worship” is allowed upon approval of a Conditional Use Permit, which include the A-L, R-L, R-M, R-H, C-M, C-H and C-VH Zones. Although this use is customarily associated with residential neighborhoods. It is not uncommon for this use to be located in commercial or industrial locations. More particularly, it is seen in metropolitan areas with a high concentration of worshipers needing a large assembly area, often referred to as a “megachurch.” Due to parking demand, traffic, emergency services, and other needs such worship facilities are better suited to be located in commercial and industrial locations.

TEXT AMENDMENT REVIEW AND ANALYSIS (12.21.080.e)

Zone Map Amendments - Pursuant to the City’s Zoning Ordinance, the “decision to amend the...zoning ordinance is a matter of within the legislative discretion of the City Council as described in Section 12.21.060.a.1.B. Additionally, Section 12.21.80.e. lists one (1) criterion

for considering a text amendment petition. The following is a summary of staff's review of the matter:

1. Is the proposed text or map amendment consistent with the goals, objectives and policies of the City's General Plan?

- **Staff Response:** The only reference found in the General Plan in regards to churches can be found in Section 12-480-5, Neighborhood 4, Northwest, Land Use Hierarchy Standards. This reference only gives clarity on the classification of the use intensity, and not what zone is appropriate for a church to be located within. Nonetheless, it states that such uses with facilities less than 10,000 square feet are appropriate at "all level of intensity." Thus, the request to allow this use in the I-H Zone could be deemed consistent with the intensity expectations of the City's General Plan.

Nevertheless, Section 12-480-6 (West Centerville Neighborhood) lists a goal to "Enhance the Business Park District." Objective I.H states a desire to limit lands uses to light manufacturing, office, professional service, and specialty retail type uses. Thus, the matter at hand is to determine if a "church or place of worship" use is consistent with the desired objective. It is staff's perspective that an objective is subordinate to the stated main goal. Does allowing a "Church" use sustain and support the original goal? It is the position of staff that the other listed allowable uses of the I-H Zone, which include vocational schools and other personal instruction uses, a church use is compatible due to its primary focus in providing a place of worship for personal instruction and edification. Couple this with the idea that "intensity" category for churches less than 10,000 square feet is considered "intensity appropriate" at all levels, the allowance of the petitioner's request could be deemed consistent with the City's General Plan.

ADDITIONAL REVIEW CONSIDERATIONS

As indicated earlier, Churches are allowed upon approval of a Conditional Use Permit in most zones, which includes the A-L, R-L, R-M, R-H, C-M, C-H and C-VH Zones. Although the General Plan uses an "level of intensity" measurement, it appears that the Zoning Ordinance does not make a distinction between worship facilities above or below the 10,000 square feet measurement. Regardless of the proposed size, the Zoning Ordinance chooses to use the Conditional Use Permit process to allow a level of scrutiny to mitigate any potential conflicts or excess burdens on a case by case basis. Thus, the Planning Commission will need to decide if the petitioner's request for a "permitted allowance" is appropriate for the areas of the City that are I-H Zoned. Keep in mind that the maximum size building for the I-H Zone is 50,000 square feet. A worship facility at this size may have need of mitigating some impacts such as traffic, parking, or other such matters. Therefore, it Commission finds favor recommending a text change, it may be appropriate to consider modifying the petition in support of using the Conditional Use Permit approval process.

PLANNING STAFF RECOMENDATION

Suggested Motion for an amendment to the Centerville City Zoning Ordinance in regards to Chapter 12-36 – Tables of Uses Allowed – I hereby make a motion for the Planning

Commission to recommend to the City Council, the following amendment to the Centerville City Zoning Ordinance:

Section 12.36 (Table of Uses Allowed), shall be amended to allow "Church or place of worship" within the Industrial High (I-H) Zone to be allowed as upon approval of a Conditional Use Permit.

Suggested Reasons for the Action (Findings):

- a. The Planning Commission finds that the "decision to amend the...zoning ordinance is a matter of within the legislative discretion of the City Council as described in Section 12.21.060.a.1.B.
- b. The Planning Commission finds that the Land Use Hierarchy Standards in the General Plan only gives clarity on the classification of a church use intensity, and not what zone is appropriate for a church to be located within.
- c. The Planning Commission further finds that the intensity policy states that such church uses with facilities less than 10,000 square feet are appropriate at "all levels of intensity."
- d. The Planning Commission finds that Section 12-480-6 (West Centerville Neighborhood) lists a goal to "Enhance the Business Park District," which is predominately comprised of the I-H Zoning District.
- e. The Planning Commission further finds that Objective I.H of the same Goal states a desire to limit lands uses to light manufacturing, office, professional service, and specialty retail type uses.
- f. The Planning Commission also finds that the other listed allowable uses of the I-H Zone, which include vocational schools and other personal instruction uses. Therefore, a church use is compatible due to its primary focus in providing a place of worship for personal instruction and edification.
- g. The Planning Commission finds that although the General Plan uses an "level of intensity" measurement, it appears that the Zoning Ordinance does not make a distinction between worship facilities above or below the 10,000 square feet measurement.
- h. The Planning Commission finds that a church or place of worship is predominately currently listed as a Conditional Use within the A-L, R-L, R-M, R-H, C-M, C-H and C-VH Zones.
- i. The Planning Commission finds that it appears that the Zoning Ordinance chooses to use the Conditional Use Permit process to allow a level of scrutiny to mitigate any potential conflicts or excess burdens on a case by case basis.
- j. The Planning Commission further finds that the maximum size building for the I-H Zone is 50,000 square feet. Therefore, a worship facility at this size may have need of mitigating some impacts such as traffic, parking, or other such matters.
- k. Therefore, the Planning Commission finds favor in recommending a text change. However, the recommendation is to modify the petition in support of using the Conditional Use Permit approval process.



March 15th, 2017

Centerville City Planning Commission
655 N 1250 W
Centerville, UT 84014

To whom it may concern:

The Bridge Community is a non-denominational Christian church that has been a part of the Centerville community since 2011. Over the past six years we have met in several locations in the city and hope to purchase property and a facility here in Centerville. We've found several locations that would serve our church needs very well located in industrial high intensity zones (I-H). The current city table of uses for public and civic use (12.36.030) lists "Church or place of worship" as not permitted (N) in I-H zones. The current zone requirements may reflect a neighborhood model of church and not all churches embrace this model. Our church, for example, sees itself as serving the broader South Davis community and so does not need to be attached to a residential area. Indeed, the past two spaces our church has utilized for worship have been non-traditional places of worship (Davis Arts Building, and a commercial property on Pages Lane). **We petition Centerville city to change "churches and places of worship" from not permitted (N) to permitted (P) on the Table of uses for Public and Civic Use in I-H zones (12.36.030).** Below you will find a brief list of reasons to review when considering this request:

- Wasatch Front cities have already permitted churches to use industrial zones as sites for places of worship (e.g., Draper, West Jordan).
- Churches typically operate on different schedules and have different peak use times than other businesses located in Industrial zones. This means that when a church occupies space in an industrial park there is one less business using up parking and clogging streets around the other facilities during regular business hours.
- Churches often have larger sized groups of people coming and leaving at the same time and so churches may actually fit better in an industrial zone rather than in a residential area.
- Industrial zones may be occupied by larger manufacturing businesses and enabling churches to occupy that space keeps the area cleaner and quieter.
- Currently, the city permits vocational schools (P) and reception centers (C) to operate in I-H zones. Permitting these secular uses for public assembly seems to indicate the city is not adverse to public gatherings in Industrial zones and so may be willing to permit churches to use these spaces.

Yours,

Loren Pankratz
Pastor of The Bridge Community

Reach Teach Grow Go

CENTERVILLE

Staff Backup Report 5/2/2017

Item No. 4

Short Title: Revocable Encroachment License and Maintenance Agreement - 170 West - Bleaks and Goodfellow-Tullius Trust

Initiated By: Terry and Selene Bleak and Goodfellow-Tullius Trust

Scheduled Time: 7:20

SUBJECT

Consider Revocable Encroachment License and Maintenance Agreement between the Bleaks, Goodfellow-Tullius Trust, and Centerville City for a temporary turn-around and access at the end of 170 West

RECOMMENDATION

Approve Revocable Encroachment License and Maintenance Agreement between the Bleaks, Goodfellow-Tullius Trust, and Centerville City for a temporary turn-around and access at the end of 170 West.

BACKGROUND

The Bleaks and Goodfellow-Tullius recently purchased a portion of the Holbrook property behind their existing lots located at 149 West 1850 North and 215 West 1850 North, respectively. The purchased property has been combined with their existing lots as required by City ordinance to avoid the creation of an additional lot or a remnant parcel. The Bleaks have applied for and desire to construct a garage on this newly acquired portion of their property. Access to the back portion of the Bleak lot (as well as the Goodfellow-Tullius lot) from the legal lot frontage on 1850 North is difficult. Therefore, the Bleaks and Goodfellow-Tullius have requested access to the back portion of their properties from the end of the stub portion of 170 West. The end of 170 West is currently a stub road with no temporary turn-around or any public improvements beyond the end of the right-of-way which terminates at the mutual boundary line between the Bleaks and Goodfellow-Tullius properties. The City does not usually allow access off the stub end of a City street. City staff is willing to recommend approval of such requested access in this limited circumstance subject to the terms and conditions of the attached Revocable Encroachment License and Maintenance Agreement. Pursuant to this Agreement, the Bleaks and Goodfellow-Tullius must dedicate an 80' diameter temporary right-of-way and turn-around easement at the end of 170 West over and across their properties (in accordance with CMC 15.05.030). In exchange for the turn-around easement, the City will grant the Bleaks and Goodfellow-Tullius a non-exclusive revocable encroachment license and permit to install and maintain certain driveway and related improvements within the turn-around easement area. The right-of-access granted under the proposed Revocable Encroachment Agreement is limited to the property owners and their guests or invitees, but not other property owners or third parties. Such use is also limited to accessory residential uses and may not be used for access to a dwelling unit or any type of commercial activity.

Staff acknowledges this is a novel and unique way to permit access off the end of a stub street. In general such access off a stub street is not permitted or preferred for a myriad of reasons. However, entering into this agreement to allow for legal access with strict restrictions and limitations appears to be a better solution than the number of illegal accesses that exist off of stub streets throughout the City.

ATTACHMENTS:**Description**

- ▢ Revocable Encroachment Agreement - Bleaks Goodfellow-Tullius
- ▢ Revocable Encroachment Agreement - Exhibit E - Site Plan

When Recorded, Mail To:

Centerville City
Attn: City Recorder
250 North Main
Centerville, Utah 84014

Affected Parcel Number(s): 07-139-0031 and 07-139-0032

**REVOCABLE ENCROACHMENT LICENSE
AND MAINTENANCE AGREEMENT**

THIS REVOCABLE ENCROACHMENT LICENSE AND MAINTENANCE AGREEMENT ("Agreement") is made and entered into this _____ day of May, 2017, by and between **CENTERVILLE CITY**, a Utah municipal corporation ("City"), and **TERRY GRANT BLEAK and JANA SELENE BLEAK**, husband and wife as joint tenants ("Bleaks"), and **KATHRYN A. GOODFELLOW and MARY L. TULLIUS, OR SUCCESSORS, AS TRUSTEES of THE GOODFELLOW TULLIUS LIVING TRUST, DATED AUGUST 29, 2016** ("Goodfellow-Tullius"). The Bleaks and Goodfellow-Tullius may be collectively referred to herein as "Property Owners."

RECITALS

WHEREAS, the Bleaks own certain real property located at 149 West 1850 North, Centerville, Utah, consisting of approximately 0.621 acres, as more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference ("Bleak Property"); and

WHEREAS, Goodfellow-Tullius own certain property located at 215 West 1850 North, Centerville, Utah, consisting of approximately 0.917 acres, as more particularly described **Exhibit B** attached hereto and incorporated herein by reference ("Goodfellow-Tullius Property"); and

WHEREAS, the City owns that certain right-of-way known as 170 West, which road is a currently a stub road with no temporary turn-around or any public improvements beyond the end of the right-of-way which terminates at the mutual boundary line between the Bleak Property and the Goodfellow-Tullius Property as more particularly set forth in **Exhibit C**, attached hereto and incorporated hereby by reference ("170 West"); and

WHEREAS, the Property Owners desire to access the back portion of their properties from the end of the stub portion of 170 West; and

WHEREAS, the City is willing to allow the Property Owners limited access to the back portion of their properties from 170 West subject to the terms and conditions of this Agreement, including the dedication of a temporary public right-of-way and turn-around easement at the end of 170 West as required by City Ordinance.

NOW, THEREFORE, in consideration of the mutual agreements, covenants, restrictions and/or grants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Dedication of Turn-Around Easement.** The Property Owners shall grant to the City a temporary public right-of-way and turn-around easement over and across their respective properties ("Turn-Around Easement"). The Turn-Around Easement shall be a minimum of 80 feet in diameter. The Turn-Around Easement shall be in a form acceptable to the City and must be accepted by the City Council and recorded against the subject properties prior to issuance of any encroachment or building permit for any development activity on the subject properties. The location and description of the Turn-Around Easement shall be in substantially the same form as set forth in **Exhibit D**, attached hereto and incorporated by reference.

2. **Grant of Revocable Encroachment License.** Subject to the terms and conditions of this Agreement, the City hereby grants to the Property Owners a non-exclusive revocable encroachment license and permission to install, construct, maintain, repair, and inspect driveway and related improvements over, across and within the Turn-Around Easement. The Property Owners are further granted the authority to connect such driveway improvements to the end of 170 West in accordance with the construction drawings and specifications described in Section 3. Prior to any work within the public right-of-way or the Turn-Around Easement, the Property Owners shall be required to obtain an Excavation Permit from the City in accordance with City Ordinances. All improvements and construction within the public right-of-way and Turn-Around Easement shall comply with applicable provisions of City Ordinances. No other improvements, buildings, or structures shall be permitted within the Turn-Around Easement or any other portion of the public right-of-way. In addition to the City's revocable encroachment license to install and use the driveway improvements, the Property Owners each hereby grant the other a cross-access easement over and across their respective properties for the purpose of using the driveway improvements and for exercising the non-exclusive revocable license granted herein.

3. **Driveway Improvements.** The driveway and related improvements shall be installed, constructed, maintained and repaired by the Property Owners in strict accordance with the construction drawings approved by the City for such improvements as set forth in **Exhibit E**, attached hereto and incorporated by reference ("Driveway Improvements"). The Driveway Improvements shall comply with applicable Site Plan approvals by the City for the construction of accessory structures or other development on the subject properties. The Driveway Improvements shall be constructed and maintained with an all-weather surface and shall include the construction and maintenance of improvements on the adjacent subject properties as necessary to prohibit tracking of dirt, mud and other debris onto public rights-of-way. The Driveway Improvements shall not exceed 25 feet in width. The Driveway Improvements shall be installed and constructed within one year from the date of recording of this Agreement or this Agreement shall be null and void.

4. **Fence or Gate.** The Property Owners may construct a fence or gate across the Driveway Improvements or other fencing within the Turn-Around Easement area upon written approval of the Public Works Director and submittal and approval of applicable construction drawings. Once approved and constructed, any such fencing or gate shall be considered part of the Driveway Improvements and shall be subject to all the limitations, terms and conditions of this Agreement.

5. **Landscaping.** The Property Owners may install landscaping and irrigation improvements within the Turn-Around Easement area upon written approval of the Public Works Director and submittal and approval of applicable landscape drawings. Once approved and constructed, such landscaping and irrigation improvements shall be considered part of the Driveway Improvements and shall be subject to all the limitations, terms and conditions of this Agreement. For purposes of this Agreement landscaping improvements may include lawn and shrubs, but shall not include any trees within the Turn-Around Easement area.

6. **Limitations on Access and Use.** Any use of the Turn-Around Easement and connection to 170 West shall be consistent with and limited to the express purposes set forth herein for the Driveway Improvements and consistent with the residential character of the subject properties and neighborhood. Access to and use of the Driveway Improvements shall be limited to the use of such improvements by the Property Owners, including their guests and invitees, but not including adjacent property owners or other third parties. Access to and use of the Driveway Improvements shall be limited to residential use and access to the back portion of the subject properties for accessory structures and uses incidental to residential uses. Access to and use of the Driveway Improvements shall be prohibited for any type of commercial use, including home occupations or even parking or storage of commercial equipment or activities. The Turn-Around Easement and rights provided herein for access and improvements therein shall in no way constitute or provide legal access to any dwelling unit and shall not constitute or provide legal frontage for the subject properties until and unless all required public improvements are installed, such as asphalt, curb, gutter, sidewalk, etc.

7. **Fees and Costs.** The Property Owners shall pay for all costs associated with the installation, construction, maintenance, repair and inspection of the Driveway Improvements. Prior to issuance of any encroachment or building permit for any improvements or development on the subject properties, the Property Owners shall pay all required application, development, permit and impact fees associated with such development.

8. **Snow Storage.** During regular snow plow operations, it is the City's current practice to push snow from 170 West to the end of the stub street. The City reserves the right to continue this practice of pushing and storing snow at the end of the public improvements for 170 West stub street. When convenient, the City may try to push the snow to the sides of the access to the Driveway Improvements, but nothing herein requires the City to do so. Any snow removal needed to access the Driveway Improvements at the end of the public improvements for 170 West shall be the responsibility of the Property Owners.

9. **Temporary Construction Easement.** The City hereby grants to the Property Owners a temporary, non-exclusive construction easement to facilitate the construction of the Driveway Improvements. This temporary construction easement shall expire upon the completion of the Driveway Improvements or one year from the date of recording this Agreement, whichever occurs first.

10. **Restoration.** Upon completion of the Driveway Improvements, or after any maintenance, repair or inspection of the Driveway Improvements, the Property Owners shall restore any City property, including the Turn-Around Easement, or adjacent properties impacted by the improvements to as good a condition as existed prior to the installation of the Driveway Improvements, to the extent reasonably possible.

11. No Other Improvements. Except as otherwise approved herein for the Driveway Improvements, including fencing, gates, and landscaping improvements permitted herein, the Property Owners shall not install any landscaping or erect any fencing, building or other structure, or make any other improvements within the Turn-Around Easement or within the public right-of-way. In no event may any improvements within the Easement compromise the functioning, stability and integrity of 170 West and the public improvements therein or within the Turn-Around Easement. The Property Owners' use of the Turn-Around Easement and connection to 170 West shall not interfere with the City's use and enjoyment of the public right-of-way and public improvements therein.

12. Maintenance and Repair. The Property Owners shall perform all maintenance and inspection of the Driveway Improvements within the Turn-Around Easement. The Property Owners shall maintain the Driveway Improvements in good, clean and stable condition in accordance with all applicable construction, zoning, building, or other City Ordinances, regulations and codes. Maintenance and inspection of the Driveway Improvements shall be at the sole expense of the Property Owners. The Property Owners shall conduct and cause all of its activities hereunder to be performed in a safe manner and shall not cause to exist any dangerous or unsightly condition within the public right-of-way or Turn-Around Easement. The Property Owners shall, upon written notice from the City, repair any damage caused to the Driveway Improvements or to the public right-of-way as a result of the Property Owners' use of the Turn-Around Easement. The Property Owners shall be joint and severally liable and responsible for the maintenance and inspection of the Driveway Improvements and the City reserves the right to pursue action, claim, enforcement or remedy for breach of this Agreement from either or both parties.

13. Indemnification. The Property Owners agree to indemnify, hold harmless and defend the City, its agents and employees, from all claims, mechanics liens, demands, damages, actions, costs and charges, including attorney's fees, arising out of or by any reason of Property Owners' use of the public right-of-way or Turn-Around Easement or any activities conducted thereon by the Property Owners and their agents, invitees and trespassers. The City shall have no duty to inspect the Driveway Improvements and shall have no duty to warn any person of any latent or patent defect, condition or risk that may exist on within the Turn-Around Easement or that might be incurred in the exercise of the rights granted herein.

14. Liens. The Property Owners shall keep the Turn-Around Easement area free from any liens arising out of any work performed, materials furnished, or obligations incurred by or for the Property Owners and shall indemnify, hold harmless and agree to defend the City from any liens that may be placed on the Turn-Around Easement area pertaining to any work performed, materials furnished or obligations incurred by or for the Property Owners.

15. Binding Agreement. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, representatives, employees, assigns, agents, invitees, and successors in interest.

16. Run with the Land. This Agreement and the limitations, conditions and obligations set forth herein shall inhere to and run with the subject properties and shall not be assigned, sold, leased or otherwise transferred in any way separate from the subject properties.

17. **No Waiver.** No delay or omission of the right to exercise any power or remedy by either party shall impair any such right, power or remedy or be construed as a waiver of any default or non-performance or as acquiescence therein. Any waiver of any breach of this Agreement, or the failure to perform any covenant, representation or warranty contained herein, shall not operate as or be deemed to be a further or continuing waiver of such default or any other default, nor shall any failure at any time to enforce or require performance of any provision of this Agreement operate as a waiver of or affect in any manner such party's right at a later time to enforce or require performance of any such provision. Any waiver of a default must be in writing.

18. **Authority.** The individuals who execute this Agreement represent and warrant that they are duly authorized to execute this Agreement on behalf of City and the Property Owners, as the case may be, that the parties named are all the necessary and proper parties, and that no other signature, act or authorization is necessary to bind such parties to the provisions of this Agreement.

19. **Not a Partnership/No Third Party Beneficiaries.** In assuming and performing the obligations of this Agreement, the City and Property Owners are each acting as independent parties and neither shall be considered or represent itself as a joint venture, partner, agent, or employee of the other. There is no intent by either party to create or establish third party beneficiary status or rights in any third party, and no such third party shall have any right to enforce any right or enjoy any benefit created or established under this Agreement.

20. **Entire Agreement.** This Agreement, together with the Exhibits incorporated herein by reference, constitutes the final expression of the parties regarding the matters discussed herein and is a complete and exclusive statement of the terms of that agreement. This Agreement supersedes all prior or contemporaneous negotiations, discussions and understandings between the parties, whether oral or written or otherwise, all of which are of no further effect. This Agreement may not be changed, modified or supplemented except in writing signed by the parties hereto.

21. **Termination.** The City reserves the right to terminate this Agreement and the revocable encroachment license granted herein at any time upon 180 days' written notice of termination to the Property Owners. Notwithstanding the foregoing, the City may terminate the encroachment license and access immediately without notice if: (1) the Property Owners fail to comply with or abide by the terms and conditions of this Agreement; or (2) if the continued use of the encroachment license and access presents a health or safety hazard. Upon termination of this Agreement, at the City's request, the Property Owners shall be responsible to remove the Driveway Improvements and any other improvements within the Turn-Around Easement within 30 days from the effective date of revocation. If the Property Owners fail to remove the Driveway Improvements and any other improvements within the required 30 day period, the City may have such improvements removed and the cost for removal assessed to the Property Owners. Upon termination of the Agreement, the City may cause to be recorded against the subject properties a written Notice of Termination. Upon termination, the Property Owners shall not be entitled to any compensation or reimbursement for costs or expenses incurred in anyway related to the Driveway Improvements nor any monetary damages of any kind whatsoever.

22. **Notices.** Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party.

23. **Attorney's Fees.** The parties herein each agree that should they default in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including reasonable attorney's fees which may arise or accrue from enforcing this Agreement, or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of Utah, whether such remedy is pursued by filing suit or otherwise, and whether such costs and expenses are incurred with or without suit or before or after judgment. In the event of any lawsuit between the parties hereto arising out of or related to this Agreement, or any of the documents provided for herein, the prevailing party or parties shall be entitled in addition to the remedies and damages, if any, awarded in such proceeding, to recover their costs and reasonable attorney's fees.

24. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement individually or by and through their respective, duly authorized representatives as of the day and year first above written.

**TERRY GRANT BLEAK AND
JANA SELENE BLEAK**

By: _____
Terry Grant Bleak

By: _____
Jana Selene Bleak

**KATHRYN A. GOODFELLOW and MARY L.
TULLIUS, OR SUCCESSORS, AS TRUSTEES
of THE GOODFELLOW TULLIUS LIVING
TRUST, DATED AUGUST 29, 2016**

By: _____
Kathryn A. Goodfellow, Trustee

By: _____
Mary L. Tullius, Trustee

ATTEST:

CENTERVILLE CITY

Marsha Morrow, City Recorder

By: _____
Mayor Paul A. Cutler

CITY ACKNOWLEDGMENT

STATE OF UTAH)
 :ss.
COUNTY OF DAVIS)

On the _____ day of May, 2017, personally appeared before me **PAUL A. CUTLER**, who being duly sworn, did say that he is the Mayor of **CENTERVILLE CITY**, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said Paul A. Cutler acknowledged to me that the City executed the same.

Notary Public

My Commission Expires:

Residing at:

STATE OF UTAH)
)
) ss.
COUNTY OF DAVIS)

Notary Public

Residing at:

STATE OF UTAH)
)
) ss.
COUNTY OF DAVIS)

Notary Public

Residing at:

EXHIBIT A

LEGAL DESCRIPTION OF BLEAK PROPERTY

All of the property known on the Davis County, Utah, records as Parcel No. 07-139-0031, located at approximately 149 West 1850 North, in Centerville, Utah, consisting of approximately 0.621 acres of property and more particularly described as follows:

ALL OF LOT 20, FRANCE ESTATES SUBDIVISION, A SUBDIVISION OF PART OF SECTION 31, TOWNSHIP 3 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN, IN THE CITY OF CENTERVILLE, ACCORDING TO THE OFFICIAL PLAT THEREOF.

IN ADDITION TO,

BEGINNING AT THE SOUTHEAST CORNER OF LOT 20, FRANCE ESTATES SUBDIVISION BEING PART OF THE SOUTH HALF OF SECTION 31, TOWNSHIP 3 NORTH, RANGE 1 EAST SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY, UTAH AND RUNNING THENCE SOUTH00°32'27"WEST 145.66 FEET; THENCE NORTH90°00'00"WEST 117.00 FEET; THENCE NORTH00°32'27"EAST 145.67 FEET; THENCE SOUTH89°59'30"EAST 117.00 FEET TO THE POINT OF BEGINNING.

EXHBIT B

LEGAL DESCRIPTION OF GOODFELLOW-TULLIUS PROPERTY

All of the property known on the Davis County, Utah, records as Parcel No. 07-139-0032, located at approximately 215 West 1850 North, in Centerville, Utah, consisting of approximately 0.917 acres of property and more particularly described as follows:

ALL OF LOT 22, FRANCE ESTATES SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, ON FILE AND OF RECORD IN THE DAVIS COUNTY RECORDER'S OFFICE.

IN ADDITION TO,

BEGINNING AT THE SOUTHWEST CORNER OF LOT 22, FRANCE ESTATES SUBDIVISION BEING PART OF THE SOUTH HALF OF SECTION 31, TOWNSHIP 3 NORTH, RANGE 1 EAST SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY, UTAH AND RUNNING THENCE SOUTH89°59'30"EAST 205.50 FEET; THENCE SOUTH00°32'27"WEST 145.67 FEET; THENCE NORTH90°00'00"WEST 205.50 FEET; THENCE NORTH00°32'27"EAST 145.70 FEET TO THE POINT OF BEGINNING.

EXHIBIT C

DIAGRAM OF 170 WEST TERMINUS

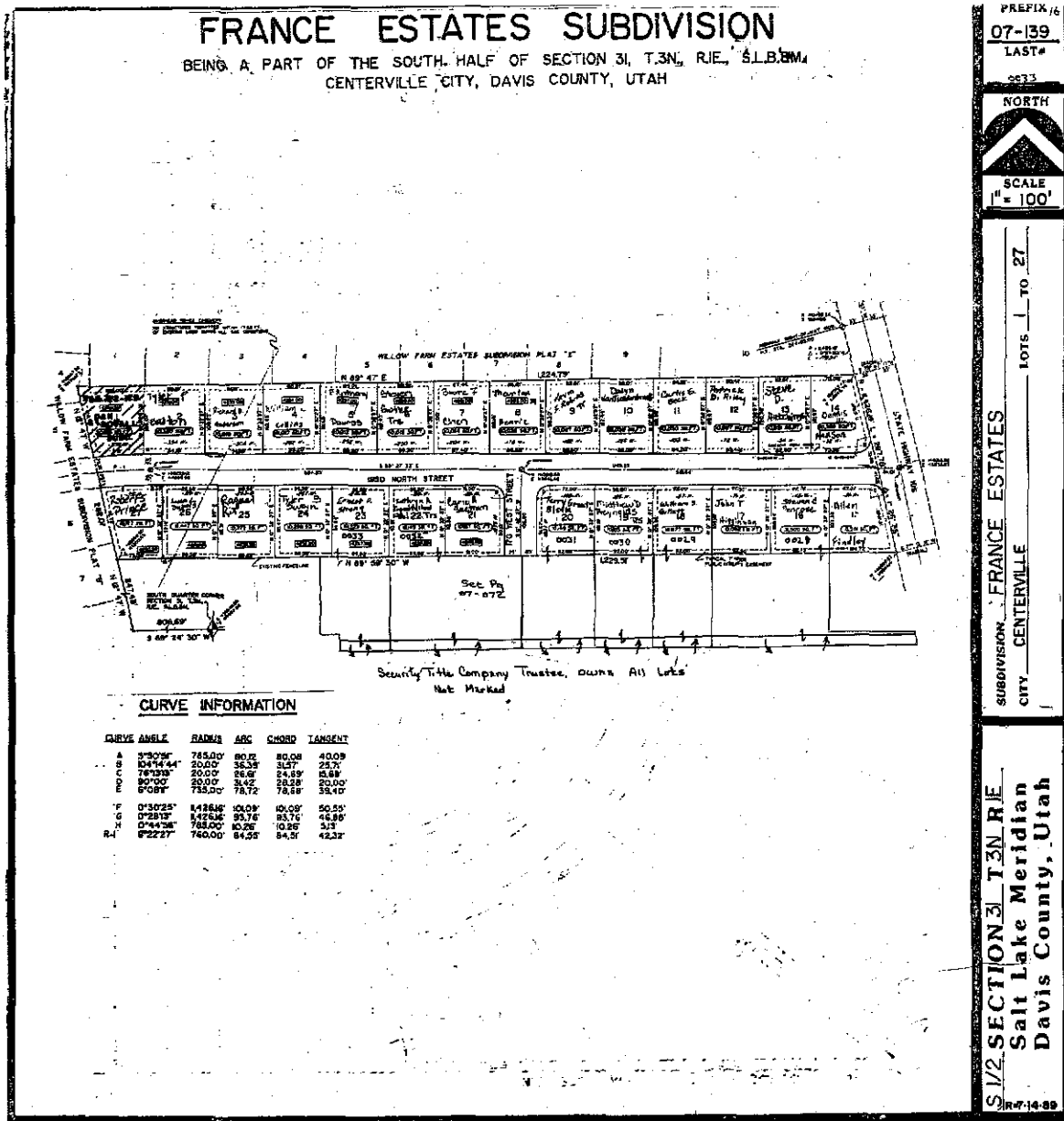


EXHIBIT D1

LEGAL DESCRIPTION OF TURN-AROUND EASEMENT

Terry Blake: (Holbrook/Reynolds)
Cul-de-sac Easement

Beginning at the Southwest Corner of Lot 20, France Estates Subdivision being part of the South Quarter of Section 31, Township 3 North, Range 1 East, Salt Lake Base and Meridian, Davis County, Utah and running thence along the arc of a 40.00-foot radius curve to the right for a distance of 197.32 feet, Radius point bears South38°41'26"West, Chord Bearing and Distance = North89°59'30"West 50.00 feet, Central Angel=282°38'08"; thence South89°59'30"East 50.00 feet to the point of beginning.



181 North 200 West
Suite 4
Bountiful, Utah
84010

Tel 801.298.2236
Fax 801.298.5983
Web www.entellus.com

EXHIBIT D2

DIAGRAM OF TEMPORARY TURN-AROUND EASEMENT

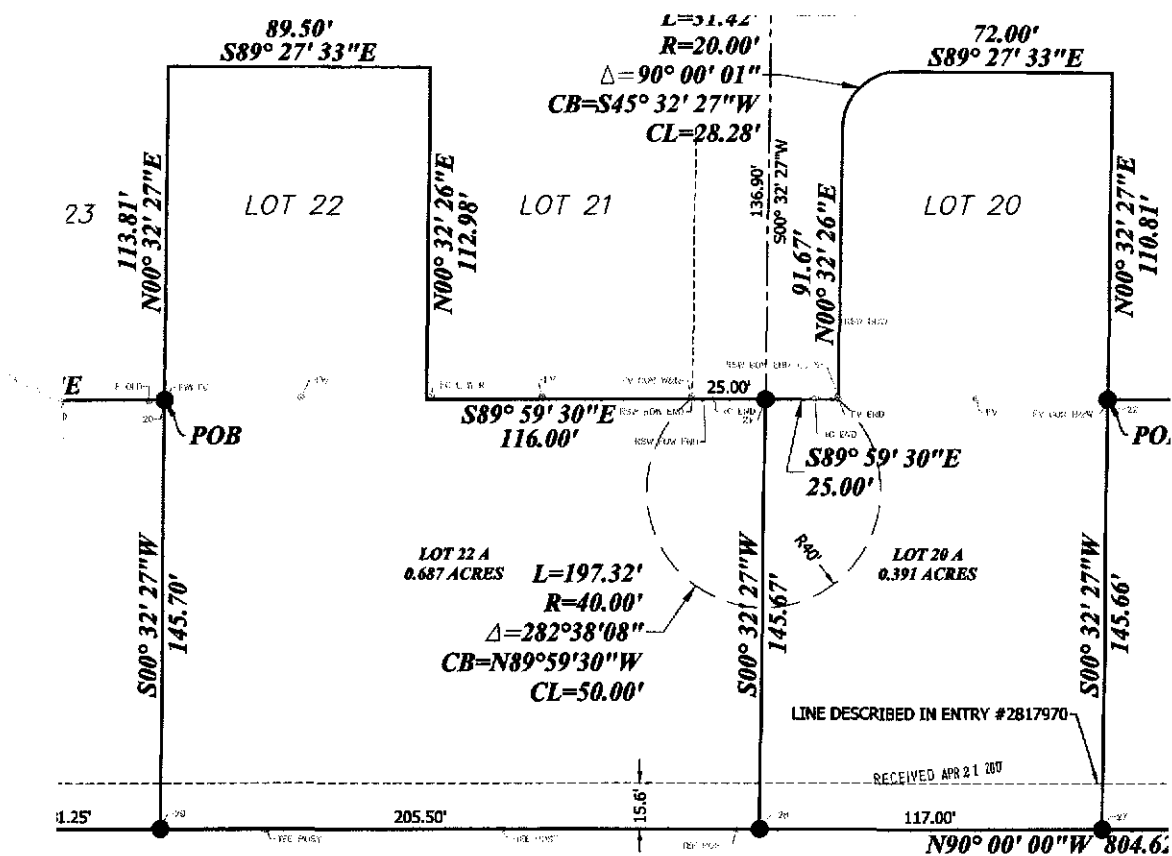


EXHIBIT E

**CONSTRUCTION DRAWINGS AND SPECIFICATIONS FOR
DRIVEWAY IMPROVEMENTS**

Rational Method Runoff Calculation - $Q=CIA$

Units

$C = .95$ Coefficient

$i = 3.5$ Inches Per Day*

$A = 648$ Square Feet

$Q = 1332$ Gallons Per Day

*Source = US Department of Commerce, Technical Paper No. 40

Detention Basin 1 - Capacity

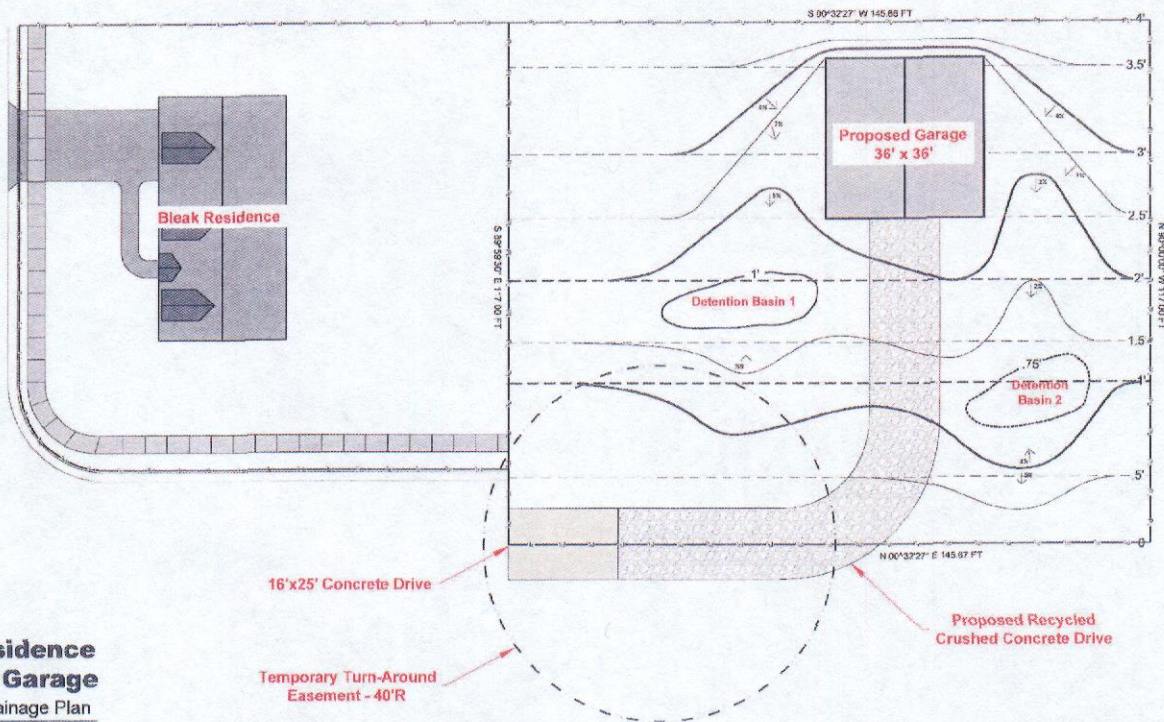
Cut - $35.5' \times 11.0' \times 6" = 7.2$ Cubic Yards or 1460 Gallons

Detention Basin 2 - Capacity

Cut - $25.5' \times 15.25' \times 6" = 7.2$ Cubic Yards or 1460 Gallons



Scale: 1" = 20'



**Bleak Residence
Proposed Garage**
Grading and Drainage Plan

April 13, 2017

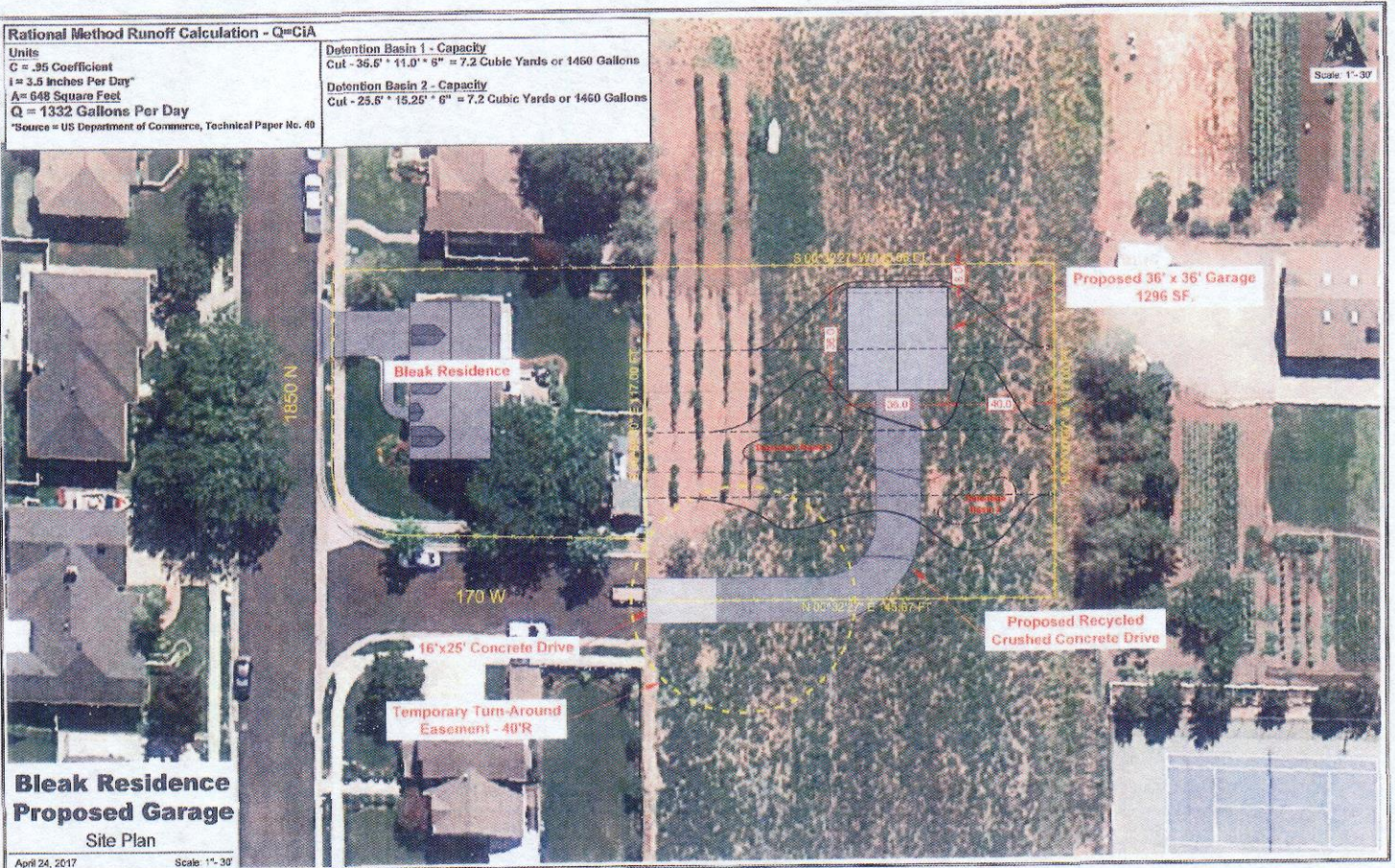
Scale: 1" = 20'

RECEIVED APR 25 2017

Rational Method Runoff Calculation - $Q=CiA$

Units
 $C = .95$ Coefficient
 $i = 3.5$ Inches Per Day
 $A = 648$ Square Feet
 $Q = 1332$ Gallons Per Day
*Source = US Department of Commerce, Technical Paper No. 40

Detention Basin 1 - Capacity
 Cut - $36.6' \times 11.0' \times 6" = 7.2$ Cubic Yards or 1460 Gallons
 Detention Basin 2 - Capacity
 Cut - $25.6' \times 15.25' \times 6" = 7.2$ Cubic Yards or 1460 Gallons



RECEIVED APR 25 2017

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No. 5

Short Title: Municipal Code Amendments - Chapter 5.03 (Budgets)

Initiated By: City Attorney

Scheduled Time: 7:40

SUBJECT

Consider Municipal Code Amendments to Chapter 5.03 (Budgets) regarding noticing and hearing requirements for tentative and final budgets and new statutory reference for enterprise fund transfers - Ordinance No. 2017-11

RECOMMENDATION

Approve Ordinance No. 2017-11 regarding Municipal Code Amendments to Chapter 5.03 (Budgets) regarding noticing and hearing requirements for tentative and final budgets and new statutory reference for enterprise fund transfers.

BACKGROUND

The proposed amendments to CMC 5.03 (Budgets) are recommended by the City Attorney to address recent legislative changes to the Uniform Fiscal Procedures Act for Utah Cities (as set forth in Utah Code Ann. 10-6-101, et seq.) and to address noticing issues for adoption of the tentative budget. In 2016, the Utah Legislature adopted SB 164 requiring the tentative budget to be reviewed, considered and tentatively adopted by the City Council in any regular or special public hearing. This section previously only required the tentative budget to be adopted at a regular or special meeting (with no public hearing requirement). We have previously changed our ordinances to require the public hearing for the tentative budget as well as the final budget. The statute is silent or unclear about what notice is required for the public hearing on the tentative budget. In order to address this issue in a more practical manner, the City Attorney recommends providing seven day notice of the tentative budget to be posted on the Utah Public Notice Website and the City website. Notice for the final budget will be provided as specified by statute which requires seven day notice to be published in the newspaper and posted on the Utah Public Notice Website. In 2017, the Utah Legislature adopted HB 324, which now also requires notice of public hearing on the final budget to be posted on the City website with either a full copy of the budget or a link to the budget. In addition, HB 164 from the 20017 Legislative Session added a new section in the Utah Code regarding transfers from enterprise funds as set forth in Utah Code Ann. 10-6-135.5. All of these statutory amendments and clarification for the tentative budget noticing requirements are addressed in the attached Ordinance No. 2017-11. The applicable legislative bills are also attached. Staff recommends approval of Ordinance No. 2017-11.

ATTACHMENTS:

Description

- ☐ Ordinance No. 2017-11 - Budget Amendments
- ☐ HB 324 (2017)
- ☐ HB 164 (2017)
- ☐ SB 164 (2016)

ORDINANCE NO. 2017-11

AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 5.03 OF THE CENTERVILLE MUNICIPAL CODE REGARDING BUDGETS

WHEREAS, the City Council has previously adopted Chapter 5.03 of the Centerville Municipal Code regarding Budgets; and

WHEREAS, the City Council desires to amend various sections of Chapter 5.03 of the Centerville Municipal Code regarding Budgets to comply with recent amendments to applicable State law provisions adopted by the Utah Legislature in the 2017 General Session; and

WHEREAS, the City Council finds that the proposed amendments to Chapter 5.03 of the Centerville Municipal Code regarding Budgets as more particularly set forth herein are in the best interest of the public and will provide clarity regarding notice and public hearing requirements for the municipal budget process in accordance with applicable State law provisions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Amendment. Section 5.03.040 of the Centerville Municipal Code regarding the Review of Tentative Budget is hereby amended to read in its entirety as follows:

5.03.040. Review of Tentative Budget

The City Council shall review, consider and adopt the tentative budget at any regular or special public hearing called for the purpose, ~~and for which a~~ Notice of the public hearing on the tentative budget shall be provided at least seven days before the hearing by posting on the Utah Public Notice Website created under Utah Code § 63F-1-701 and on the City website ~~has been provided in accordance with CMC 5.03.060.~~ The tentative budget may be amended or revised in such manner as is deemed advisable prior to the public hearing on the final budget in accordance with the provisions of CMC 5.03.080. The City Council may not reduce an appropriation required for debt retirement and interest or reduction of any existing deficits in accordance with Utah Code § 10-6-117, or otherwise required by law or ordinance, below the minimum required.

Section 2. Amendment. Section 5.03.060 of the Centerville Municipal Code regarding the Notice and Public Hearing is hereby amended to read in its entirety as follows:

5.03.060. Notice and Public Hearing

At the meeting at which the tentative budget is adopted, the City Council shall establish the time and place of a public hearing to consider adoption of the final budget and shall order that notice thereof be published at least seven days prior to the hearing in at least one issue of a newspaper of general circulation published in Davis County, ~~and on the Utah Public Notice Website created under Utah Code § 63F-1-701, and on the home page of the City website, either in full or as a link.~~ The City Council shall hold a public hearing

on the tentative budget at the time and place advertised at which all interested persons in attendance shall be given an opportunity to be heard, for or against, the estimates of revenue and expenditures or any item in the tentative budget of any fund.

Section 3. Amendment. Section 5.03.070 of the Centerville Municipal Code regarding the Continuing Review is hereby amended to read in its entirety as follows:

5.03.070. Continuing Review

After the public hearing on the tentative budget, the City Council may continue to review the tentative budget and may insert new items or increase or decrease items of expenditures that were the proper subject of consideration at the public hearing, provided that no appropriation required for debt retirement and interest, or reduction of any existing deficits in accordance with Utah Code § 10-6-117, or otherwise required by law or ordinance, may be reduced below the minimum required. The City Council shall increase or decrease the total anticipated revenue to equal the net change in proposed expenditures in the budget of each fund.

Section 4. Amendment. Section 5.03.120 of the Centerville Municipal Code regarding the Enterprise Funds is hereby amended to read in its entirety as follows:

5.03.120. Enterprise Funds

In addition to the requirements of CMC 5.03.110, any transfer of money deposited in an enterprise fund for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created must comply with applicable provisions of Utah Code § 10-6-135.5.

Section 5. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

Section 6. Effective Date. This Ordinance shall become effective immediately upon publication or posting, or thirty (30) days after passage, which occurs first.

PASSED AND ADOPTED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, THIS 2nd DAY OF MAY, 2017.

CENTERVILLE CITY

ATTEST:

Marsha L. Morrow, City Recorder

By: _____
Mayor Paul A. Cutler

Voting by the City Council:

	"AYE"	"NAY"
Councilmember Fillmore	_____	_____
Councilmember Ince	_____	_____
Councilmember Ivie	_____	_____
Councilmember McEwan	_____	_____
Councilmember Mecham	_____	_____

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provisions of the U.C.A. § 10-3-713, as amended, I, the municipal recorder of Centerville City, hereby certify that foregoing ordinance was duly passed by the City Council and published, or posted at: (1) 250 North Main; (2) 655 North 1250 West; and (3) RB's Gas Station, on the foregoing referenced dates.

MARSHA L. MORROW, City Recorder

DATE: _____

RECORDED this ____ day of _____, 2017.

PUBLISHED OR POSTED this ____ of _____, 2017.

LOCAL BUDGET HEARING NOTICE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bruce R. Cutler

Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill requires a local government to post a required notice of a local budget hearing on the local government's website where applicable.

Highlighted Provisions:

This bill:

- requires a local government to post a required notice of a local budget hearing on the local government's website where applicable; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-5-107, as last amended by Laws of Utah 2016, Chapter 353

10-5-108, as last amended by Laws of Utah 2010, Chapters 90 and 116

10-6-113, as last amended by Laws of Utah 2010, Chapters 90 and 116

17-36-12, as last amended by Laws of Utah 2010, Chapter 90

17-36-26, as last amended by Laws of Utah 2014, Chapter 176

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-5-107 is amended to read:

10-5-107. Tentative budgets required for public inspection -- Contents --**Adoption of tentative budget.**

(1) (a) On or before the first regularly scheduled town council meeting of May, the mayor shall:

(i) in accordance with Subsection (1)(b), prepare for the ensuing year a tentative budget for each fund for which a budget is required;

(ii) make the tentative budget available for public inspection; and

(iii) submit the tentative budget to the town council.

(b) The tentative budget for each fund shall set forth in tabular form:

(i) actual revenues and expenditures in the last completed fiscal year;

(ii) estimated total revenues and expenditures for the current fiscal year; and

(iii) the mayor's estimates of revenues and expenditures for the budget year.

(2) (a) The mayor shall:

(i) estimate the amount of revenue available to serve the needs of each fund;

(ii) estimate the portion to be derived from all sources other than general property taxes; and

(iii) estimate the portion that shall be derived from general property taxes.

(b) From the estimates required by Subsection (2)(a), the mayor shall compute and disclose in the budget the lowest rate of property tax levy that will raise the required amount of revenue, calculating the levy on the latest taxable value.

(3) A governing body may spend or transfer money deposited in an enterprise fund for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created, if the governing body:

(a) transfers the money from the enterprise fund to another fund; and

(b) complies with the hearing and notice requirements of Subsections (5)(a), (b), and (c).

(4) (a) Before the public hearing required under Section 10-5-108, the town council:

(i) shall review, consider, and tentatively adopt the tentative budget in any regular meeting or special meeting called for that purpose; and

(ii) may amend or revise the tentative budget.

(b) At the meeting at which the town council adopts the tentative budget, the council shall establish the time and place of the public hearing required under Section 10-5-108.

(5) (a) Except as provided in Subsection (5)(d), if a town council includes in a tentative budget, or an amendment to a budget, allocations or transfers from an enterprise fund to another fund for a good, service, project, venture, or purpose other than reasonable allocations of costs between the enterprise fund and the other fund, the governing body shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing as described in Subsection (5)(b); ~~and~~

(iii) subject to Subsection (5)(c), mail the notice to each enterprise fund customer at least seven days before the day of the hearing~~[-]; and~~

(iv) publish the notice or a link to the notice on the home page of the website of the town or metro township, if the town or metro township has a publicly viewable website, beginning at least seven days before the hearing and until the hearing takes place.

(b) The purpose portion of the written notice shall identify:

(i) the enterprise fund from which money is being allocated or transferred;

(ii) the amount being allocated or transferred; and

(iii) the fund to which the money is being allocated or transferred.

(c) The town council:

(i) may print the written notice required under Subsection (5)(a)(ii) on the enterprise fund customer's bill; and

(ii) shall include the written notice required under Subsection (5)(a)(ii) as separate notification mailed or transmitted with the enterprise fund customer's bill.

(d) A governing body is not required to repeat the notice and hearing requirements in this Subsection (5) if the funds to be allocated or transferred for the current year were

previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (5).

Section 2. Section **10-5-108** is amended to read:

10-5-108. Budget hearing -- Notice -- Adjustments.

(1) Prior to the adoption of the final budget or an amendment to a budget, a town council shall hold a public hearing to receive public comment.

(2) The town council shall provide notice of the place, purpose, and time of the public hearing by publishing notice at least seven days before the hearing:

(a) (i) at least once in a newspaper of general circulation in the town; or

(ii) if there is no newspaper of general circulation, then by posting the notice in three public places at least 48 hours ~~[prior to]~~ before the hearing; ~~[and]~~

(b) on the Utah Public Notice Website created in Section 63F-1-701[:]; and

(c) on the home page of the website, either in full or as a link, of the town or metro township, if the town or metro township has a publicly viewable website, until the hearing takes place.

(3) After the hearing, the town council, subject to Section 10-5-110, may adjust expenditures and revenues in conformity with this chapter.

Section 3. Section **10-6-113** is amended to read:

10-6-113. Budget -- Notice of hearing to consider adoption.

At the meeting at which each tentative budget is adopted, the governing body shall establish the time and place of a public hearing to consider its adoption and shall order that notice of the public hearing be published at least seven days prior to the hearing:

(1) (a) in at least one issue of a newspaper of general circulation published in the county in which the city is located; or

(b) if there is not a newspaper as described in Subsection (1)(a), ~~[then the notice required by this section may be posted]~~ in three public places within the city; ~~[and]~~

(2) on the Utah Public Notice Website created in Section 63F-1-701[:]; and

(3) on the home page of the website, either in full or as a link, of the city or metro

township, if the city or metro township has a publicly viewable website, until the hearing takes place.

Section 4. Section 17-36-12 is amended to read:

17-36-12. Notice of budget hearing.

(1) The governing body shall determine the time and place for the public hearing on the adoption of the budget.

(2) Notice of such hearing shall be published:

(a) (i) at least seven days before the hearing in at least one newspaper of general circulation within the county, if there is such a paper; or

(ii) if there is no newspaper as described in Subsection (2)(a)(i), by posting notice in three conspicuous places within the county seven days before the hearing; [and]

(b) on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the hearing[-]; and

(c) on the home page of the county's website, either in full or as a link, if the county has a publicly viewable website, beginning at least seven days before the hearing and until the hearing takes place.

Section 5. Section 17-36-26 is amended to read:

17-36-26. Increase in budgetary fund or county general fund -- Public hearing.

(1) Before the governing body may, by resolution, increase a budget appropriation of any budgetary fund, increase the budget of the county general fund, or make an amendment to a budgetary fund or the county general fund, the governing body shall hold a public hearing giving all interested parties an opportunity to be heard.

(2) Notice of the public hearing described in Subsection (1) shall be published at least five days before the day of the hearing:

(a) (i) in at least one issue of a newspaper generally circulated in the county; or

(ii) if there is not a newspaper generally circulated in the county, the hearing may be published by posting notice in three conspicuous places within the county; [and]

(b) on the Utah Public Notice Website created under Section 63F-1-701[-]; and

142 (c) on the home page of the county's website, either in full or as a link, if the county has
143 a publicly viewable website, until the hearing takes place.

MUNICIPAL ENTERPRISE FUND AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill modifies provisions relating to municipal budgets.

Highlighted Provisions:

This bill:

- modifies language relating to transfers of money from a municipal enterprise fund to another fund;
- requires a municipality that intends to transfer money from an enterprise fund to another fund to provide public notice of the intended transfer, clearly identify the intended transfer in the tentative budget or budget amendment, and hold a separate and independent public hearing;
- requires a municipality that adopts a budget or budget amendment that includes an enterprise fund transfer to provide specified public notice; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-5-107, as last amended by Laws of Utah 2016, Chapter 353

10-6-135, as last amended by Laws of Utah 2016, Chapters 348 and 353

ENACTS:

10-5-107.5, Utah Code Annotated 1953

10-6-135.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-5-107** is amended to read:

10-5-107. Tentative budgets required for public inspection -- Contents --

Adoption of tentative budget.

(1) (a) On or before the first regularly scheduled town council meeting of May, the mayor shall:

(i) in accordance with Subsection (1)(b), prepare for the ensuing year a tentative budget for each fund for which a budget is required;

(ii) make the tentative budget available for public inspection; and

(iii) submit the tentative budget to the town council.

(b) The tentative budget for each fund shall set forth in tabular form:

(i) actual revenues and expenditures in the last completed fiscal year;

(ii) estimated total revenues and expenditures for the current fiscal year; and

(iii) the mayor's estimates of revenues and expenditures for the budget year.

(2) (a) The mayor shall:

(i) estimate the amount of revenue available to serve the needs of each fund;

(ii) estimate the portion to be derived from all sources other than general property taxes; and

(iii) estimate the portion that shall be derived from general property taxes.

(b) From the estimates required by Subsection (2)(a), the mayor shall compute and disclose in the budget the lowest rate of property tax levy that will raise the required amount of revenue, calculating the levy on the latest taxable value.

~~[(3) A governing body may spend or transfer money deposited in an enterprise fund for~~

~~a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created, if the governing body.]~~

~~[(a) transfers the money from the enterprise fund to another fund; and]~~

~~[(b) complies with the hearing and notice requirements of Subsections (5)(a), (b), and (c).]~~

~~[(4)]~~ (3) (a) Before the public hearing required under Section 10-5-108, the town council:

(i) shall review, consider, and tentatively adopt the tentative budget in any regular meeting or special meeting called for that purpose; and

(ii) may amend or revise the tentative budget.

(b) At the meeting at which the town council adopts the tentative budget, the council shall establish the time and place of the public hearing required under Section 10-5-108.

~~[(5)(a) Except as provided in Subsection (5)(d), if a town council includes in a tentative budget, or an amendment to a budget, allocations or transfers from an enterprise fund to another fund for a good, service, project, venture, or purpose other than reasonable allocations of costs between the enterprise fund and the other fund, the governing body shall:]~~

~~[(i) hold a public hearing;]~~

~~[(ii) prepare a written notice of the date, time, place, and purpose of the hearing as described in Subsection (5)(b); and]~~

~~[(iii) subject to Subsection (5)(c), mail the notice to each enterprise fund customer at least seven days before the day of the hearing.]~~

~~[(b) The purpose portion of the written notice shall identify:]~~

~~[(i) the enterprise fund from which money is being allocated or transferred;]~~

~~[(ii) the amount being allocated or transferred; and]~~

~~[(iii) the fund to which the money is being allocated or transferred.]~~

~~[(c) The town council:]~~

~~[(i) may print the written notice required under Subsection (5)(a)(ii) on the enterprise fund customer's bill; and]~~

~~[(ii) shall include the written notice required under Subsection (5)(a)(ii) as separate notification mailed or transmitted with the enterprise fund customer's bill.]~~

~~[(d) A governing body is not required to repeat the notice and hearing requirements in this Subsection (5) if the funds to be allocated or transferred for the current year were previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (5).]~~

Section 2. Section **10-5-107.5** is enacted to read:

10-5-107.5. Transfer of enterprise fund money to another fund.

(1) As used in this section:

(a) "Budget hearing" means a public hearing required under Section 10-5-108.

(b) "Enterprise fund accounting data" means a detailed overview of the various enterprise funds of the town that includes:

(i) a cost accounting breakdown of how money in the enterprise fund is being used to cover, as applicable:

(A) administrative and overhead costs of the town attributable to the operation of the enterprise for which the enterprise fund was created; and

(B) other costs not associated with the enterprise for which the enterprise fund was created; and

(ii) specific enterprise fund information.

(c) "Enterprise fund hearing" means the public hearing required under Subsection (3)(d).

(d) "Specific enterprise fund information" means:

(i) the dollar amount of transfers from an enterprise fund to another fund; and

(ii) the percentage of the total enterprise fund expenditures represented by each transfer to another fund.

110 (2) Subject to the requirements of this section, a town may transfer money in an
111 enterprise fund to another fund to pay for a good, service, project, venture, or other purpose
112 that is not directly related to the goods or services provided by the enterprise for which the
113 enterprise fund was created.

114 (3) The governing body of a town that intends to transfer money in an enterprise fund
115 to another fund shall:

116 (a) provide notice of the intended transfer as required under Subsection (4);

117 (b) clearly identify in a separate section or document accompanying the town's
118 tentative budget or, if an amendment to the town's budget includes or is based on an intended
119 transfer, in a separate section or document accompanying the amendment to the town's budget:

120 (i) the enterprise fund from which money is intended to be transferred; and

121 (ii) the specific enterprise fund information for that enterprise fund;

122 (c) provide notice of an enterprise fund hearing, as required in Subsection (4); and

123 (d) hold an enterprise fund hearing before the adoption of the town's budget or, if
124 applicable, the amendment to the budget.

125 (4) (a) At least seven days before holding an enterprise fund hearing, a governing body
126 shall:

127 (i) provide the notice described in Subsection (4)(b) by:

128 (A) mailing a copy of the notice to users of the goods or services provided by the
129 enterprise for which the enterprise fund was created, if the town regularly mails users a
130 periodic billing for the goods or services;

131 (B) emailing a copy of the notice to users of the goods or services provided by the
132 enterprise for which the enterprise fund was created, if the town regularly emails users a
133 periodic billing for the goods or services;

134 (C) posting the notice on the Utah Public Notice Website created in Section
135 63F-1-701; and

136 (D) if the town has a website, prominently posting the notice on the town's website

137 until the enterprise fund hearing is concluded; and

138 (ii) if the town communicates with the public through a social media platform, publish
139 notice of the date, time, place, and purpose of the enterprise fund hearing using the social
140 media platform.

141 (b) The notice required under Subsection (4)(a)(i) shall:

142 (i) explain the intended transfer of enterprise fund money to another fund;

143 (ii) include specific enterprise fund information for each enterprise fund from which
144 money is intended to be transferred;

145 (iii) provide the date, time, and place of the enterprise fund hearing; and

146 (iv) explain the purpose of the enterprise fund hearing.

147 (5) (a) An enterprise fund hearing shall be separate and independent from a budget
148 hearing and any other public hearing.

149 (b) At an enterprise fund hearing, the governing body shall:

150 (i) explain the intended transfer of enterprise fund money to another fund;

151 (ii) provide enterprise fund accounting data to the public; and

152 (iii) allow members of the public in attendance at the hearing to comment on:

153 (A) the intended transfer of enterprise fund money to another fund; and

154 (B) the enterprise fund accounting data.

155 (6) (a) If a governing body adopts a budget or a budget amendment that includes or is
156 based on a transfer of money from an enterprise fund to another fund, the governing body shall:

157 (i) within 60 days after adopting the budget or budget amendment:

158 (A) mail a notice to users of the goods or services provided by the enterprise for which
159 the enterprise fund was created, if the town regularly mails users a periodic billing for the
160 goods or services; and

161 (B) email a notice to users of the goods or services provided by the enterprise for
162 which the enterprise fund was created, if the town regularly emails users a periodic billing for
163 the goods or services;

(ii) within seven days after adopting the budget or budget amendment:

(A) post enterprise fund accounting data on the town's website, if the town has a website;

(B) using the town's social media platform, publish notice of the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, if the town communicates with the public through a social media platform; and

(iii) within 30 days after adopting the budget, submit to the state auditor the specific enterprise fund information for each enterprise fund from which money will be transferred.

(b) A notice required under Subsection (6)(a)(i) shall:

(i) announce the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund; and

(ii) include the specific enterprise fund information.

(c) The governing body shall maintain the website posting required under Subsection (6)(a)(ii)(A) continuously until another posting is required under Subsection (4)(a)(i)(C).

Section 3. Section **10-6-135** is amended to read:

10-6-135. Operating and capital budgets.

(1) (a) As used in this section, "operating and capital budget" means a plan of financial operation for an enterprise fund or other required special fund that includes estimates of operating resources, expenses, and other outlays for a fiscal period.

(b) Except as otherwise expressly provided, any reference to "budget" or "budgets" and the procedures and controls relating to a budget or budgets in other sections of this chapter do not apply or refer to the operating and capital budgets described in this section.

(2) At or before the time the governing body adopts budgets for the funds described in Section 10-6-109, the governing body shall adopt:

(a) an operating and capital budget for each enterprise fund for the ensuing fiscal period; and

(b) the type of budget for other special funds as required by the Uniform Accounting

Manual for Utah Cities.

(3) (a) The governing body shall adopt and administer an operating and capital budget in accordance with this Subsection (3).

~~[(b) A governing body may spend or transfer money deposited in an enterprise fund for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created, if the governing body:]~~

~~[(i) transfers the money from the enterprise fund to another fund; and]~~

~~[(ii) complies with the hearing and notice requirements of Subsections (3)(f)(i), (ii), and (iii).]~~

~~[(e)]~~ (b) At or before the first regularly scheduled meeting of the governing body in the last May of the current fiscal period, the budget officer shall:

(i) prepare for the ensuing fiscal period and file with the governing body a tentative operating and capital budget for:

(A) each enterprise fund; and

(B) other required special funds;

(ii) include with the tentative operating and capital budget described in Subsection (3)(c) specific work programs as submitted by each department head; and

(iii) include any other supporting data required by the governing body.

~~[(d)]~~ (c) Each city of the first or second class shall, and each city of the third, fourth, or fifth class may, submit a supplementary estimate of all capital projects which a department head believes should be undertaken within the three next succeeding fiscal periods.

~~[(e)]~~ (d) (i) Subject to Subsection (3)~~[(e)]~~(d)(ii), the budget officer shall prepare all estimates after review and consultation with each department head described in Subsection (3)~~[(d)]~~(c).

(ii) After complying with Subsection (3)~~[(e)]~~(d)(i), the budget officer may revise any departmental estimate before it is filed with the governing body.

~~[(f)(i) Except as provided in Subsection (3)(f)(iv), if the governing body includes in a tentative budget or an amendment to a budget allocations or transfers from an enterprise fund to another fund or a good, service, project, venture, or purpose other than reasonable allocations of costs between the enterprise fund and the other fund, the governing body shall:]~~

~~[(A) hold a public hearing;]~~

~~[(B) prepare a written notice of the date, time, place, and purpose of the hearing, as described in Subsection (3)(f)(ii); and]~~

~~[(C) subject to Subsection (3)(f)(iii), mail the written notice to each enterprise fund customer at least seven days before the day of the hearing:]~~

~~[(ii) The purpose portion of the written notice required under Subsection (3)(f)(i)(B) shall identify:]~~

~~[(A) the enterprise fund from which money is being transferred;]~~

~~[(B) the amount being transferred; and]~~

~~[(C) the fund to which the money is being transferred:]~~

~~[(iii) The governing body:]~~

~~[(A) may print the written notice required under Subsection (3)(f)(i) on the enterprise fund customer's bill; and]~~

~~[(B) shall include the written notice required under Subsection (3)(f)(i) as a separate notification mailed or transmitted with the enterprise fund customer's bill:]~~

~~[(iv) A governing body is not required to repeat the notice and hearing requirements in this Subsection (3)(f) if the funds to be allocated or transferred for the current year were previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (3)(f).]~~

(4) (a) Each tentative budget, amendment to a budget, or budget shall be reviewed and considered by the governing body at any regular meeting or special meeting called for that purpose.

(b) The governing body may make changes in the tentative budgets.

(5) Budgets for enterprise or other required special funds shall comply with the public hearing requirements established in Sections 10-6-113 and 10-6-114.

(6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax increase under Sections 59-2-919 through 59-2-923, before August 17 of the year for which a property tax increase is proposed, the governing body shall adopt an operating and capital budget for each applicable fund for the ensuing fiscal period.

(b) A copy of the budget as finally adopted for each fund shall be:

(i) certified by the budget officer;

(ii) filed by the budget officer in the office of the city auditor or city recorder;

(iii) available to the public during regular business hours; and

(iv) filed with the state auditor within 30 days after the day on which the budget is adopted.

(7) (a) Upon final adoption, the operating and capital budget is in effect for the budget period, subject to later amendment.

(b) During the budget period the governing body may, in any regular meeting or special meeting called for that purpose, review any one or more of the operating and capital budgets for the purpose of determining if the total of any of them should be increased.

(c) If the governing body decides that the budget total of one or more of the funds should be increased under Subsection (7)(b), the governing body shall follow the procedures set forth in Section 10-6-136.

(8) Expenditures from operating and capital budgets shall conform to the requirements relating to budgets specified in Sections 10-6-121 through 10-6-126.

Section 4. Section **10-6-135.5** is enacted to read:

10-6-135.5. Transfer of enterprise fund money to another fund.

(1) As used in this section:

(a) "Budget hearing" means a public hearing required under Section 10-6-114.

(b) "Enterprise fund accounting data" means a detailed overview of the various

enterprise funds of the city that includes:

(i) a cost accounting breakdown of how money in the enterprise fund is being used to cover, as applicable;

(A) administrative and overhead costs of the city attributable to the operation of the enterprise for which the enterprise fund was created; and

(B) other costs not associated with the enterprise for which the enterprise fund was created; and

(ii) specific enterprise fund information.

(c) "Enterprise fund hearing" means the public hearing required under Subsection (3)(d).

(d) "Specific enterprise fund information" means:

(i) the dollar amount of transfers from an enterprise fund to another fund; and

(ii) the percentage of the total enterprise fund expenditures represented by each transfer to another fund.

(2) Subject to the requirements of this section, a city may transfer money in an enterprise fund to another fund to pay for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created.

(3) The governing body of a city that intends to transfer money in an enterprise fund to another fund shall:

(a) provide notice of the intended transfer as required under Subsection (4);

(b) clearly identify in a separate section or document accompanying the city's tentative budget or, if an amendment to the city's budget includes or is based on an intended transfer, in a separate section or document accompanying the amendment to the city's budget:

(i) the enterprise fund from which money is intended to be transferred; and

(ii) the specific enterprise fund information for that enterprise fund;

(c) provide notice of an enterprise fund hearing, as required in Subsection (4); and

299 (d) hold an enterprise fund hearing before the adoption of the city's budget or, if
300 applicable, the amendment to the budget.

301 (4) (a) At least seven days before holding an enterprise fund hearing, a governing body
302 shall:

303 (i) provide the notice described in Subsection (4)(b) by:

304 (A) mailing a copy of the notice to users of the goods or services provided by the
305 enterprise for which the enterprise fund was created, if the city regularly mails users a periodic
306 billing for the goods or services;

307 (B) emailing a copy of the notice to users of the goods or services provided by the
308 enterprise for which the enterprise fund was created, if the city regularly emails users a periodic
309 billing for the goods or services;

310 (C) posting the notice on the Utah Public Notice Website created in Section
311 63F-1-701; and

312 (D) if the city has a website, prominently posting the notice on the city's website until
313 the enterprise fund hearing is concluded; and

314 (ii) if the city communicates with the public through a social media platform, publish
315 notice of the date, time, place, and purpose of the enterprise fund hearing using the social
316 media platform.

317 (b) The notice required under Subsection (4)(a)(i) shall:

318 (i) explain the intended transfer of enterprise fund money to another fund;

319 (ii) include specific enterprise fund information for each enterprise fund from which
320 money is intended to be transferred;

321 (iii) provide the date, time, and place of the enterprise fund hearing; and

322 (iv) explain the purpose of the enterprise fund hearing.

323 (5) (a) An enterprise fund hearing shall be separate and independent from a budget
324 hearing and any other public hearing.

325 (b) At an enterprise fund hearing, the governing body shall:

326 (i) explain the intended transfer of enterprise fund money to another fund;

327 (ii) provide enterprise fund accounting data to the public; and

328 (iii) allow members of the public in attendance at the hearing to comment on:

329 (A) the intended transfer of enterprise fund money to another fund; and

330 (B) the enterprise fund accounting data.

331 (6) (a) If a governing body adopts a budget or a budget amendment that includes or is
332 based on a transfer of money from an enterprise fund to another fund, the governing body shall:

333 (i) within 60 days after adopting the budget or budget amendment:

334 (A) mail a notice to users of the goods or services provided by the enterprise for which
335 the enterprise fund was created, if the city regularly mails users a periodic billing for the goods
336 or services; and

337 (B) email a notice to users of the goods or services provided by the enterprise for
338 which the enterprise fund was created, if the city regularly emails users a periodic billing for
339 the goods or services;

340 (ii) within seven days after adopting the budget or budget amendment:

341 (A) post enterprise fund accounting data on the city's website, if the city has a website;

342 (B) using the city's social media platform, publish notice of the adoption of a budget or
343 budget amendment that includes or is based on a transfer of money from an enterprise fund to
344 another fund, if the city communicates with the public through a social media platform; and

345 (iii) within 30 days after adopting the budget, submit to the state auditor the specific
346 enterprise fund information for each enterprise fund from which money will be transferred.

347 (b) A notice required under Subsection (6)(a)(i) shall:

348 (i) announce the adoption of a budget or budget amendment that includes or is based
349 on a transfer of money from an enterprise fund to another fund; and

350 (ii) include the specific enterprise fund information.

351 (c) The governing body shall maintain the website posting required under Subsection
352 (6)(a)(ii)(A) continuously until another posting is required under Subsection (4)(a)(i)(C).

LOCAL GOVERNMENT MODIFICATIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: R. Curt Webb

LONG TITLE

General Description:

This bill modifies provisions relating to local governments.

Highlighted Provisions:

This bill:

- ▶ removes the requirement for the Office of the State Auditor to provide certain budget forms;
- ▶ requires a town, city, county, interlocal entity, or local district to appropriate a percentage of fund revenue toward deficit fund balances;
- ▶ requires a town to prepare certain financial reports;
- ▶ clarifies the due date for budget adoption for a city undergoing truth in taxation;
- ▶ removes obsolete language related to city auditor bookkeeping duties;
- ▶ repeals the requirement for an independent audit of a county's transient room tax and tourism, recreation, cultural, convention, and airport facilities tax;
- ▶ modifies the contents of a property tax notice;
- ▶ provides that a taxpayer who pays less than the full amount of the items listed on the taxpayer's property tax notice may direct how the county treasurer allocates the partial payment between the amounts due; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

- 10-5-107, as last amended by Laws of Utah 2014, Chapter 377
- 10-5-114, as last amended by Laws of Utah 2010, Chapter 378
- 10-5-129, as last amended by Laws of Utah 2009, Chapter 323
- 10-6-111, as last amended by Laws of Utah 2015, Chapter 352
- 10-6-117, as last amended by Laws of Utah 2014, Chapter 176
- 10-6-135, as last amended by Laws of Utah 2014, Chapter 377
- 10-6-139, as last amended by Laws of Utah 2003, Chapter 292
- 11-13-513, as enacted by Laws of Utah 2015, Chapter 265
- 11-42-401, as last amended by Laws of Utah 2015, Chapters 349 and 396
- 17-31-5.5, as last amended by Laws of Utah 2008, Chapter 286
- 17B-1-613, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 17B-1-902, as last amended by Laws of Utah 2015, Chapter 349
- 59-2-1317, as last amended by Laws of Utah 2015, Chapter 349

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-5-107 is amended to read:

10-5-107. Tentative budgets required for public inspection -- Contents --

Adoption of tentative budget.

(1) (a) On or before the first regularly scheduled town council meeting of May, the mayor shall:

(i) in accordance with Subsection (1)(b), prepare for the ensuing year~~[-on forms provided by the state auditor,]~~ a tentative budget for each fund for which a budget is required;

(ii) make the tentative budget available for public inspection; and

(iii) submit the tentative budget to the town council.

(b) The tentative budget ~~[of]~~ for each fund shall set forth in tabular form:

(i) actual revenues and expenditures in the last completed fiscal year;

58 (ii) estimated total revenues and expenditures for the current fiscal year; and

59 (iii) the mayor's estimates of revenues and expenditures for the budget year.

60 (2) (a) The mayor shall:

61 (i) estimate the amount of revenue available to serve the needs of each fund;

62 (ii) estimate the portion to be derived from all sources other than general property
63 taxes; and

64 (iii) estimate the portion that shall be derived from general property taxes.

65 (b) From the estimates required by Subsection (2)(a), the mayor shall compute and
66 disclose in the budget the lowest rate of property tax levy that will raise the required amount of
67 revenue, calculating the levy on the latest taxable value.

68 (3) A governing body may spend or transfer money deposited in an enterprise fund for
69 a good, service, project, venture, or other purpose that is not directly related to the goods or
70 services provided by the enterprise for which the enterprise fund was created, if the governing
71 body:

72 (a) transfers the money from the enterprise fund to another fund; and

73 (b) complies with the hearing and notice requirements of Subsections (5)(a), (b), and
74 (c).

75 (4) (a) Before the public hearing required under Section 10-5-108, the town council:

76 (i) shall review, consider, and tentatively adopt the tentative budget in any regular
77 meeting or special meeting called for that purpose; and

78 (ii) may amend or revise the tentative budget.

79 (b) At the meeting at which the town council adopts the tentative budget, the council
80 shall establish the time and place of the public hearing required under Section 10-5-108.

81 (5) (a) Except as provided in Subsection (5)(d), if a town council includes in a tentative
82 budget, or an amendment to a budget, allocations or transfers from an enterprise fund to
83 another fund for a good, service, project, venture, or purpose other than reasonable allocations
84 of costs between the enterprise fund and the other fund, the governing body shall:

85 (i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing as described in Subsection (5)(b); and

(iii) subject to Subsection (5)(c), mail the notice to each enterprise fund customer at least seven days before the day of the hearing.

(b) The purpose portion of the written notice shall identify:

(i) the enterprise fund from which money is being allocated or transferred;

(ii) the amount being allocated or transferred; and

(iii) the fund to which the money is being allocated or transferred.

(c) The town council:

(i) may print the written notice required under Subsection (5)(a)(ii) on the enterprise fund customer's bill; and

(ii) shall include the written notice required under Subsection (5)(a)(ii) as separate notification mailed or transmitted with the enterprise fund customer's bill.

(d) A governing body is not required to repeat the notice and hearing requirements in this Subsection (5) if the funds to be allocated or transferred for the current year were previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (5).

Section 2. Section 10-5-114 is amended to read:

10-5-114. Appropriations limited to estimated revenue.

(1) The council may not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget year of such fund.

(2) If there is a deficit fund balance in a fund at the close of the last completed fiscal year, the council shall include an item of appropriation for the deficit in the current budget of the fund equal to:

(a) at least 5% of the total revenue of the fund in the last completed fiscal year; or

(b) if the deficit is equal to less than 5% of the total revenue of the fund in the last completed fiscal year, the entire amount of the deficit.

Section 3. Section 10-5-129 is amended to read:

10-5-129. Annual financial report.

(1) ~~[Within]~~ The town clerk or other designated person shall prepare and present to the council:

(a) (i) a quarterly financial report; or

(ii) upon request by the council, a financial report more frequently than each quarter;

and

(b) an annual financial report within 180 days after the close of each fiscal year ~~[the town clerk or other delegated person shall present to the council an annual financial report].~~

(2) The requirement ~~[under]~~ described in Subsection (1)(b) ~~[to present an annual financial report]~~ may be satisfied by an audit report or annual financial report of an independent auditor.

Section 4. Section **10-6-111** is amended to read:

10-6-111. Tentative budget to be prepared -- Contents -- Estimate of expenditures -- Budget message -- Review by governing body.

(1) (a) On or before the first regularly scheduled meeting of the governing body in the last May of the current period, the budget officer shall, in accordance with Subsection (1)(b), prepare for the ensuing fiscal period, ~~[on forms provided by the state auditor,]~~ and file with the governing body, a tentative budget for each fund for which a budget is required.

(b) The tentative budget of each fund shall set forth in tabular form:

(i) the actual revenues and expenditures in the last completed fiscal period;

~~[(ii) the budget estimates for the current fiscal period;]~~

~~[(iii) the actual revenues and expenditures for a period of 6 to 21 months, as appropriate, of the current fiscal period;]~~

~~[(iv)]~~ (ii) the estimated total revenues and expenditures for the current fiscal period;

~~[(v)]~~ (iii) the budget officer's estimates of revenues and expenditures for the budget period, computed as provided in Subsection (1)(c); and

~~[(vi)]~~ (iv) if the governing body elects, the actual performance experience to the extent established by Section 10-6-154 and available in work units, unit costs, man hours, or man

years for each budgeted fund on an actual basis for the last completed fiscal period, and estimated for the current fiscal period and for the ensuing budget period.

(c) (i) In making estimates of revenues and expenditures under Subsection (1)(b)(~~(v)~~)(iii), the budget officer shall estimate:

(A) on the basis of demonstrated need, the expenditures for the budget period, after:

(I) hearing each department head; and

(II) reviewing the budget requests and estimates of the department heads; and

(B) (I) the amount of revenue available to serve the needs of each fund;

(II) the portion of revenue to be derived from all sources other than general property taxes; and

(III) the portion of revenue that shall be derived from general property taxes.

(ii) The budget officer may revise any department's estimate under Subsection (1)(c)(i)(A)(II) that the officer considers advisable for the purpose of presenting the budget to the governing body.

(iii) From the estimate made under Subsection (1)(c)(i)(B)(III), the budget officer shall compute and disclose in the budget the lowest rate of property tax levy that will raise the required amount of revenue, calculating the levy upon the latest taxable value.

(2) (a) (i) Each tentative budget, when filed by the budget officer with the governing body, shall contain the estimates of expenditures submitted by department heads, together with specific work programs and such other supporting data as this chapter requires or the governing body may request.

(ii) Each city of the first or second class shall, and a city of the third, fourth, or fifth class may, submit a supplementary estimate of all capital projects which each department head believes should be undertaken within the next three succeeding years.

(b) Each tentative budget submitted by the budget officer to the governing body shall be accompanied by a budget message[~~, which shall explain~~] that:

(i) explains the budget[~~, contain~~];

(ii) contains an outline of the proposed financial policies of the city for the budget

170 period~~[, and shall describe]~~;

171 (iii) describes the important features of the budgetary plan~~[. It shall set forth]~~;

172 (iv) provides the reasons for salient changes from the previous fiscal period in

173 appropriation and revenue items ~~[and shall explain]~~; and

174 (v) explains any major changes in financial policy.

175 ~~[(3) Each tentative budget shall be reviewed, considered, and tentatively adopted by the~~
176 ~~governing body in any regular meeting or special meeting called for the purpose and may be~~
177 ~~amended or revised in such manner as is considered advisable prior to public hearings, except~~
178 ~~that no]~~

179 (3) (a) Subject to Subsection (3)(b), a governing body in any regular public hearing or
180 special public hearing:

181 (i) shall review, consider, and tentatively adopt each tentative budget; and

182 (ii) may, before the public hearing described in Section 10-6-114, amend or revise each
183 tentative budget.

184 (b) A governing body may not reduce an appropriation required for debt retirement and
185 interest or reduction of any existing deficits [pursuant to] in accordance with Section 10-6-117,
186 or otherwise required by law or ordinance, [may be reduced] below the required minimums [so
187 required].

188 (4) (a) If the municipality is acting [pursuant to] in accordance with Section 10-2a-218,
189 the tentative budget shall:

190 (i) be submitted to the governing body-elect as soon as practicable; and

191 (ii) cover each fund for which a budget is required from the date of incorporation to the
192 end of the fiscal year.

193 (b) The governing body shall substantially comply with all other provisions of this
194 chapter, and the budget shall be passed upon incorporation.

195 Section 5. Section **10-6-117** is amended to read:

196 **10-6-117. Appropriations not to exceed estimated expendable revenue --**
197 **Appropriations for existing deficits.**

(1) The governing body of any city may not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget period of the fund.

~~[(2) In determining the estimated expendable revenue of the city general fund for the budget period, there shall be included therein as an appropriation from the fund balance that portion of the fund balance at the close of the last completed fiscal period, not previously included in the budget of the current period, that exceeds the amount permitted in Section 10-6-116.]~~

~~[(3)(a) There shall be included as an item of appropriation in each fund for any budget period any existing deficit as of the close of the last completed fiscal period, not previously included in the budget of the current period, to the extent of at least 5% of the total revenue of the fund in its last completed fiscal period.]~~

~~[(b) If the total amount of the deficit is less than 5% of the total revenue in the last completed fiscal period, the entire amount of the deficit shall be included.]~~

(2) If there is a deficit fund balance in a fund at the close of the last completed fiscal year, the governing body of a city shall include an item of appropriation for the deficit in the current budget of the fund equal to:

(a) at least 5% of the total revenue of the fund in the last completed fiscal year; or

(b) if the deficit is equal to less than 5% of the total revenue of the fund in the last completed fiscal year, the entire amount of the deficit.

Section 6. Section 10-6-135 is amended to read:

10-6-135. Operating and capital budgets.

(1) (a) As used in this section, "operating and capital budget" means a plan of financial operation for an enterprise fund or other required special fund that includes estimates of operating resources, expenses, and other outlays for a fiscal period.

(b) Except as otherwise expressly provided, any reference to "budget" or "budgets" and the procedures and controls relating to ~~them~~ a budget or budgets in other sections of this chapter do not apply or refer to the operating and capital budgets described in this section.

(2) At or before the time the governing body adopts budgets for the funds described in

226 Section 10-6-109, the governing body shall adopt:

227 (a) an operating and capital budget for each enterprise fund for the ensuing fiscal
228 period; and

229 (b) the type of budget for other special funds as required by the Uniform Accounting
230 Manual for Utah Cities.

231 (3) (a) The governing body shall adopt and administer an operating and capital budget
232 in accordance with this Subsection (3).

233 (b) A governing body may spend or transfer money deposited in an enterprise fund for
234 a good, service, project, venture, or other purpose that is not directly related to the goods or
235 services provided by the enterprise for which the enterprise fund was created, if the governing
236 body:

237 (i) transfers the money from the enterprise fund to another fund; and

238 (ii) complies with the hearing and notice requirements of Subsections (3)(f)(i), (ii), and
239 (iii).

240 (c) At or before the first regularly scheduled meeting of the governing body in the last
241 May of the current fiscal period, the budget officer shall:

242 (i) prepare for the ensuing fiscal period and file with the governing body a tentative
243 operating and capital budget for:

244 (A) each enterprise fund; and

245 (B) other required special funds;

246 (ii) include with the tentative operating and capital budget described in Subsection
247 (3)(d)(i) specific work programs as submitted by each department head; and

248 (iii) include any other supporting data required by the governing body.

249 (d) Each city of the first or second class shall, and each city of the third, fourth, or fifth
250 class may, submit a supplementary estimate of all capital projects which a department head
251 believes should be undertaken within the three next succeeding fiscal periods.

252 (e) (i) Subject to Subsection (3)(e)(ii), the budget officer shall prepare all estimates
253 after review and consultation with each department head described in Subsection (3)(d).

(ii) After complying with Subsection (3)(e)(i), the budget officer may revise any departmental estimate before it is filed with the governing body.

(f) (i) Except as provided in Subsection (3)(f)(iv), if the governing body includes in a tentative budget or an amendment to a budget allocations or transfers from an enterprise fund to another fund or a good, service, project, venture, or purpose other than reasonable allocations of costs between the enterprise fund and the other fund, the governing body shall:

(A) hold a public hearing;

(B) prepare a written notice of the date, time, place, and purpose of the hearing, as described in Subsection (3)(f)(ii); and

(C) subject to Subsection (3)(f)(iii), mail the written notice to each enterprise fund customer at least seven days before the day of the hearing.

(ii) The purpose portion of the written notice required under Subsection (3)(f)(i)(B) shall identify:

(A) the enterprise fund from which money is being transferred;

(B) the amount being transferred; and

(C) the fund to which the money is being transferred.

(iii) The governing body:

(A) may print the written notice required under Subsection (3)(f)(i) on the enterprise fund customer's bill; and

(B) shall include the written notice required under Subsection (3)(f)(i) as a separate notification mailed or transmitted with the enterprise fund customer's bill.

(iv) A governing body is not required to repeat the notice and hearing requirements in this Subsection (3)(f) if the funds to be allocated or transferred for the current year were previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (3)(f).

(4) (a) Each tentative budget, amendment to a budget, or budget shall be reviewed and considered by the governing body at any regular meeting or special meeting called for that purpose.

282 (b) The governing body may make changes in the tentative budgets.

283 (5) Budgets for enterprise or other required special funds shall comply with the public
284 hearing requirements established in Sections 10-6-113 and 10-6-114.

285 (6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax
286 increase under Sections 59-2-919 through 59-2-923, before August ~~[31]~~ 17 of the year for
287 which a property tax increase is proposed, the governing body shall adopt an operating and
288 capital budget for each applicable fund for the ensuing fiscal period.

289 (b) A copy of the budget as finally adopted for each fund shall be:

290 (i) certified by the budget officer;

291 (ii) filed by the budget officer in the office of the city auditor or city recorder;

292 (iii) available to the public during regular business hours; and

293 (iv) filed with the state auditor within 30 days after the day on which the budget is
294 adopted.

295 (7) (a) Upon final adoption, the operating and capital budget is in effect for the budget
296 period, subject to later amendment.

297 (b) During the budget period the governing body may, in any regular meeting or special
298 meeting called for that purpose, review any one or more of the operating and capital budgets
299 for the purpose of determining if the total of any of them should be increased.

300 (c) If the governing body decides that the budget total of one or more of the funds
301 should be increased under Subsection (7)(b), the governing body shall follow the procedures
302 set forth in Section 10-6-136.

303 (8) Expenditures from operating and capital budgets shall conform to the requirements
304 relating to budgets specified in Sections 10-6-121 through 10-6-126.

305 Section 7. Section **10-6-139** is amended to read:

306 **10-6-139. City auditor or recorder -- Bookkeeping duties -- Duties with respect to**
307 **payment of claims.**

308 (1) The city auditor in each city of the first and second class, and the city recorder in
309 each city of the third, fourth, or fifth class shall maintain the general books for each fund of the

city and all subsidiary records relating thereto, including a list of the outstanding bonds, their purpose, amount, terms, date, and place payable.

(2) (a) The city auditor or city recorder~~[, as appropriate,]~~ shall:

(i) keep accounts with all receiving and disbursing officers of the city~~[, shall];~~

(ii) preaudit all claims and demands against the city before ~~[they]~~ the claims or demands are allowed~~[, and shall]; and~~

(iii) prepare the necessary checks in payment.

~~[(b) Those checks shall include an appropriate certification pursuant to Section 11-13-1, examples of which shall be presented in the Uniform Accounting Manual for Utah Cities.]~~

~~[(c)]~~ (b) The city auditor or city recorder shall ~~[also certify on the voucher or check copy, as appropriate,]~~ verify that:

(i) ~~[the]~~ a claim has been preaudited and documented;

(ii) ~~[the]~~ a claim has been approved in one of the following ways:

(A) purchase order directly approved by the mayor in the council-mayor optional form of government, or the governing body or ~~[its]~~ the governing body's delegate in other cities;

(B) claim directly approved by the governing body; or

(C) claim approved by the financial officer;

(iii) ~~[the]~~ a claim is within the lawful debt limit of the city; and

(iv) ~~[the]~~ a claim does not overexpend the appropriate departmental budget established by the governing body.

Section 8. Section 11-13-513 is amended to read:

11-13-513. Appropriations not to exceed estimated expendable revenue -- Appropriations for existing deficits.

(1) The governing board of an interlocal entity may not make an appropriation in the final budget of a fund in excess of the estimated expendable revenue for the budget year of the fund.

~~[(2) An interlocal entity determining the estimated expendable revenue of the interlocal entity general fund for the budget year shall include as an appropriation from the fund balance~~

that portion of the fund balance at the close of the last completed fiscal year, not previously included in the budget of the current year, that exceeds the amount permitted in Section 11-13-512.]

~~[(3) (a) An interlocal entity shall include in a fund budget an appropriation for an existing deficit created in accordance with Section 11-13-521 as of the close of the current year and not previously included in the current year budget, to the extent of at least 5% of the total revenue in the current year.]~~

~~[(b) If the total amount of the deficit created in accordance with Section 11-13-521 is less than 5% of the total revenue in the current year, the interlocal entity shall include in the fund budget an appropriation for the entire amount of the deficit.]~~

~~[(c) An interlocal entity shall include in a fund budget appropriation for the entire amount of a deficit in the current year resulting from expenditures other than the expenditures allowed in Section 11-13-521 to the extent that the deficit had not been included in the current year budget.]~~

(2) If there is a deficit fund balance in a fund at the close of the last completed fiscal year, the governing body of an interlocal entity shall include an item of appropriation for the deficit in the current budget of the fund equal to:

(a) at least 5% of the total revenue of the fund in the last completed fiscal year; or
(b) if the deficit is equal to less than 5% of the total revenue of the fund in the last completed fiscal year, the entire amount of the deficit.

Section 9. Section 11-42-401 is amended to read:

11-42-401. Levying an assessment -- Prerequisites -- Assessment list -- Partial payment allocation.

(1) (a) If a local entity has designated an assessment area in accordance with Part 2, Designating an Assessment Area, the local entity may levy an assessment against property within that assessment area as provided in this part.

(b) If a local entity that is a municipality or county designates an assessment area in accordance with this chapter, the municipality or county may levy an assessment and collect

the assessment in accordance with Subsection 11-42-202(1)(h)(i) or (ii).

(c) An assessment billed by a municipality or county in the same manner as a property tax and included on a property tax notice in accordance with Subsection 11-42-202(1)(h)(ii) is enforced in accordance with, constitutes a lien in accordance with, and is subject to other penalty provisions in accordance with this chapter.

(d) If a local entity includes an assessment on a property tax notice, the county treasurer shall on the property tax notice:

(i) clearly state that the assessment is for the improvement, operation and maintenance, or economic promotion activities provided by the local entity; and

(ii) itemize the assessment separate from any other tax, fee, charge, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317[~~;~~and].

~~[(iii) state that if less than the full amount of the property tax and assessments included on the property tax notice are paid, the payment will be applied proportionately to the balances due for property taxes and assessments and other permitted charges described in this section unless otherwise specified by the taxpayer and the taxpayer demonstrates that the unpaid fees are being challenged by the taxpayer.]~~

(2) Before a governing body may adopt a resolution or ordinance levying an assessment against property within an assessment area:

(a) the governing body shall:

(i) subject to Subsection (3), prepare an assessment list designating:

(A) each parcel of property proposed to be assessed; and

(B) the amount of the assessment to be levied against the property;

(ii) appoint a board of equalization as provided in Section 11-42-403; and

(iii) give notice as provided in Section 11-42-402; and

(b) the board of equalization, appointed under Section 11-42-403, shall:

(i) hold hearings;

(ii) determine if the assessment for each benefitted property meets the requirements of Section 11-42-409;

394 (iii) make necessary corrections so that assessed properties are not assessed for benefits
395 conferred exclusively outside of the assessment area;

396 (iv) make necessary corrections so that the benefitted properties are not charged for an
397 increase in size or capacity of an improvement where the increased size or capacity is to serve
398 property outside of the assessment area;

399 (v) make any corrections it considers appropriate to an assessment; and

400 (vi) report its findings to the governing body as provided in Section 11-42-403.

401 (3) (a) The governing body of a local entity shall prepare the assessment list described
402 in Subsection (2)(a)(i) at any time after:

403 (i) the governing body has determined the estimated or actual operation and
404 maintenance costs, if the assessment is to pay operation and maintenance costs;

405 (ii) the governing body has determined the estimated or actual economic promotion
406 costs described in Section 11-42-206, if the assessment is to pay for economic promotion
407 activities; or

408 (iii) for any other assessment, the governing body has determined:

409 (A) the estimated or actual acquisition and construction costs of all proposed
410 improvements within the assessment area, including overhead costs actually incurred and
411 authorized reasonable contingencies;

412 (B) the estimated or actual property price for all property to be acquired to provide the
413 proposed improvements; and

414 (C) the estimated reasonable cost of any work to be performed by the local entity.

415 (b) In addition to the requirements of Subsection (3)(a), the governing body of a local
416 entity shall prepare the assessment list described in Subsection (2)(a)(i) before:

417 (i) the light service has commenced, if the assessment is to pay for light service; or

418 (ii) the park maintenance has commenced, if the assessment is to pay for park
419 maintenance.

420 (4) A local entity may levy an assessment for some or all of the cost of improvements
421 within an assessment area, including payment of:

(a) operation and maintenance costs of improvements constructed within the assessment area only to the extent the improvements provide benefits to the properties within the assessment area and in accordance with Section 11-42-409;

(b) (i) if an outside entity furnishes utility services or maintains utility improvements, the actual cost that the local entity pays for utility services or for maintenance of improvements; or

(ii) if the local entity itself furnishes utility service or maintains improvements, for the actual costs that are reasonable, including reasonable administrative costs or reasonable costs for reimbursement of actual costs incurred by the local entity, for supplying the utility service or maintenance;

(c) the actual costs that are reasonable to supply labor, materials, or equipment in connection with improvements; and

(d) (i) the actual costs that are reasonable for valid connection fees; or

(ii) the reasonable and generally applicable costs of locally provided utilities.

(5) A local entity may not levy an assessment for an amount donated or contributed for an improvement or part of an improvement or for anything other than the costs actually and reasonably incurred by the local entity in order to provide an improvement or conduct operation and maintenance or economic promotion activities.

(6) The validity of an otherwise valid assessment is not affected because the actual and reasonable cost of improvements exceeds the estimated cost.

(7) (a) Subject to Subsection (7)(b), an assessment levied to pay for operation and maintenance costs may not be levied over a period of time exceeding five years beginning on the day on which the local entity adopts the assessment ordinance or assessment resolution for the operation and maintenance costs assessment.

(b) A local entity may levy an additional assessment described in Subsection (7)(a) in the assessment area designated for the assessment described in Subsection (7)(a) if, after the five-year period expires, the local entity:

(i) gives notice in accordance with Section 11-42-402 of the new five-year term of the

assessment; and

(ii) complies with the applicable levy provisions of this part.

Section 10. Section 17-31-5.5 is amended to read:

17-31-5.5. Report to county legislative body -- Content.

(1) The legislative body of each county ~~[imposing the]~~ that imposes a transient room tax ~~[provided for in]~~ under Section 59-12-301 ~~[shall annually engage an independent auditor to perform an audit to verify that transient room tax funds are used only as authorized by this chapter and to report the findings of the audit to the county legislative body]~~ or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall annually prepare a report in accordance with Subsection (2).

~~[(2) Subsection (1) applies to the tourism, recreation, cultural, convention, and airport facilities tax provided for in Section 59-12-603, except that the audit verification required under this Subsection (2) shall be for the uses authorized under Section 59-12-603.]~~

~~[(3)]~~ (2) The report ~~[required under]~~ described in Subsection (1) shall include a breakdown of expenditures into the following categories:

(a) for the transient room tax, identification of expenditures for:

(i) establishing and promoting:

(A) recreation;

(B) tourism;

(C) film production; and

(D) conventions;

(ii) acquiring, leasing, constructing, furnishing, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums; and

(E) related facilities;

(iii) acquiring or leasing land required for or related to the purposes listed in

Subsection ~~[(3)]~~ (2)(a)(ii);

(iv) mitigation costs as identified in Subsection 17-31-2(1)(d); and

(v) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds issued to pay for costs referred to in Subsections 17-31-2(2)(c) and (3)(a); and

(b) for the tourism, recreation, cultural, convention, and airport facilities tax, identification of expenditures for:

(i) financing tourism promotion, which means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, product development, and advertising;

(ii) the development, operation, and maintenance of the following facilities as defined in Section 59-12-602:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; and

(E) a tourist facility; and

(iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).

~~[(4)]~~ (3) A county legislative body shall provide a copy of [a] the report ~~[it receives under this section]~~ described in Subsection (1) to:

(a) the Governor's Office of Economic Development;

(b) its tourism tax advisory board; and

(c) the Office of the Legislative Fiscal Analyst.

Section 11. Section 17B-1-613 is amended to read:

17B-1-613. Appropriations not to exceed estimated expendable revenue --

Appropriations for existing deficits.

(1) The board of trustees of a local district may not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget year of the

506 fund.

507 ~~[(2) In determining the estimated expendable revenue of the general fund for the~~
508 ~~budget year there is included as an appropriation from the fund balance that portion of the fund~~
509 ~~balance at the close of the last completed fiscal year, not previously included in the budget of~~
510 ~~the current year, that exceeds the amount permitted in Section 17B-1-612.]~~

511 ~~[(3)(a) There is included as an item of appropriation in each fund for any budget year~~
512 ~~any existing deficit created in accordance with Section 17B-1-623 as of the close of the last~~
513 ~~completed fiscal year, not previously included in the budget of the current year, to the extent of~~
514 ~~at least 5% of the total revenue of the fund in its last completed fiscal year.]~~

515 ~~[(b) If the total amount of the deficit is less than 5% of the total revenue in the last~~
516 ~~completed fiscal year, the entire amount of the deficit shall be included.]~~

517 ~~[(c) The entire amount of any deficit which results from activities other than those~~
518 ~~described in Section 17B-1-623 shall be included as an item of appropriation in each fund for~~
519 ~~any budget year not previously included in the budget of the current year.]~~

520 (2) If there is a deficit fund balance in a fund at the close of the last completed fiscal
521 year, the board of trustees of a local district shall include an item of appropriation for the
522 deficit in the current budget of the fund equal to:

523 (a) at least 5% of the total revenue of the fund in the last completed fiscal year; or

524 (b) if the deficit is equal to less than 5% of the total revenue of the fund in the last
525 completed fiscal year, the entire amount of the deficit.

526 (3) The provisions of this section do not require a local district to add revenue to a fund
527 that is used for debt service of a limited obligation, unless the revenue is pledged toward the
528 limited obligation.

529 Section 12. Section 17B-1-902 is amended to read:

530 **17B-1-902. Lien for past due service fees -- Partial payment allocation.**

531 (1) (a) A local district may file a lien on a customer's property for past due fees for
532 commodities, services, or facilities that the district has provided to the customer's property by
533 certifying, subject to Subsection (2), to the treasurer of the county in which the customer's

property is located the past due fees, including, subject to Section 17B-1-902.1, applicable interest and administrative costs.

(b) Upon certification under Subsection (1)(a), the past due fees, and if applicable, interest and administrative costs, become a lien on the customer's property to which the commodities, services, or facilities were provided.

(c) A lien filed in accordance with this section has the same priority as, but is separate and distinct from, a property tax lien.

(2) (a) If a local district certifies past due fees under Subsection (1)(a), the county treasurer shall include on a property tax notice issued in accordance with Section 59-2-1317 an unpaid fee, administrative cost, or interest described in Subsection (1)(a).

(b) If an unpaid fee, administrative cost, or interest is included on a property tax notice in accordance with Subsection (2)(a), the county treasurer shall on the property tax notice:

(i) clearly state that the unpaid fee, administrative cost, or interest is for a service provided by the local district; and

(ii) itemize the unpaid fee, administrative cost, or interest separate from any other tax, fee, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317[~~;~~and].

~~[(iii) state that if less than the full amount of the property tax and local district fees included on the property tax notice are paid, the payment will be applied proportionately to the balances due for property taxes and local district fees, which shall include all fees and other permitted charges described in this section unless otherwise specified by the taxpayer and the taxpayer demonstrates that the unpaid fees are being challenged by the taxpayer.]~~

(3) A lien under Subsection (1) is not valid if certification under Subsection (1) is made after the filing for record of a document conveying title of the customer's property to a new owner.

(4) Nothing in this section may be construed to:

(a) waive or release the customer's obligation to pay fees that the district has imposed;

(b) preclude the certification of a lien under Subsection (1) with respect to past due

fees for commodities, services, or facilities provided after the date that title to the property is transferred to a new owner; or

(c) nullify or terminate a valid lien.

(5) After all amounts owing under a lien established as provided in this section have been paid, the local district shall file for record in the county recorder's office a release of the lien.

Section 13. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) if applicable, the amount of an assessment assessed in accordance with Section 11-42-401;

(viii) if applicable, an unpaid fee, administrative cost, or interest for a local district in accordance with Section 17B-1-902;

(ix) the date the taxes are due;

(x) the street address at which the taxes may be paid;

(xi) the date on which the taxes are delinquent;

(xii) the penalty imposed on delinquent taxes;

(xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (7);

~~[(xiii)]~~ (xiv) other information specifically authorized to be included on the notice under this chapter; and

~~[(xiv)]~~ (xv) other property tax information approved by the commission.

(2) For any property for which property taxes are delinquent, the notice described in Subsection (1) shall state, "Prior taxes are delinquent on this parcel."

(3) Except as provided in Subsection (4), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(4) (a) Subject to the other provisions of this Subsection (4), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (3), until a taxpayer makes a new election in accordance with this Subsection (4), if:

(i) the taxpayer revokes an election in accordance with Subsection (4)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (4) regardless of whether the property that is the subject of the notice required by this section is

618 exempt from taxation.

619 (5) (a) The county treasurer shall provide the notice required by this section to a
620 taxpayer on or before November 1.

621 (b) The county treasurer shall keep on file in the county treasurer's office the
622 information set forth in the notice.

623 (c) The county treasurer is not required to mail a tax receipt acknowledging payment.

624 (6) This section does not apply to property taxed under Section 59-2-1302 or
625 59-2-1307.

626 (7) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax
627 notice may, on a form provided by the county treasurer, direct how the county treasurer
628 allocates the partial payment between:

629 (i) the total amount due for property tax;

630 (ii) the amount due for assessments;

631 (iii) the amount due for past due local district fees; and

632 (iv) any other amounts due on the property tax notice.

633 (b) The county treasurer shall comply with a direction submitted to the county treasurer
634 in accordance with Subsection (7)(a).

635 (c) The provisions of this Subsection (7) do not:

636 (i) affect the right or ability of a local entity to pursue any available remedy for
637 non-payment of any item listed on a taxpayer's property tax notice; or

638 (ii) toll or otherwise change any time period related to a remedy described in
639 Subsection (7)(c)(i).

640 Section 14. **Retrospective operation.**

641 The amendments to Sections 11-42-401, 17B-1-902, and 59-2-1317 in this bill have
642 retrospective operation to January 1, 2016.

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No. 6.

Short Title: FY2018 Budget

Initiated By: City Manager

Scheduled Time: 7:50

SUBJECT

- a. Presentation of City Manager's Proposed Budget
- b. Public Hearing
- c. Adopt Tentative Budget and set dates for work sessions and public hearing

RECOMMENDATION

Allow City Manager to make brief comments about his Proposed Budget. Then conduct a public hearing prior to adoption of the Tentative Budget, or continue the public hearing and adopt the Tentative Budget on May 16. Also set the dates for budget work sessions and another public hearing prior to adoption of the Final Budget.

BACKGROUND

State law requires the Budget Officer (City Manager) to present the Proposed Budget to the City Council by the first regular council meeting in May. The Council may adopt the Proposed Budget as the Tentative Budget or make changes first and then adopt a Tentative Budget. Recent revisions to State law appear to require a public hearing before adopting the Tentative Budget--something that has not been required in past years. Staff believe the requirement for a public hearing at this point in the process--as well as prior to adoption of the Final Budget--was an unintentional outcome of recent revisions to the Budget statutes.

Since the Council has authority to make changes before adopting a Final Budget, adopting a Tentative Budget does not indicate the Council agrees with all of its content. Adopting a Tentative Budget initiates the process of providing the budget document to the public for comment before the Council adopts a Final Budget.

Since State law requires the Final Budget to be adopted no later than June 22--unless the Council intends to go through a "Truth-in-Taxation" process--the City Manager recommends the following calendar:

- May 2 -- adopt Tentative Budget and hold a work session following the City Council and RDA meetings.
- May 16 -- budget work session prior to regular Council meeting
- May 23 or 30 -- another budget work session if desired by the Council
- End of May -- send out Budget Newsletter as the utility bill insert
- June 6 -- public hearing
- June 20 -- adopt Final Budget

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No. 7

Short Title: Mayor's Report

Initiated By: Mayor Cutler

Scheduled Time: 8:10

SUBJECT

RECOMMENDATION

Although no topics are shown under this heading, Mayor Cutler may report on one or more matters of City interest.

BACKGROUND

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No. 8.

Short Title: City Manager's Report

Initiated By: City Manager

Scheduled Time: 8:15

SUBJECT

RECOMMENDATION

Although no topics are shown under this heading, the City Manager may report on matters of City interest.

BACKGROUND

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No. 9.

Short Title: Miscellaneous Business

Initiated By:

Scheduled Time: 8:20

SUBJECT

RECOMMENDATION

No topics are currently identified under this heading.

BACKGROUND

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No. 10.

Short Title: Closed meeting, if necessary, for reasons allowed by state law, including, but not limited to, the provisions of Section 52-4-205 of the Utah Open and Public Meetings Act, and for attorney-client matters that are privileged pursuant to Utah Code Ann. § 78B-1-137, as amended

Initiated By:

Scheduled Time: 8:20

SUBJECT

RECOMMENDATION

The Council may want to go into a closed meeting to discuss the draft of an agreement pertaining to the transfer of land from the County to the City. The Council is authorized by law to go into a closed session for the purpose of discussing the purchase, sale, exchange or lease of real property in accordance with the provisions of Utah Code Ann. 52-4-205. If the Council wishes, they could adjourn into the RDA meeting first, then go into closed meeting, followed by the budget work session.

BACKGROUND

The draft agreement is attached as a confidential document for the City Council.

ATTACHMENTS:

Description

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No. 11.

Short Title: Possible action following closed meeting, including appointments to boards and committees

Initiated By:

Scheduled Time: 8:30

SUBJECT

RECOMMENDATION

Mayor Cutler may recommend appointments to City boards/committees.

BACKGROUND

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No. 12.

Short Title: Adjourn to RDA meeting

Initiated By:

Scheduled Time: 8:30

SUBJECT

RECOMMENDATION

BACKGROUND

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No. 13.

Short Title: Reconvene City Council in a work session re FY2018 Proposed Budget

Initiated By:

Scheduled Time: 8:45

SUBJECT

RECOMMENDATION

Due to the relatively light agenda for the regular Council meeting, the City Manager recommends a work session on his FY2018 Proposed Budget following the Council meeting.

BACKGROUND

**CENTERVILLE
CITY COUNCIL
Staff Backup Report
5/2/2017**

Item No.

Short Title: Items of Interest (i.e., newspaper articles, items not on agenda); Posted in-meeting information

Initiated By:

Scheduled Time:

SUBJECT

RECOMMENDATION

BACKGROUND

REDEVELOPMENT AGENCY OF CENTERVILLE CITY AGENDA

NOTICE IS HEREBY GIVEN THAT THE CENTERVILLE CITY COUNCIL WILL HOLD ITS REDEVELOPMENT AGENCY OF CENTERVILLE MEETING AT 8:30 PM ON MAY 2, 2017 AT THE CENTERVILLE CITY COMMUNITY CENTER AND CITY HALL COUNCIL CHAMBERS, 250 NORTH MAIN STREET, CENTERVILLE, UTAH. THE AGENDA IS SHOWN BELOW.

Meetings of the City Council of Centerville City may be conducted via electronic means pursuant to Utah Code Ann. 52-4-207, as amended. In such circumstances, contact will be established and maintained via electronic means and the meeting will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.

Centerville City, in compliance with the Americans With Disabilities Act, provides accommodations and auxiliary communicative aids and services for all those citizens in need of assistance, including hearing devices. Persons requesting these accommodations for City-sponsored public meetings, services, programs, or events should call Jacob Smith, Centerville City Assistant to the City Manager, at 801-295-3477, giving at least 24 hours notice prior to the meeting.

A notebook containing supporting materials for the business agenda items is available for public inspection and review at City Hall and will be available for review at the meeting. Upon request, a citizen may obtain (without charge) the City Manager's memo summarizing the agenda business, **or may read this memo on the City's website: <http://centerville.novusagenda.com/agendapublic>.**

Tentative - The times shown below are tentative and are subject to change during the meeting.
Time:

A. NEW BUSINESS

1. Public Hearing - Proposed RDA FY 2018 Budget
 - a. Presentation of FY 2108 RDA Proposed Budget
 - b. Public hearing
 - c. Adopt FY 2018 RDA Tentative Budget and set date for public hearing prior to adoption of Final Budget
2. Assignment and Assumption Agreement - Centerville Gateway Subdivision - Lot 1 - Iggy's
Consider Assignment and Assumption Agreement for the sale and purchase of Lot 1 of the Centerville Gateway Subdivision from Mackey Investments Centerville, LC to Deerwood Investments Utah, LLC
3. Letter of Support for CenterPoint Theatre grant application
4. Executive Director's Report

REDEVELOPMENT AGENCY OF CENTERVILLE CITY AGENDA

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