

CENTERVILLE CITY

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

Incorporated in 1915

Mayor

Ronald G. Russell

City Council

Justin Y. Allen

Ken S. Averett

John T. Higginson

Sherri L. Lindstrom

Lawrence Wright

City Manager

Steve H. Thacker

interoffice MEMORANDUM

to: Mayor Russell
City Council
cc: Department Heads
Planning Commission
from: Steve Thacker, City Manager *A. Thacker*
subject: City Manager's Summary of February 5, 2013 Council Meeting
date: February 1, 2013

There is no work session scheduled prior to the regular meeting which begins at 7:00 p.m.

E.1. Minutes Review and Acceptance – The minutes to be approved are enclosed.

E.2. Summary Action Calendar

- a. **Amend City Fee Schedule** – At their January 15 meeting, the City Council approved an ordinance adopting a Park Impact Fee Facilities Plan, Impact Fee Analysis and a maximum Park Impact Fee of \$2057.61. The action shown on the February 5 agenda is merely an administrative action to update the City's Fee Schedule to include the revised Park Impact Fee. Staff recommend it be rounded down to the nearest dollar, or \$2,057. The current Park Impact fee is \$1,200 per new residential unit, which has not changed since 1998. The effective date of the revised fee would be April 16, 2013, allowing 90 days from the adoption of the ordinance in the earlier meeting, as required by State law. A park impact fee is assessed at the time of building permit for new residential units, whether single-family homes or multi-family units. These revenues can be used only for park and trail improvements that have been shown in the Park Impact Fee Facilities Plan as necessary to maintain the "current level of service" for population growth. According to that Plan, the priority for the next few years will likely be the expansion of the Community Park.
- b. **Accept Easements** – The Plat for the Centerville Corporate Park Subdivision Amended is included in the packet. This plat reflects the division of Lot 2 into Lots 201 and 202. This subdivision of Lot 2 was approved by the Planning Commission but did not require City Council approval because it falls under the category of small subdivision waiver. The City Council, however, needs to accept the easements shown on the plat.
- d. **Reapprove Assignment & Assumption Agreement** – In connection with the subdivision of Lot 2 of the Centerville Corporate Park Subdivision (mentioned above), an Assignment and Assumption Agreement was approved by both Centerville City and the Redevelopment Agency for the newly created Lot 202 but was never executed by the parties. Chick-Fil-A, as the purchaser of Lot 202, has requested some minor changes to this agreement since it was approved by the City. Those changes are explained in the staff report.



- E.3. Report re Waste District** – Councilwoman Sherri Lindstrom represents Centerville City on the Waste District Board of Directors. She has requested some time to report on several District issues or initiatives.
- E.4. Code Enforcement Program** – Several months ago staff initiated another discussion with the City Council about code enforcement. That was the latest of several discussions about this subject over the past several years. In that meeting staff were seeking clarification and confirmation of Council's direction regarding the code enforcement program. Staff were directed to come back to a future Council meeting with more specific recommendations regarding code enforcement policy and procedures. The enclosed staff report was prepared by Lisa Romney, City Attorney, with participation from the City Manager and Community Development staff. Staff have also met with Councilman Wright to listen further to his concerns and issues regarding code enforcement. Staff's recommendations address several issues raised by the City Council in their earlier meeting. Procedures recommended by staff allow for formal as well as informal complaints, either in writing or over the telephone, and also accommodate anonymous complaints—concerns expressed by the City Council. Staff recommend the City's code enforcement approach remain primarily a complaint-based approach with allowance for systematic enforcement to deal with particular situations or types of violations as directed by the City Council.
- E.5. FY 2013 Budget Amendments** – Several amendments are proposed to the current fiscal year budget, as explained in the enclosed staff report. These amendments relate to the City's Fire District assessment, snowplowing, legal services, the street maintenance budget and an assessment for UTOPIA operating costs. State law requires the City Council to hold a public hearing on proposed amendments to the budget. The enclosed staff report provides more details.
- E.6. Mayor's Report** – The Mayor would like to discuss whether the Council wants to undertake a goal-setting process this year. He recommends part of that process include a work session with the Planning Commission.
- E.7. City Manager's Report** – I will report on the opportunity for Council to view a test version of the new website. I will also provide an update of development activity anticipated this year in Centerville.
- E.8. Miscellaneous Business** – At this time I am not aware of any subjects under this heading.
- E.9. Closed meeting, if necessary** – At this time, I do not know of a need for a closed meeting, but the agenda allows for that possibility.
- E.10. Appointments to City boards, committees, etc.** – I do not know of any appointments the Mayor is prepared to make, but the agenda allows for that possibility.

8:40 RDA Meeting

There are two items of business for the Redevelopment Agency Board, both related to the subdivision of Lot 2 of the Centerville Corporate Park Subdivision. The first matter is to approve Amendment No. 3 to the Grant of Easements and Restrictions for that subdivision to add provisions regarding the ownership, maintenance obligations and assessment calculations for the proposed above-

ground parking structure on Lot 201. This same substance is in the Participation Agreement approved earlier between the RDA and MTC. At that time it was noted that a similar provision would need to be added to the Grant of Easements and Restrictions; this is that follow up action.

The second matter on the RDA agenda is identical to the matter on the City Council's agenda under Summary Action Calendar—i.e., the reapproval of an Assignment and Assumption Agreement pertaining to Lot 202 of the Centerville Corporate Park Subdivision Amended.

Potential Agenda Items for February 19, 2013 City Council Meeting (subject to change):

- Animal Control Agreement with Davis County
- Interlocal Agreement re funding for construction of the D&RGW Trail extension from Farmington to Centerville
- Public Hearing – General Plan amendment re Chapter 12-490, Moderate Income Housing Plan
- Public Hearing – Zone Map amendment for land located at southeast corner of Lund Lane and Frontage Road
- Approve/accept Street Dedication and Easements for Parrish Creek Business Park – 1030 North 950 West (if ready)
- Financial Report for period ending January 31, 2013
- Training from City Attorney

mlm

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, FEBRUARY 5, 2013 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 Blaine Lutz, Centerville Finance Director, at 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: www.centervilleut.net.

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

7:00 **A. ROLL CALL**

B. PLEDGE OF ALLEGIANCE

C. PRAYER OR THOUGHT – Councilman Justin Allen

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 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 – January 8, 2013 work session; January 15, 2013 work session; January 15, 2013 meeting**

7:10 **2. SUMMARY ACTION CALENDAR**
 a. Amend City Fee Schedule – Consider Resolution No. 2013-05 adopting the revised Park Impact Fee of \$2,057

(OVER)

- b. Accept easements for Centerville Corporate Park Subdivision Amended
 - c. Reapprove Assignment and Assumption Agreement for the Centerville Corporate Park Subdivision regarding assignment of rights and assumption of obligations for Lot 202 under the Corporate Park Governing Documents
- 7:15 3. Report from Councilwoman Lindstrom re Waste District
- 7:30 4. Code Enforcement Program
 - a. Discuss staff report and recommendations
 - b. Consider Ordinance No. 2013-02 amending provisions of Title 1 regarding Civil Enforcement
 - c. Consider Resolution No. 2013-07 amending City Fee Schedule regarding Civil Penalties
- 7:50 5. FY 2013 Budget (current fiscal year)
 - a. Public hearing on proposed amendments
 - b. Consider Resolution No. 2013-06, amending FY 2013 Budget
- 8:20 6. Mayor's Report
 - a. Goal setting process, including work session with Planning Commission
- 8:30 7. City Manager's Report
 - a. Status of new website
 - b. Development update
- 8:35 8. Miscellaneous Business
- 8:40 9. 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.
- 8:40 10. Possible action following closed meeting, including appointments to boards and committees

F. ADJOURNMENT

8:40 RDA meeting

Marsha L. Morrow, MMC
Centerville City Recorder

Preliminary Draft

Minutes of the Centerville City Council **work session** held Tuesday, January 8, 2013 at 7:08 p.m. in the Centerville City Council Chambers, 250 North Main Street, Centerville, Utah.

MEMBERS PRESENT

Mayor Ronald G. Russell

Council Members Justin Y. Allen
Ken Averett
John T. Higginson
Sherri Lyn Lindstrom
Lawrence Wright

STAFF PRESENT

Steve Thacker, City Manager
Blaine Lutz, Finance Director/Assistant City Manager
Lisa Romney, City Attorney
Jacob Smith, Management Assistant
Katie Rust, Recording Secretary

DISCUSSION OF PARKS CAPITAL IMPROVEMENT PLAN, IMPACT FEE FACILITIES PLAN AND IMPACT FEE ANALYSIS

Jacob Smith, Management Assistant, explained that the numbers used in the equation to determine current level of service for City parks have been adjusted to more accurately reflect the amount of City-owned developed park land. Only City-owned property can be included in the equation when determining the impact fee to charge new development. To maintain the current level of service at build-out the City would need to provide an additional 10.64 acres of developed park land. The City currently owns 7.5 acres of land that can be developed, leaving 3.14 acres to acquire in the future. The amount of additional paved trails necessary to maintain the current level of service at build-out is .52 miles. Impact fees must be used within six years of collection. Staff provided the Council with a proposed Parks Impact Fee Facilities Plan and Analysis. It is recommended that the Park Impact Fee be increased to \$2,057.61 to maintain the current level of service.

Councilman Wright asked what impact fees are collected from new development, and expressed concern that increasing the Park Impact Fee would be too much. Staff explained that fewer impact fees are collected in Centerville than in some other communities. Lisa Romney, City Attorney, explained that impact fees are a fair allocation of the impact of new development on existing city facilities. Councilman Wright suggested staff prepare a chart showing impact fees in surrounding communities. He also asked what additional impact fees could be charged by the City. Staff responded that Centerville does not charge a traffic impact fee (developers are required to put in all necessary roads associated with their development) or an emergency medical services impact fee. Councilwoman Lindstrom asked why commercial development does not pay Park Impact Fees. She suggested that developed parks contribute to an environment that benefits commercial business. Staff responded that commercial development is not required by law to pay Park Impact Fees, but is required to pay all other impact fees. The Council is supportive of holding a public hearing for the Parks Impact Fee Facilities Plan, Parks Impact Fee Analysis and proposed Parks Impact Fee at the Council meeting on January 15th.

REVIEW OF PROPOSALS FROM JASON BURNINGHAM

Mr. Thacker explained that the Culinary Water System Capital Facilities Finance Plan was completed several years ago. That Plan recommended the Water System Impact Fee be updated. The City's financial advisor, Lewis Young Robertson Burningham, would do this study for a fee not to exceed \$10,040. It is also proposed that the Council move forward with a Comprehensive Financial Sustainability Plan, Impact Fee Facilities Plan, and Impact Fee Analysis for the Storm Water Utility System for a fee of approximately \$20,000. The combined expense to fund the studies would be a little over \$30,000. Staff recommends the Council accept the proposals at the January 15th Council meeting so that work can begin. Councilman Wright suggested that master plans and impact fee analyses be developed together to align them for budget purposes.

DISCUSSION TOPICS FOR WORK SESSION WITH LEGISLATORS

The Council and staff discussed topics they would like to bring up with State Legislators at the work session scheduled for January 15th:

- Fire Agency – creating an independent taxing district
- Sales tax distribution
- Transportation funding/gas tax
- UTOPIA
- Pedestrian walkway over freeway

MID-FISCAL YEAR REVIEW OF CITY FINANCES

Blaine Lutz, Finance Director/Assistant City Manager, reported that the General Fund balance is healthy, but not extravagant. Mr. Lutz presented a historical review of major revenue sources. Revenues have been lower than projected for several years. As a result, the City has been unable to complete much of the street maintenance in the Five-Year Streets Maintenance Plan, which expires in 2013. Staff recommends the Council amend the current budget to allocate additional funds for streets maintenance, to restore funding for the annual streets contracts to \$500,000. This is still well below the amounts needed over the next several years, according to the Public Works Director. The proposed allocation would leave a General Fund balance of approximately 13% of FY2012 revenues.

The Council also discussed a possible UTOPIA OPEX assessment. Staff recommends the assessment be funded from General Fund balance, so that it does not impact other services. Councilman Wright does not think Centerville should be responsible for more than the City's "pledge" percentage of 3.33%. Councilman Averett agrees. Councilman Allen suggested the fact that Centerville subscribers have paid the \$2,750 upfront installation charge is an argument against increasing the assessment. Councilman Allen stated he would be comfortable with paying a little more. Councilman Wright feels UTOPIA administration has shown poor strategic planning. Councilman Averett stated that UTOPIA should stay within the pledging cities' boundaries. He feels expanding outside of the pledging cities signals defeat. Staff pointed out that expanding into an area such as downtown Salt Lake City, with potential business subscribers, could result in substantial net revenues.

Mr. Thacker and Mr. Lutz explained potential funding sources for the General Fund. Mr. Lutz reviewed sales tax projections that were made for the Council in 2008 and compared the

projections to what actually happened due to the recession. He discussed a potential property tax increase and the impact an increase would have on a typical homeowner. It would be possible to increase the franchise tax on electric power and natural gas from 5% to 6%, generating an additional \$140,000 annually. Mr. Thacker explained that it would take \$1.5 million to accomplish all the deferred maintenance in the Five-Year Streets Maintenance Plan (expiring this year) that has not been completed. The cost of materials has increased significantly, reducing the buying power of the Class C Road Fund revenues received over the past 10 years.

Blaine Lutz listed major expenditure impacts anticipated in the future. He cautioned the Council about the need to increase spending for equipment. Mr. Thacker suggested that the \$50,000 loaned to the Parks Capital Improvement Fund several years ago could be repaid to the General Fund to help fund street maintenance and other obligations. Council members indicated support for this.

In closing, City Manager Thacker made the following recommendations:

- Use General Fund reserves to restore the current streets project budget to \$500,000.
- Approve timely increases in impact fees and enterprise funds – i.e., keep these funds healthy.
- Fund UTOPIA OPEX assessments from General Fund reserves, not current revenue.
- Implement a 1% franchise tax increase.
- Lobby legislators to increase transportation funding (Class C Road Fund); not alter the sales tax distribution formula; and allow UTOPIA to offer retail services.
- Do not balance the budget on the back of employees. Councilman Allen pointed out that City employees have fared better than many employees in the public sector. There is a lot to be said for job stability. Mr. Thacker pointed out that it is important to take the right approach in the discussion.
- Increase the property tax rate to restore historical buying power of that revenue source.
- Take the initiative away from the Utah Taxpayers Association with a proactive public education effort.
- Convert the Fire Agency to an independent taxing district to relieve some pressure on the City's budget.

ADJOURNMENT

At 9:40 p.m. Councilman Wright made a **motion** to adjourn the work session. Councilwoman Lindstrom seconded the motion, which passed by unanimous vote (5-0).

Marsha L. Morrow, City Recorder

Date Approved

Katie Rust, Recording Secretary

Minutes of the Centerville City Council **work session** held Tuesday, January 15, 2013 at 5:50 p.m. in the Centerville City Council Chambers, 250 North Main Street, Centerville, Utah.

MEMBERS PRESENT

Mayor Ronald G. Russell

Council Members Justin Y. Allen
Ken Averett
John T. Higginson
Sherri Lyn Lindstrom
Lawrence Wright

STAFF PRESENT

Steve Thacker, City Manager
Blaine Lutz, Finance Director/Assistant City Manager
Lisa Romney, City Attorney
Katie Rust, Recording Secretary

VISITORS

Senator Stuart Adams (arrived at 5:58 p.m.)
Representative Roger Barrus
Senator Todd Weiler
Paul Cutler, City UIA Representative

WORK SESSION WITH STATE LEGISLATORS REPRESENTING CENTERVILLE

The Legislators representing Centerville informed the Council about issues that will be discussed in the upcoming Legislative Session that would affect Centerville. Representative Roger Barrus stated that most discussions in the House have centered around the budget and healthcare bills. He mentioned a bill regarding water treatment that would require an analysis from the distributor of each batch of fluoride chemical used in public water systems. The City would have copies of the analyses, which would be available to the public upon request. This would help ensure the fluoride additives used in the water are meeting government requirements.

Senator Weiler informed the Council that the State Tax Commission has several license plate readers that could be checked out for use by the Centerville Police Department. The license plate readers allow police to quickly check a large number of vehicles for stolen automobiles and auto insurance compliance. Senator Weiler feels there is a need for a policy regarding who can access data from the license plate scans. He advocates storing the information for six months and requiring a court order for access. Senator Weiler also mentioned a desire to improve the process used to dispose of surplus State property, to increase revenue from this source.

Senator Adams reported that much of the State budget will have to remain undecided until the Federal Government makes its final decisions. Utah is expected to have increased revenues. He reported that the 229 Transportation Fund has increased, which will hopefully fund a lane addition on I-15. The Senate has chosen not to bond for transportation this session. He is aware of the City's desire for a pedestrian walkway over the freeway and will continue to push to get funding for it. He expressed that it is hard to allocate money for a pedestrian walkway with larger projects needing the funds. Senator Adams suggested the project might receive greater consideration if local match funds were available. He thinks a pedestrian walkway separate from the overpass could happen sooner than a complete rebuild of the overpass.

Councilman Wright commented that the Legislature has passed a number of statutes that have tied the hands of UTOPIA cities. He asked Senator Adams if any of the statutes could be reversed. Senator Adams responded that there may be a rational reason to do it, but the political support is not there. Senator Adams stated that Comcast and CenturyLink are not happy about UTOPIA and would like to do away with it. He feels if the UTOPIA issue were brought before the legislature right now UTOPIA would end up with more regulations, not less. The Legislature believes in a free-market system and that business should remain in the private sector. The Legislature perceives the issue differently than the UTOPIA cities do. Councilman Wright brought up Spanish Fork as a successful example and suggested that other UTOPIA cities be grandfathered to allow retail sales. Senator Adams cited Provo as a negative example. Mayor Russell asked if they can expect the Legislature to at least not make things harder for UTOPIA cities. Senator Adams responded they will have to work hard to make that happen. It may be safer to keep it off the Legislative table.

Mayor Russell brought up the topic of transportation funding and the challenge of maintaining streets. The buying power of Class C Road Funds has decreased over time. He asked the Legislators if they are aware of any effort to address transportation funding. Senator Adams responded that a simple solution would be a gas tax increase, which probably will not happen. Davis County could exercise a local option to increase sales tax, with the increase dedicated to transportation funding. Davis is the only county along the Wasatch Front that has not exercised the full local option. Councilman Allen asked Senator Adams if the Legislature could give an individual city authority to raise the sales tax for this purpose. Senator Adams responded they could look into cities being able to exercise the option, but it could be a disadvantage to a city to have higher sales tax rates than neighboring cities. The concept is considered to be more successful on a county scale. Senator Weiler thinks the County Commissioners will be reluctant to increase the taxes, but it could be put on the ballot as a referendum and left up to the cities to promote.

Steve Thacker, City Manager, brought up the sales tax distribution formula and informed the Legislators that Centerville does not want the formula changed to require Centerville to give up more of the sales tax collected within the city. He feels the 50/50 distribution is a fair balance. Centerville is a net giver of sales tax dollars. Senator Adams commented it would be helpful to see more data. Councilman Wright expressed a concern about the many meetings school teachers are expected to attend without additional compensation by the school districts. Senator Adams agreed to visit with Councilman Wright on the subject at another time.

ADJOURNMENT

The work session was adjourned at 6:50 p.m.

Marsha L. Morrow, City Recorder

Date Approved

Katie Rust, Recording Secretary

Minutes of the Centerville **City Council** meeting held Tuesday, January 15, 2013 at 7:03 p.m. in the Centerville City Hall Council Chambers, 250 North Main Street, Centerville, Utah.

MEMBERS PRESENT

Mayor Ronald G. Russell

Council Members Justin Y. Allen (excused at 9:40 p.m.)
Ken S. Averett
John T. Higginson
Sherri Lyn Lindstrom
Lawrence Wright

STAFF PRESENT

Steve Thacker, City Manager
Blaine Lutz, Finance Director/Assistant City Manager
Lisa Romney, City Attorney
Cory Snyder, Community Development Director
Jacob Smith, Management Assistant
Katie Rust, Recording Secretary

VISITORS

Paul Cutler, City UIA Representative
Interested citizens (see attached sign-in sheet)

PLEDGE OF ALLEGIANCE

PRAYER OR THOUGHT Mayor Ronald Russell

OPEN SESSION

Ben Horsley – Mr. Horsley, representing the Jennie P. Stewart Elementary School Community Council, brought the school's SNAP plan, regarding safe walking routes, to the Council's attention. The Community Council has a number of concerns, mainly pertaining to the intersection of Chase Lane and 400 West. He referred to a traffic study done in January of 2010 which indicated that the intersection did not have a lot of pedestrian traffic. Mr. Horsley suggested that January is the wrong time to conduct such a study with the cold weather. The Community Council requests the City study the issue again to ensure the safety of children walking to and from school. Mr. Horsley requested a formal response from the Council. He stated that approximately 100 children use the intersection on a regular school day. The Community Council is interested in continuing discussions with the City to resolve the safety concerns. Councilman Wright thanked Mr. Horsley for bringing the matter to the Council's attention. He feels the Council should put the matter on a future agenda. Mr. Horsley stated he recognizes the cost burden to the City, but feels there are many possible solutions, many of which would be fairly simple. Pauline Bowen, also a member of the Stewart Community Council, feels that promises were made at a previous meeting that were not followed-through. Mayor Russell expressed the City would be willing to look at the issue again. Steve Thacker, City Manager, stated he would be willing to meet with them and report back to the Council.

Neil Lish – Mr. Lish thanked Steve Thacker and Cory Snyder for the time they have spent meeting with him. A neighbor has complained to the City about a fence on his property. Before installing the fence Mr. Lish called the Community Development Office to learn the ordinance requirements regarding residential property fences. He complied with the information

he was given when he installed his six-foot fence. Due to insufficient communication between Mr. Lish and staff, Mr. Lish did not realize the last panel of the fence should not be more than four feet tall. Mr. Lish feels his neighbor's complaint is frivolous. He feels good government does not enforce by complaint – it requires universal compliance or changes the ordinance. He has noticed many other properties with fences in violation of the regulations and does not think it is fair to single-out one property owner because of a complaint. He asked why he should comply when others are not required to comply. He feels if he is going to be fined he cannot turn a blind eye to others not in compliance. Mr. Lish asked the Council to send the ordinance to the Planning Commission for review. He does not think it would be appropriate to require him to pay a \$250 fee to have the ordinance reviewed when it is a city-wide problem. He asked the Council to be proactive and fair. Councilman Wright feels the case involves multiple issues, and stated he is an advocate of more stringent code enforcement than is currently in place. Mr. Thacker reported he has met with Mr. Lish and explained his options. Mr. Lish would not have gone to the expense of buying as much fencing as he did if he had known about the 25-foot setback requirement. Mr. Lish said he would leave the matter with the Council to review and see if there is a better option than cutting the last panel of his fence down to four feet.

MINUTES REVIEW AND ACCEPTANCE

The minutes of the December 18, 2012 Council meeting were reviewed. Councilman Wright made a **motion** to approve the minutes. Councilwoman Lindstrom seconded the motion, which passed by unanimous vote (5-0).

SUMMARY ACTION CALENDAR

- a. Commence warranty period for Abe Millet site plan located at 2138 North Frontage Road
- b. Amendment to City Fee Schedule re: Sex Offender Registry Fees – Consider Resolution No. 2013-01
- c. Accept proposal from Lewis Young Robertson Burningham for preparation of:
 - 1) Culinary Water System Impact Fee Facilities Plan/Impact Fee Analysis
 - 2) Storm Water Comprehensive Financial Sustainability Plan and Impact Fee Facilities Plan/Impact Fee Analysis

Councilman Wright requested the Council discuss item (b) on the Summary Action Calendar separately. Councilman Allen made a **motion** to approve items (a) and (c) on the Summary Action Calendar: (a) commence the warranty period for the Abe Millet site plan located at 2138 North Frontage Road; and (c) accept the proposal from Lewis Young Robertson Burningham for preparation of (1) Culinary Water System Impact Fee Facilities Plan/Impact Fee Analysis and (2) Storm Water Comprehensive Financial Sustainability Plan and Impact Fee Facilities Plan/Impact Fee Analysis. Councilwoman Lindstrom seconded the motion, which passed by unanimous vote (5-0).

Referring to item (b) on the Summary Action Calendar, Councilman Wright asked how much the City pays to service the Sex Offender Registry per offender. Lisa Romney, City Attorney, explained the City does not conduct the testing, just collects the samples. The cost to the City is approximately one hour of police officer time. The City is allowed by the State to recoup up to \$25. Councilman Wright made a **motion** to approve item (b) on the Summary Action Calendar and accept Resolution No. 2013-01, amending the Centerville City Fee

1 Schedule regarding Sex Offender Registry Fees. Councilman Averett seconded the motion,
2 which passed by unanimous vote (5-0).

3
4 **ZONE MAP AMENDMENT ON PROPERTY LOCATED AT THE FRONTAGE ROAD**
5 **AND LUND LANE FROM A-L TO R-L – WOOD PARK SUBDIVISION (TABLED FROM**
6 **DECEMBER 4 MEETING)**

7
8 Mayor Russell stated that a public hearing regarding the Zone Map Amendment
9 occurred on November 20, 2012. Cory Snyder, Community Development Director, explained
10 that the General Plan is not the only guide when considering a rezone, but it should be given
11 weighty consideration. In Centerville, the General Plan is adopted by ordinance. A General
12 Plan can be adopted by resolution or by ordinance. In Mr. Snyder's opinion, a resolution
13 specifies the City's desires and wants as a type of "wish-list." Decisions adopted by ordinance
14 are taken a little more serious, and compliance is expected. The General Plan should heavily
15 weigh in the Council's decision. The majority of the Planning Commission voted that the
16 application for Zone Map Amendment is in accordance with the intent of the General Plan. The
17 property located at the Frontage Road and Lund Lane is currently zoned Agricultural-Low (A-L).
18 The application would rezone it to Residential-Low (R-L). R-L to A-L is an appropriate jump
19 from one zone to another, consistent with the land-use hierarchy in the General Plan.
20 According to the General Plan property is considered rural if it is five acres or more. The idea
21 that a half acre plot is still rural is not consistent with the General Plan. The neighborhood land
22 use plan states that the base density of the neighborhood is four units per acre. The density of
23 an R-L Zone is four units per acre, so the rezone request remains consistent with the General
24 Plan. Staff feels a planned PDO should be considered in conjunction with a rezone request.
25 The Planning Commission sent only the rezone request to the Council for consideration.

26
27 Mr. Snyder reported how the proposed development would blend in with the surrounding
28 areas. Farmington has already moved toward low-density single-family housing on the other
29 side of Lund Lane. The property in question is not geographically far from other developed
30 neighborhoods. It is considered a transition area, not a preservation area. New development is
31 transitional in nature. The property is not currently in good shape. It is low-grade pasture land,
32 and is not ideal for agriculture. Staff does not feel changing the zone would change the
33 character of the area.

34
35 Addressing the question of the adequacy of facilities, Mr. Snyder stated that utilities are
36 available, and roads in the area can handle development (in fact, the development would finish
37 out its share of the Frontage Road and Lund Lane). There are missing links to the sidewalk
38 system in the area, with the least amount missing on the Frontage Road. Randy Randall, Public
39 Works Director, has indicated that temporary sidewalks could be added if necessary. The
40 distance to the elementary school is three quarters of a mile. In Mr. Snyder's opinion, at that
41 distance most parents would drive their children to school. He does not feel the lack of sidewalk
42 qualifies as inadequate facilities, since sidewalk is built one project at a time in the natural
43 development process. Subsurface drainage is studied and resolved at the time of development.
44 Surface water is a big issue on the property. There is a choke point under the Union
45 Pacific/UTA corridor which creates back-up. Lone Pine Creek adds to the problem with spring
46 run-off. According to the FEMA map, surface water does not flow from the property in question
47 onto adjoining properties. A minimum 24-inch pipe would need to be installed under the railroad
48 tracks to handle the high flows in the spring and make the property useable. A 36-inch pipe
49 would be ideal and would greatly benefit the vicinity. Staff recommends that, if the project is
50 approved, the developer pay for the equivalent for a 24-inch pipe and the City upgrade it to a

36-inch pipe. The 36-inch pipe would be a substantial cost, but Mr. Snyder feels that allowing a PDO and partnering with the developer would be beneficial. The City has a greater chance of influencing development with a PDO than with a simple rezone. The Council could deny the request to rezone based on insufficient facilities, but the drainage problem exists whether the property develops in ½ acre lots under A-L or at a higher density under R-L. Staff recommends the Council remand the issue back to the Planning Commission with the request that the PDO be considered with the rezone request, to enable or incentivize a better project.

Councilman Higginson suggested Centerville ask Farmington to share in the cost of the larger culvert since the nearby Farmington area would benefit from reducing the flood plain. There is a portion of the property in question that is not in the FEMA flood plain. Mayor Russell agreed with the staff recommendation to remand the matter back to the Planning Commission. Councilman Wright made a **motion** to remand this matter back to the Planning Commission to have them forward a recommendation regarding the R-L/PDO Rezone and Plan that has been tabled at their level of review, before making any decision regarding rezoning the property, and directing the developer and staff to review, prepare, and provide the suggested concepts found in the staff report to address the lack of adequate drainage infrastructure, before making any decision regarding rezoning the property. Councilwoman Lindstrom seconded the motion, which passed by unanimous vote (5-0).

To prevent any misunderstanding, Mr. Snyder informed the Council and those present of activity that will soon happen on the property that is not dependent on the proposed development. The developer has requested a grading permit from the City and the owner has agreed to allow an amount of fill to be stored on the Woods property, not within the FEMA flood plain. The fill will be placed in a pattern that will continue to allow water to flow on the property.

The Council took a short recess at 8:02 p.m. and reconvened again at 8:10 p.m.

PUBLIC HEARING RE: ADOPTING PARK IMPACT FEE FACILITIES PLAN, PARK IMPACT FEE ANALYSIS AND REVISED PARK IMPACT FEE – CONSIDERATION OF ORDINANCE NO. 2013-01

Mayor Russell opened a public hearing for the purpose of public comment regarding the Park Impact Fee Facilities Plan, Park Impact Fee Analysis and proposed Ordinance No. 2013-01 at 8:11 p.m. Seeing no one who wished to comment the Mayor closed the public hearing.

City Manager Thacker suggested setting the Park Impact Fee at an even amount, rounding down to \$2,057 from the maximum allowed amount of \$2,057.61 stated in the Ordinance. Ms. Romney recommended the Council adopt the Ordinance with the maximum amount specified, and later approve a Resolution that will set the Fee at the even amount on the Fee Schedule. Councilwoman Lindstrom made **motion** to adopt Ordinance No. 2013-01 adopting a Park Impact Fee Facilities Plan and a written Park Impact Fee Analysis; amending and enacting Park Impact Fees; and establishing a service area for purposes of the Park Impact Fees. Councilman Wright seconded the motion. Councilman Allen applauded staff for an excellent job making sure the City is compliant with State law. The motion passed by unanimous vote (5-0).

**REVIEW/APPROVE CONCEPT REPORT REQUESTING FUNDING TO WIDEN
FRONTAGE ROAD TO ACCOMMODATE STANDARD BIKE LANES**

Steve Thacker reported that his original cost estimate to widen the Frontage Road to accommodate standard bike lanes that was stated in the letter of intent falls short of the project cost estimated using the Federal Government's formula. Using the Federal Government's formula, the City's investment in the project as a match is estimated at \$171,350. Considering the City's current need for street maintenance funds, Mr. Thacker does not recommend spending \$171,000 to widen the Frontage Road for standard bike lanes. However, the application has already been prepared and Mr. Thacker recommends the City submit the application with the assumption that it would most likely not be selected. The City could then submit again at a later time, knowing that repeat applications may have a higher chance of being selected. Councilman Wright expressed hesitation to submit an application for a project that he could not support at this time. Mr. Thacker explained the City could back out if it is selected, but he does not expect it to be selected this year. Councilwoman Lindstrom supports submitting the application, and asked if the City could approach local biking associations to help fund the project. Steve Thacker confirmed that the local match could come from sources other than the City. Mayor Russell feels it would be beneficial to submit the application since the work is already done. If the application is approved at some point, the City would have the option to go to the community for help with the match. Councilwoman Lindstrom's support is based on the number of individuals who bike on the Frontage Road and a desire for the City to be multi-mobile. She feels there should be a spirit of cooperation with Farmington and the trails they have put in place. She feels it helps the City's property values to have these type of activities supported. Councilwoman Lindstrom made a **motion** directing staff to submit the application. Councilman Allen seconded the motion, which passed by majority vote (4-1), with Councilman Wright dissenting.

CELL PHONE POLICY – CONSIDERATION OF RESOLUTION NO. 2013-02

The City's personnel policies do not currently include guidance on the personal use of cell phones or on reimbursement for personal cell phones used for City business. Jacob Smith, Management Assistant, explained Resolution No. 2013-02, which specifies that personal cell phone use is to be kept to a minimum during City business hours, and establishes which employees are eligible for a City-owned cell phone or a reimbursement for a personal phone. The Resolution was drafted strictly following IRS cell phone policies and regulations, and will be included in the City Employee Handbook. Councilman Wright made a **motion** to adopt Resolution No. 2013-02 enacting Section 7.075 of Chapter 7 of the City's Policies and Procedures adopting a City Cell Phone Policy. Councilman Averett seconded the motion, which passed by unanimous vote (5-0). The actual amounts of reimbursement will be based on an administrative policy yet to be drafted by the City Manager.

**DISCUSS USE OF TECHNOLOGY FOR COUNCIL MEETINGS AND CITY
ATTORNEY GUIDELINES FOR DECISION MAKING**

At previous meetings both Councilman Wright and Councilman Allen expressed a desire to discuss possible use of technology for Council meetings. Steve Thacker asked the Council what they would want to accomplish conceptually – the ability to view Council documents and information electronically, or a desire to truly go "paperless." Blaine Lutz explained some of the options he has researched, including the possibility of building monitors into the Council dais for use at meetings. Councilman Wright feels it would be a waste of money to modify the dais. He

likes the idea of each Council member having their own device, perhaps receiving a stipend from the City. He also likes the idea of a "cloud-based" format that could be accessed from any device. Councilman Averett expressed a concern about a lack of space on dais for the devices. Councilman Averett also said it would be important to him to be able to make notes and mark-up the digital versions. Mr. Lutz thinks some of the options would have that capability. Councilman Allen does not think it would take long to recoup the cost when compared to materials and staff time spent compiling and distributing packets. He suggested Evernote as an option that would allow note taking in the digital format. Councilwoman Lindstrom said she would need tutorials, and she appreciates staff wanting to step back and take a better look at the options. She likes the idea of providing a stipend. Councilman Higginson commented that the large binder can be inconvenient, and he supports going paperless in consideration of staff time. Staff agreed to continue looking at the options available. Councilman Averett asked how Council members would get their mail before Council meetings if the packets were not physically delivered. He suggested staff forward the Council's mail in time to receive it before meetings.

Regarding Planning Commission agendas and packets, Ms. Romney recommends the Council members receive a copy of the agendas by email. If there is an item on the agenda that Council members would like more information on they can request full reports from staff. She feels it is important for Council members to have Planning Commission information when considering some issues. The Council supports streamlining the Planning Commission information they receive. Councilwoman Lindstrom and Councilmen Allen and Wright expressed a desire to receive the full Planning Commission packets in PDF format.

Lisa Romney asked the Council for feedback regarding an information sheet she put together regarding Zone Map amendment decision-making procedures and factors. The Council indicated their approval. Lisa will prepare similar documents as guidelines for other land use/development approval decisions.

FINANCIAL REPORT

Blaine Lutz presented a financial report for the period ending December 31, 2012.

MAYOR'S REPORT

- CenterPoint Legacy Theatre now has more than 7,000 season ticket holders, which means over 50% of tickets for every show are already sold. The Board is considering a different format for future seasons, offering fewer shows with more performances of each show. Mr. Lutz commented the facility is an asset to the community.
- Centerville officials do not feel the formula determining the distribution of UTOPIA operating expenses should be changed at this time.
- Plans for the 4th of July celebration are moving forward.
- Mayor Russell reported on a proposal that would allow for the creation of a separate Fire taxing district.

APPOINTMENTS

- Mayor Russell recommended Councilman Higginson be appointed Mayor Pro Tem for the coming year. Councilman Allen made a **motion** to appoint Councilman

Higginson Mayor Pro Tem for 2013. Councilwoman Lindstrom seconded the motion, which passed by unanimous vote (5-0).

- The City needs to appoint a new UIA representative. Mayor Russell nominated himself for that appointment. Councilman Allen made a **motion** to approve Resolution 2013-04, appointing Mayor Russell as the City UIA Representative. Councilwoman Lindstrom seconded the motion, which passed by unanimous vote (5-0). The Council expressed appreciation to Paul Cutler for his service as the UIA Representative.
- Paul Cutler stated that Blaine Lutz is appreciated on the UTOPIA Finance Committee. Mayor Russell recommended that Blaine Lutz continue on the UTOPIA Board. Mr. Lutz suggested he and the Mayor serve as alternates for each other so that they can attend meetings for each other when necessary. Councilman Wright feels right now UTOPIA is operating with dysfunctional governance. Councilman Averett feels Councilman Wright has some good ideas about business management and asked Councilman Wright if he would be willing to serve on the UTOPIA Board. Councilman Wright indicated he would be willing. Paul Cutler agreed that UTOPIA has a focus problem. He feels Councilman Wright could do a lot of good on the Board in the long-term. In the short-term, he feels the Mayor will be an asset on the UIA Board, and that a member of City staff should attend the UTOPIA Board meetings, with or without a Council member. A member of City staff needs to be closely involved. Councilman Allen stated he is only willing to support a Council member on the Board if the Council member is willing to promote the majority opinion of the Council. Councilman Averett understands the need to have Blaine on the UTOPIA Board while financing discussions and decisions occur.
- Mayor Russell recommended Councilman Higginson serve on the Mosquito Abatement District Board. Councilwoman Lindstrom made a **motion** to approve Resolution 2013-03, appointing Councilman Higginson to the Mosquito Abatement District Board. Councilman Allen seconded the motion, which passed by unanimous vote (5-0).

CITY MANAGER'S REPORT

- Mr. Thacker reported on the progress of the water well project. The desired amount of water has not been reached at 650 feet. Staff recommend the Council authorize drilling another 50 feet for a cost of approximately \$15,000. The cost of developing the well is already in the contract. Councilman Wright asked if a probe could be sent down before major drilling continues. Mr. Thacker suspects that would not be practical. Councilman Higginson suggested staff find out if it would be possible. Council members Allen, Lindstrom, and Higginson indicated they supported moving forward with drilling an additional 50 feet. Councilman Allen was excused from the meeting at 9:40 p.m.
- Ms. Romney reported the Petition for Declaratory Judgment has been prepared and served regarding the Chase Lane dangerous buildings enforcement. Staff will continue to keep the Council informed.
- Mr. Thacker provided the Council with a six-month Code Enforcement Report.
- Mr. Thacker stated he and other members of staff met with Brett Slater and Rex Harris of UDOT Region One regarding the Parrish Lane/Main Street intersection project. The Buy America Act requires the steel used in the project be produced in America. Rocky Mountain Power is not in a position to comply with that right now. UDOT directors are working with Rocky Mountain Power to try to convince them to

1 amend their policies and procedures to comply. Staff will wait another month or two
2 to see if the problem can be resolved. If resolved, the full-scope of the project could
3 move forward, most likely next year. Another option would be to complete the
4 original scope of the project, which does not involve relocation of power poles.
5 UDOT will continue with the acquisition of property on the south side of the
6 intersection, but will not proceed with the acquisition of property from homeowners
7 on the north side at this time.

- 8 • The Centerville Police Department has received grants for equipment from multiple
9 sources.

10
11 **MISCELLANEOUS**

- 12
13 • Council members should inform staff if they plan to attend Local Official's Day at the
14 State Legislature.
- 15 • The annual Community Foundation meeting will be held on the third Tuesday in
16 March (later it was learned this meeting is to be held on the first Tuesday in March).

17
18 **ADJOURNMENT**

19
20 At 9:54 p.m. Councilman Averett made a **motion** to adjourn the meeting and move to a
21 meeting of the RDA. Councilwoman Lindstrom seconded the motion, which passed by
22 unanimous vote (4-0).

23
24
25
26
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28 _____
29 Marsha L. Morrow, City Recorder

Date Approved

30
31
32
33 _____
34 Katie Rust, Recording Secretary

RESOLUTION NO. 2013-05**A RESOLUTION AMENDING THE CENTERVILLE CITY FEE SCHEDULE REGARDING PARK IMPACT FEES**

WHEREAS, the City Council has previously adopted a Park Development Fee, as set forth in Section II.C. of the Centerville City Fee Schedule; and

WHEREAS, on January 15, 2013, the City Council approved Ordinance No. 2013-01, adopting and amending the Park Development Fee to be known as the Park Impact Fees, as more particularly set forth therein, approving a maximum Park Impact Fee in accordance with the Park Impact Fee Analysis, and authorizing the City to implement and establish the Park Impact Fee by resolution amending the City Fee Schedule; and

WHEREAS, the City Council desires to amend provisions of the City Fee Schedule to set forth the amended and updated Park Impact Fees, as more particularly set forth herein, which fees may not take effect until ninety (90) days after the day on which Ordinance No. 2013-01 was approved; and

WHEREAS, the City Council has determined that the fees set forth herein are reasonable and necessary to properly provide for the safety and welfare of its citizens and that the impact fees have been properly adopted and amended in accordance with the Utah Impact Fees Act through the adoption of Ordinance No. 2013-01.

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF CENTERVILLE, UTAH, AS FOLLOWS:

Section 1. Amendment. The City Council hereby amends Park Development Fee in Section II.C. of the Centerville City Fee Schedule to set forth the updated and amended Park Impact Fees as follows:

II. BUILDING INSPECTION FEES

* * *

C. OTHER INSPECTIONS AND FEES

* * *

	<u>Fee</u>	<u>When Due</u>
7. Park Impact Fees	\$2,057	Upon Issuance

* * *

Section 2. Severability. If any section, clause or portion of this Resolution is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

Section 3. Effective Date. This Resolution and the Park Impact Fees adopted herein shall become effective April 16, 2013.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF CENTERVILLE CITY,
STATE OF UTAH, ON THIS 5th DAY OF FEBRUARY, 2013.**

CENTERVILLE CITY

By: _____
Mayor Ronald G. Russell

ATTEST:

Marsha L. Morrow, City Recorder

CENTERVILLE CITY COUNCIL

Staff Backup Report

Item No. 2b

Date of City Council Meeting: February 5, 2013

Short Title: Accept public utility easements Dayton West, LLC

Initiated By: _____

Scheduled Time: 7:10 (SAC)

RECOMMENDATION

Accept the public utility easements from Dayton West, LLC for Centerville Corporate Park Amended.

BACKGROUND

At their October 10, 2012 meeting the Planning Commission approved a small subdivision waiver/lot split application from Dayton West LLC, for the division of Lot 2 of Centerville Corporate Park Subdivision into Lots 201 and 202 of Centerville Corporate Park Amended. The Planning Commission unanimously (5-0) recommended approval with conditions. One of the requirements is that the City accept the public utility easements as recommended by the City Engineer. These easements are shown on the enclosed site plan.

NARRATIVE:

Centerline Monuments were found along Market place Drive, these monuments were checked against the original plat of Centerville Corporate Park, and Honored.

A line Bearing South 29°18'16" East between the Monuments at the Intersection, of Frontage Road and Marketplace Drive, and the Intersection of Parrish Lane (400 North) and Marketplace Drive was used as the Basis of Bearings

[illegible]

NOTES:

1. All lots zoned Commercial-Very High (C-2).
2. All public utility easements are 10' unless

CENTERVILLE CITY COUNCIL

Staff Backup Report

Item No. 2c

Date of City Council Meeting: February 5, 2013

Short Title: Centerville Corporate Park Subdivision Assignment Agreement

Initiated By: Staff

Scheduled Time: 7:10 p.m. (SAC)

RECOMMENDATION

Approve Assignment and Assumption Agreement between the City, the RDA, MTC and Chick-Fil-A, as the future owner of Lot 202 of the Centerville Corporate Park Subdivision, as amended, and authorize the Mayor to sign such Agreement on behalf of the City.

BACKGROUND

On October 10, 2012, the Planning Commission reviewed and approved the small subdivision waiver/lot split application from Dayton West, LLC, for the division of Lot 2 of the Centerville Corporate Park Subdivision into two lots to be known as Lot 201 and Lot 202 of the Centerville Corporate Park Subdivision Amended. Condition No. 14 of the Planning Commission's approval of the small subdivision waiver/lot split requires the developer to enter into any assignment agreements or amendments to the governing documents as determined necessary by the City or RDA prior to recording of the final plat for the lot split. In conjunction with this condition of approval, the City Council previously approved an Assignment and Assumption Agreement between the required parties on November 20, 2012. Although approved, that version of the Agreement has not been executed by the parties. Chick-Fil-A, as the purchaser of Lot 202, has requested some minor changes to this Agreement. The requested changes provide that the effective date of the assignment of rights and assumption of obligations by Chick-Fil-A regarding Lot 202 shall occur if and when Chick-Fil-A obtains fee title ownership of Lot 202. The changes also provide that Chick-Fil-A will not be required to enter into a development agreement for the development of Lot 202. The changes requested by Chick-Fil-A are reflected in the attached Agreement. It is intended that this new Assignment Agreement will be signed by all parties prior to recording of the final plat for the lot split, but will be placed in escrow for actual recording against the property if and when Chick-Fil-A obtains title to Lot 202. The proposed changes are acceptable to Staff and Dayton West, LLC.

It is recommended that the City Council approve the Assignment and Assumption Agreement for the Centerville Corporate Park Subdivision, as amended, with the requested revisions.

Recommended Action: *Approve Assignment and Assumption Agreement between the City, the RDA, MTC and Chick-Fil-A for the Centerville Corporate Park Subdivision and authorize the Mayor to sign such Agreement on behalf of the City.*

Attachment	Assignment and Assumption Agreement for Centerville Corporate Park Subdivision (Lot 202)
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When recorded, return to:

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

Affects Parcel: 02-184-0001, 02-184-0002, 02-184-0003

**ASSIGNMENT AND ASSUMPTION AGREEMENT
FOR CENTERVILLE CORPORATE PARK SUBDIVISION
GOVERNING DOCUMENTS**

(Lot 202)

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is made and entered into as of the _____ day of _____, ~~2013, 2012,~~ by and between **DAYTON WEST, LLC**, a Utah limited liability company ("Assignor"), **CHICK-FIL-A, INC.**, a Georgia corporation ("Assignee"), **CENTERVILLE CITY**, a Utah municipal corporation ("City"), and the **REDEVELOPMENT AGENCY OF CENTERVILLE CITY**, a community development and renewal agency and public body organized and existing under the Limited Purpose Local Government Entities – Community Development and Renewal Agencies Act of the State of Utah ("RDA"), collectively, the "Parties", or individually, a "Party".

RECITALS:

WHEREAS, Assignor and the City and/or the RDA have previously entered into certain governing documents for the development of property within the Centerville City Corporate Park Subdivision located at approximately 400 West and Parrish Lane, in Centerville, Utah, which property is more particularly described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Property");

WHEREAS, such governing documents for development of the Property include the following: Parrish Lane Gateway Neighborhood Development Plan dated August 1, 1989, as amended by that certain Amendment to the Parrish Lane Gateway Neighborhood Plan dated February 1, 2008; Grant of Easements and Restrictions for the Centerville Corporate Park Subdivision dated June 23, 2000, as amended by that certain

Amendment No. 1 to the Grant of Easements and Restrictions dated March 31, 2009, that certain Amendment No. 2 to the Grant of Easements and Restrictions dated November 20, 2012, and that certain Amendment No. 3 to the Grant of Easements and Restrictions; Development Agreement dated May, 24, 2000; Agreement for Disposition of Land for Private Development dated April 19, 2000; as amended June 26, 2000, Agreement and Option Agreement dated October 11, 2006, as amended by Amendment No. 1 to the Agreement and Option Agreement dated March 31, 2009; and Conditional Use Permit for Planned Center dated May 10, 2000, as amended and superseded by Amended Conditional Use Permit for Planned Center dated April 8, 2009, deed restrictions, conditions, and covenants as disclosed by Special Warranty Deed recorded November 14, 2006, and any plat notes affecting the same (collectively, the "Governing Documents"); and

WHEREAS, the City and the RDA have recently approved the subdivision of Lot 2 of the Property into two lots to be known as Lot 201 and Lot 202, which subdivision is more particularly set forth in **Exhibit "B,"** attached hereto and incorporated herein by this reference ("Amended Subdivision"); and

WHEREAS, Assignee has entered into a contract with Assignor to purchase ~~desires to purchase or has purchased~~ a portion of the Property known as Lot 202 which is more particularly described in **Exhibit "C,"** attached hereto and incorporated herein by this reference ("Lot 202"), which purchase is subject to various conditions precedent, including permits and construction entitlements; and

WHEREAS, if and when Assignee acquires fee title ownership to Lot 202, Assignor desires to assign all of Assignor's rights and obligations under the Governing Documents as they relate to Lot 202 to Assignee under the terms and conditions of the Governing Documents as more particularly provided herein; and

WHEREAS, the Parties are entering into this Agreement in order to effect an assignment by Assignor and acceptance and assumption by Assignee of the Governing Documents as they pertain to Lot 202 and any other property within the project which Assignee has an interest as of the date Assignee acquires fee title ownership to Lot 202, as more particularly provided herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Assignment and Assumption.** Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Governing Documents as they pertain to Lot 202, together with Assignor's rights, powers and privileges thereunder existing from and after the date of this Agreement Assignee acquires fee title ownership to Lot 202 ("Effective Date of Assignment"). Assignee hereby accepts the same and assumes the rights and responsibilities of the Governing Documents as they pertain to Lot 202 and agrees to timely pay and perform each and every obligation to be paid and performed under the Governing Documents as they pertain to Lot 202 from and after the Effective

~~Date of Assignment~~~~date of this Agreement~~. Assignee agrees to be bound by the terms of the Governing Documents and to be liable for the performance of each of the obligations contained in the Governing Documents as they relate to Lot 202 and any other applicable obligation from and after the Effective Date of Assignment. From and after the Effective Date of Assignment, ~~date this Agreement is fully executed~~, Assignee shall be deemed to be an "Owner" separate and distinct from the Owner of Lot 201 or any other Lot and each of Lot 201 and Lot 202 shall be deemed to be a "Lot" for all purposes of the Governing Documents; provided, however, that (i) with the exception of any benefits related to tax increments, which shall benefit Lot 201 or its owner solely, each of Lot 201 and Lot 202 shall have all rights, benefits, easements and other appurtenances granted to and/or benefitting Lot 2 under the Governing Documents as if the Governing Documents expressly provided that each of Lot 201 and Lot 202 were expressly granted and benefitted thereby; (ii) without limiting the foregoing, the Owner of each of Lot 201 and Lot 202 shall have separate votes (such that there shall be a total of four (4) membership votes in the Association) and the right to appoint a Trustee to the Board of Trustees, and from and after the Effective Date of Assignment ~~date of this Agreement~~ there shall be four (4) Trustees on the Board of Trustees; (iii) each of Lot 201 and Lot 202 shall be subject to all obligations and restrictions first arising from and after the Effective Date of Assignment ~~date of this Agreement~~ and burdening or encumbering Lot 2 under the Governing Documents as if the Governing Documents expressly provided that each of Lot 201 and Lot 202 were expressly burdened and encumbered thereby; and (iv) all assessments and other monetary charges under the Governing Documents that are assessed from and after the Effective Date of Assignment ~~date of this Agreement~~ shall be allocated between the Owners of Lot 201 and 202 based upon the Governing Documents.

~~2. Development Agreement for Lot 202. Pursuant to Section 2(c) of the Development Agreement and Section 1(1) of the Agreement and Option Agreement, Assignee agrees to enter into a development agreement with the City with terms and provisions acceptable to the City for the development and construction of improvements on and/or relating to Lot 202, as deemed necessary by the City.~~

2. **Compliance with Governing Documents.** City's prior written approval of Assignee's final site plan and improvements shall be required for Assignee's development and construction of improvements on and/or related to Lot 202. Upon City's approval of Assignee's final site plan and improvements for Lot 202, including any specifications and plans related thereto, such approval shall be deemed to satisfy all requirements of the Governing Documents regarding site development; provided, however, that Assignee shall thereafter remain obligated to comply with all other continuing obligations and requirements of the Governing Documents. Notwithstanding anything to the contrary contained in the Governing Documents, City hereby acknowledges and agrees that Assignee shall not be required to enter into any development agreement, disposition agreement or option agreement with the City and/or the RDA in connection with Assignee's development and construction of improvements on and/or relating to Lot 202.

3. **No Tax Increment for Lot 202.** Assignee agrees that there shall be no tax increment for Lot 202. Any and all tax increment as contemplated by the Governing Documents for Lot 2 of the original Centerville Corporate Park Subdivision shall remain with and/or inure to Lot 201.

4. **Subdivision Plat Approval.** Assignee agrees to be bound by all the terms and conditions of the subdivision waiver/lot split approval by the City for the Centerville Corporate Park Subdivision Amended, as approved by the City on October 10, 2012.

5. **Acknowledgment of Recording.** Assignee hereby acknowledges the recording of the Development Agreement against the Property and authorizes the recording of this Assignment against Lot 202 and any other property within the project in which Assignee has an interest.

6. **Successors and Assigns.** This Agreement shall bind the Parties, their personal representatives, successors and assigns. Any assignment of the rights and duties of Assignee as assigned herein shall be subject to and comply with the terms of the Development Agreement, including, but not limited to Section 9 of the Development Agreement.

7. **Attorneys' Fees.** Should any Party commence a legal proceeding to enforce any of the terms or provisions of this Agreement, the prevailing Party in such proceeding shall recover reasonable attorneys' fees and costs from the defaulting Party, as fixed by the court in such proceeding.

8. **Effective Date of Assignment.** The provisions of this Agreement shall become effective immediately upon proper execution by the Parties. The assignment and assumption provided herein shall become effective on the Effective Date of Assignment as defined in Section 1.

9. **Miscellaneous.** Nothing herein shall be deemed to create the relationship of principal and agent, partnership or joint venture between the Parties. This Agreement shall be interpreted and construed only by the content hereof, and there shall be no presumption or standard of construction in favor of or against any Party. This Agreement may be amended or modified only in writing. The invalidity or unenforceability of any provision of this Agreement, as determined by a court, shall in no way affect the validity or enforceability of any of the remaining provisions hereof. This Agreement shall be construed according to and governed by the laws of the State of Utah.

[Signature page to follow]

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

"Assignor"

DAYTON WEST, LLC

By: _____
Its: _____

"Assignee"

CHICK-FIL-A, INC.

By: _____
Its: _____

By: _____
Its: _____

"City"

CENTERVILLE CITY

Mayor Ronald G. Russell

ATTEST:

Marsha L. Morrow, City Recorder

"RDA"

**REDEVELOPMENT AGENCY OF
CENTERVILLE CITY**

Ronald G. Russell, Chair

ATTEST:

Secretary

CITY ACKNOWLEDGMENT

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On the ____ day of _____, ~~2013, 2012,~~ personally appeared |
before me Ronald G. Russell, 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
Ronald G. Russell acknowledged to me that the City executed the same.

Notary Public

My Commission Expires:

Residing at:

DAYTON WEST ACKNOWLEDGMENT

STATE OF _____)
 : ss.
COUNTY OF _____)

On the ____ day of _____, ~~2013, 2012,~~ personally appeared before |
me _____, who being by me duly sworn did say that he/she is the
managing member of **DAYTON WEST, LLC**, a Utah limited liability company, and that
the foregoing instrument was signed on behalf of said limited liability company by
authority of its Articles of Organization and duly acknowledged to me that said limited
liability company executed the same.

Notary Public

My Commission Expires:

Residing at:

ASSIGNEE ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) : ss.

On the _____ day of _____, ~~2013, 2012,~~ personally appeared before me _____ and _____, who being by me duly sworn did say that ~~they are he/she is the~~ _____ and _____, respectively, of **CHICK-FIL-A, INC.**, a Georgia corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of a resolution of its Board of Directors and such signators duly acknowledged to me that said corporation executed the same.

Notary Public

My Commission Expires: _____

Residing at: _____

RDA ACKNOWLEDGMENT

STATE OF UTAH)
COUNTY OF DAVIS) : ss.

On the _____ day of _____, ~~2013, 2012,~~ personally appeared before me Ronald G. Russell, who being duly sworn by me did say that he is the Chairperson of the **REDEVELOPMENT AGENCY OF CENTERVILLE CITY**, a community development and renewal agency and public body organized and existing under the Limited Purpose Local Government Entities – Community Development and Renewal Agencies Act of the State of Utah, and that the forgoing instrument was signed on behalf of said Agency by authority of its Board and said Chairperson acknowledged to me that said Agency executed the same.

Notary Public

My Commission Expires: _____

Residing at: _____

EXHIBIT "A"

Legal Description and Subdivision Plat of Property

All of the Centerville Corporate Park Subdivision located in Centerville City, Davis County, Utah, according to the official plat thereof as recorded at the Davis County Recorder's Office, State of Utah

EXHIBIT "B"

Legal Description and Subdivision Plat of Amended Subdivision

All of the Centerville Corporate Park Subdivision Amended located in Centerville City,
Davis County, Utah, according to the official plat thereof as recorded at the Davis County
Recorder's Office, State of Utah

EXHIBIT "C"

Legal Description of Lot 202

All of Lot 202 of the Centerville Corporate Park Subdivision Amended located in Centerville City, Davis County, Utah, according to the official plat thereof as recorded at the Davis County Recorder's Office, State of Utah

CENTERVILLE CITY COUNCIL

Staff Backup Report

Item No. 4

Date of City Council Meeting: February 5, 2013

Short Title: Code Enforcement Program

Initiated By: Staff

Scheduled Time: 7:30 p.m. (20 min.)

RECOMMENDATION

Provide Staff an opportunity to present background information and analysis regarding code enforcement methodologies and approaches used by local jurisdictions. Review Centerville City code enforcement approaches and recommendations from Staff. Approve Ordinance No. 2013-02 amending various provisions of Title 1, Chapter 6 regarding Civil Enforcement and approve Resolution No. 2013-07 amending the City Fee Schedule to add additional civil penalties for subsequent or recurring civil code violations.

BACKGROUND

The City Council has been discussing code enforcement procedures and issues for quite some time. After a lengthy discussion of the issues at the City Council meeting held on September 9, 2012, the City Council directed Staff to research current practice and procedures and to bring back suggested recommendations to the City Council for considered action. Staff has researched various methodologies and approaches to code enforcement and has conducted a survey of all the cities in Davis County to get a better sense of how code enforcement is pursued by other jurisdictions and how much time and resources are allocated to code enforcement. The results of this research and survey are provided in the attached "Centerville City Code Enforcement Review and Analysis."

Based on this research, and previous input from City Council members, Staff is recommending a number of specific changes to City Ordinances regarding civil code enforcement procedures and policies. These recommended changes are summarized on page 8 of the Code Enforcement Review and Analysis and are provided in the attached Ordinance No. 2013-02. These changes are aimed at improving the complaint procedure process and the investigation and tracking of complaints, and reducing the warning or waiting periods for enforcement of subsequent or recurring violations.

Recommended Action Item No. 4b: Approve Ordinance No. 2013-02 amending various provisions of Title 1, Chapter 6 of the Centerville Municipal Code regarding procedures and penalties for civil code enforcement.

Recommended Action Item No. 4c: Approve Resolution No. 2013-07 amending Section XII of the Centerville City Fee Schedule regarding civil penalties for municipal code violations.

Attachments	Centerville City Code Enforcement Review and Analysis Ordinance No. 2013-02 Resolution No. 2013-07
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CENTERVILLE CITY CODE ENFORCEMENT REVIEW AND ANALYSIS



1/31/2013

By Lisa C. Romney, City Attorney

This Code Enforcement Review and Analysis reviews Centerville City's current approach to code enforcement, analyzes approaches used by other jurisdictions, and recommends policy changes.

Code Enforcement Tools

The City is authorized by law to adopt ordinances regarding the use and maintenance of property within the City, including, but not limited to the cleaning of real property, weed abatement, graffiti, junk vehicles, storm drainage, zoning, and land use regulations. The City is also authorized to require compliance with applicable ordinances regarding the use and maintenance of property and to pursue enforcement actions for persons or property owners who fail to comply with applicable ordinances. The City has a number of enforcement tools available to pursue compliance with applicable ordinances and to remedy established code violations. Such enforcement tools include, but are not limited to, civil citation, criminal citation, injunction, action for abatement of nuisance, business license suspension or revocation, zoning permit suspension or revocation, stop work order, and other court action or proceedings for abatement of code violations.

The type of enforcement tool can vary depending upon the type of violation and the desired approach to enforcement. A 'one size fits all' approach does not always work for code enforcement depending on the violation. For instance, building and construction violations must be pursued in accordance with applicable building codes, storm drainage violations may be governed by federal and state environmental laws and procedures, and weed violations must follow state procedures for collection of costs through tax liens. In addition, egregious or safety violations may need to be addressed immediately. It is best to think of code enforcement as a bag of tools from which the City can select depending upon the task to be accomplished.

Code Enforcement Methodologies

There are two varying philosophies or methodologies regarding code enforcement. One methodology is known as the “systematic” methodology whereby the municipality conducts systematic sweeps or reviews of various areas of the city for code violations. Municipalities using the systematic enforcement methodology generally have dedicated code enforcement personnel or officers assigned to pursue such enforcement on a daily or routine basis. The other type of code enforcement methodology is the “complaint-based” methodology whereby the municipality pursues code enforcement upon receipt of a complaint. The complaint-based enforcement methodology is not a proactive approach, but is responsive to citizen concerns or complaints. The complaint-based methodology is generally used by smaller communities where code violations are minimal and daily code enforcement is not necessary or where staffing or resources are limited. A combination of the two approaches is also common.

There are pros and cons to both types of code enforcement methodologies. Criticism of the complaint-based methodology is that it is unfair and/or inconsistent since violations are only investigated if a complaint is filed. Complaint-based code enforcement, however, is responsive to citizen concerns and can generally be conducted with fewer resources and at a lower cost. Criticism of the systematic methodology is that it is too aggressive and often results in citizen complaints and political pressure regarding heavy-handed enforcement. The systematic methodology, however, provides uniform and active enforcement of violations.

What Are Other Cities Doing?

Staff conducted a review of how other jurisdictions within Davis County are approaching code enforcement and how many resources they are devoting to such enforcement program. In total, there are 15 cities in Davis County. These jurisdictions were asked whether they typically use the systematic or complaint-based methodology for code enforcement. They were also asked whether they had a dedicated full-time code enforcement officer, how many hours per week were spent on code enforcement, and their opinion on how their City Council prioritizes code enforcement. For purposes of this research, the responses were obtained from the applicable city's code enforcement official, if they had one, and if they did not, the responses were provided by the staff personnel in charge of code enforcement.

A majority of the jurisdictions primarily use the complaint-based methodology for code enforcement. Most of the jurisdictions indicated, however, that they do use the systematic approach for certain issues such as weed enforcement or sign code issues. A number of the jurisdictions also indicated that if staff saw other violations while out on enforcement actions or investigations they would respond to those as well. Four out of 15 cities in Davis County use the more proactive systematic approach to code enforcement. Three out of those 4 jurisdictions that use systematic approach have a population of over 30,000. North Salt Lake is the only smaller city using the systematic approach and employs one full-time employee for code enforcement.

Seven of the 15 cities have dedicated code enforcement officers. The other cities use existing staff members to perform code enforcement. Many of the cities divide such enforcement duties between relevant departments; i.e. public works department takes care of street issues and storm drainage violations; planning and zoning takes care of junk vehicles, zoning and weed violations; and police department takes care of parking issues and violations. Even cities with dedicated code enforcement officers may use additional staff for specific code enforcement matters such as storm drainage violations or building inspections.

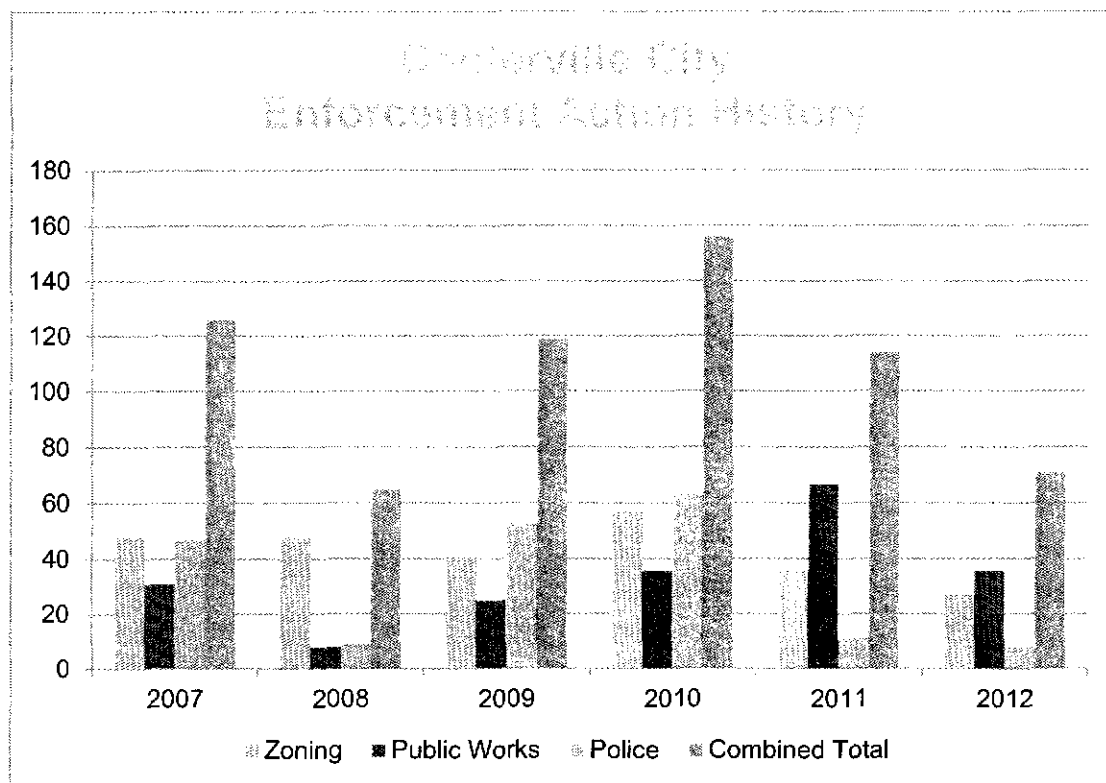
The number of hours dedicated to code enforcement by the various cities ranges from 0–5 hours per week in Fruit Heights to over 120 hours per week in Layton. With some minor anomalies such as North Salt Lake and Clearfield, the number of hours dedicated to code enforcement is directly correlated to the size of the city. Cities of a similar population size to Centerville appear to dedicate approximately 15–20 hours per week to code enforcement.

The following chart summarizes the results of the survey from other jurisdictions within Davis County. The cities are listed in order of population starting with the smallest city of Fruit Heights to the largest city of Layton.

City	Population (2010 Census)	Primary Enforcement Methodology	Designated Code Enforcement Officer	Hours Per Week for Code Enforcement	City Council Priority
Fruit Heights	4,701	Complaint	No	0-5	Low
Sunset	5,213	Complaint	No	0-5	High
West Bountiful	5,265	Complaint	No	5-10	Medium
South Weber	6,051	Complaint	No	0-5	Medium
West Point	9,511	Complaint	No	15-20	High
Woods Cross	9,761	Complaint	Yes (1 PT)	15-20	Medium
Centerville	15,335	Complaint	No	5-10	Medium
North Salt Lake	16,322	Systematic	Yes (1 FT)	35-40	High
Farmington	18,275	Complaint	Yes (1 PT)	15-20	Medium
Clinton	20,475	Complaint	No	15-20	Medium
Syracuse	24,331	Complaint	Yes (1 PT)	15-20	High
Kaysville	27,300	Complaint	No	15-20	High
Clearfield	30,112	Systematic	Yes (2 FT)	75-80	High
Bountiful	42,532	Systematic	Yes (1 PT)	15-20	High
Layton	67,311	Systematic	Yes (3 FT)	120-140	High

Centerville City Enforcement History

Centerville City has historically and currently uses the complaint-based enforcement methodology. Complaints received by the City and any investigative proceedings and/or enforcement action taken in response to such complaints are reported to the City Council by Department Heads every six months. In reviewing the last six (6) years of enforcement action reports, the City receives and investigates an average of 108 complaints per year (which is an average of about 9 complaints per month). This complaint history is summarized in the following chart.



Determining Allocation of Resources

The amount of time and resources a city dedicates to code enforcement is very individualized. Factors to consider include elected official interest and political will, citizen compliance and involvement, the number of public complaints, and the city's financial resources and priorities. How active does the City Council want to be in code enforcement? What is the best approach? Is there a satisfactory balance to be achieved?

Recommended Methodology

It is Staff's recommendation that Centerville City continue to use the complaint-based methodology for code enforcement. Such enforcement methodology may be supplemented with the occasional use of systematic enforcement for particular issues or problem areas. Systematic enforcement has been used and can be used in the future to address issues such as sign code violations along Parrish Lane or tree limb encroachment along Main Street. In these instances, the City can do a proactive sweep of an area and issue correction notices or citations for violations. Staff can conduct such sweep operations as deemed necessary to curtail excessive violations in a particular area, to address specific issues of safety concern, or as specifically directed by the City Council. Other than these limited instances, it is Staff's opinion that the complaint-based system is adequate and appropriately tailored for Centerville's resources, community philosophy and staffing.

Centerville City does not receive a significant number of code complaints. Based on historical data, the City only receives an average of 9 complaints per month. Staff's experience with code enforcement has been that a significant majority of violators will fix the problem upon notice and request from the City to correct. Under the City's current system, property owners are generally sent a courtesy letter notifying them of the violation and requesting the violation be remedied within a given time frame.

Many property owners comply with this courtesy letter. If the property owner does not respond to the courtesy letter, a Notice of Violation is sent out providing the property owners with 10 days to cure the violation. An estimated 90% of code violations are remedied at this point in the process and no citation is issued. Only if the property owner fails to remedy the violation within the cure period is a citation issued. The systematic methodology would require additional staff time and resources to conduct enforcement review and inspection on a daily or routinely scheduled basis. The limited occurrence of violations combined with the significant rate of compliance upon notice and request does not justify or support the additional costs or staff time for more routine enforcement.

Centerville Allocation of Resources

Since code enforcement in Centerville is conducted by various departments, it is difficult to get a sense of how many hours per week is spent on code enforcement, but it is estimated that Centerville spends an average of about 5–10 hours per week on code enforcement. This estimate is an average over the course of the entire year. Peak enforcement activity appears to occur in the summer when staff is dealing with weed violations. Additional time may also be expended to pursue civil penalty actions, when necessary, for noncompliance. Based on the data, cities with similar population size to Centerville spend about 15–20 hours per week on code enforcement. Based on what other cities are doing, it raises the question of whether Centerville should devote more time to code enforcement. Centerville only receives an average of 9 complaints per month, however, so in staff's opinion, code enforcement is not a significant issue in the City. The limited number of complaints also indicates there is not a significant level of citizen concern or dissatisfaction with code enforcement in Centerville, aside from isolated instances or issues such as the Chase Lane dangerous building issue.

To Hire or Not to Hire

It is staff's opinion that there is sufficient capacity with current staff to handle code enforcement on a compliant basis and as needed to address occasional systematic enforcement. Hiring a dedicated code enforcement officer is not necessary or warranted at this time.

Recommended Changes

Regardless of the methodology used for code enforcement within the City, there are a few changes that can be made to the current practices and policies to improve the accountability, effectiveness and efficiency of the system. These suggested policy or ordinance revisions and recommendations are summarized as follows.

1. Complaint Process. Revise ordinances to set up a clear written complaint process. Such procedures may include provisions for filing complaints, investigation of complaints, and reports of investigation. A new Section 1-06-065 has been proposed to be added to the Civil Code Enforcement procedures to address this recommendation.
2. Retain Initial Mandatory 10-day Notice. There was some discussion by the City Council to eliminate the 10-day notice which allows owners to remedy violations within 10 days without penalty. Staff still recommends retaining this 10-day notice provision as it is our experience that we get 90% compliance with these notices. It is also better public relations to provide the owner with an opportunity to cure once notified. The ultimate goal in code enforcement is to gain compliance and if a majority of owners responds to the 10-day notice it is a valid tool.

3. Eliminate Mandatory 10-day Notice for Repeat Offenders. Rather than punishing the 90% that comply with the initial notice of violation, it is staff's recommendation to merely eliminate the 10-day notice provision for repeat offenders. If a property owner has already received a notice to cure within the past 12 months, a second notice to cure would not be required. A new Section 1-06-105 has been proposed to be added to the Civil Code Enforcement procedures to address this recommendation.
4. Add Graduated Penalty Clause for Repeat Offenders. Many code enforcement issues are committed by repeat offenders. It is advised the City look into adding a graduated penalty clause for repeat offenders to encourage more consistent compliance. Penalties for similar violations or violation on the same property within a set time frame such as 12 months could be subject to higher penalties. New language has been proposed to be added to Section 1-06-120 of the Civil Code Enforcement procedures to address this recommendation as well as proposed revisions to the Consolidated Fee Schedule.
5. Increase Civil Penalty Amount. A majority of violators comply with the initial notice to cure. It is only a minority of code violations that must be addressed through the civil penalty process. In order to provide a legitimate incentive for compliance it is recommended that the City increase its civil penalty which is currently set at \$120. An increased civil penalty may provide more of an incentive for compliance particularly for businesses. Such increased civil penalties are proposed in the revisions to the Consolidated Fee Schedule.

6. Compliance Tracking. There was also discussion by the City Council of requiring follow up investigations after violations had been remedied to ensure continued compliance. This type of compliance tracking after a violation has been remedied is not deemed necessary for most violations. The concern for repeat offenders can be better addressed with the increased penalty for repeat violations.

Conclusion

The approach and resources allocated to code enforcement in the City is entirely within the City Council's discretion. The recommendations regarding changes to policy and procedures for code enforcement as set forth herein strike a justified balance between allocation of resources and response to reported complaints. As such, staff recommends adoption of the proposed amendments to the Civil Enforcement Ordinances and the Civil Penalties as set forth in the City's Consolidated Fee Schedule. Additional changes may be reviewed and recommended for Zoning Ordinance violations and enforcement based on City Council action.

ORDINANCE NO. 2013-02

**AN ORDINANCE AMENDING TITLE 1, CHAPTER 6 OF THE
CENTERVILLE MUNICIPAL CODE REGARDING PROCEDURES AND
PENALTIES FOR CIVIL CODE ENFORCEMENT**

WHEREAS, the City Council has previously enacted Title 1, Chapter 6 of the Centerville Municipal Code providing civil enforcement procedures and penalties for City Ordinance violations; and

WHEREAS, the City Council desires to amend various provisions of Title 1, Chapter 6 regarding complaint procedures, investigations, notice of violations, subsequent violations, and civil penalties for subsequent or recurring violations; and

WHEREAS, the City Council has determined that the proposed revisions to Title 1, Chapter 6 are in the best interest of the City and the public health, safety and welfare, and will provide reasonable code enforcement complaint and follow up procedures as well as additional civil penalties for repeat violations.

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

Section 1. Amendment. Title 1, Chapter 6 of the Centerville Municipal Code regarding Civil Enforcement is hereby amended to read in its entirety as more particularly set forth in **Exhibit “A,”** attached hereto and incorporated herein by this reference.

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, THIS 5TH DAY OF FEBRUARY, 2013.**

CENTERVILLE CITY

By: _____
Mayor Ronald G. Russell

ATTEST:

Marsha L. Morrow, City Recorder

Voting by the City Council:

	"AYE"	"NAY"
Councilmember Allen	_____	_____
Councilmember Averett	_____	_____
Councilmember Higginson	_____	_____
Councilmember Lindstrom	_____	_____
Councilmember Wright	_____	_____

EXHIBIT “A”

**TITLE 1, CHAPTER 6
CIVIL ENFORCEMENT**

CHAPTER 1-06.

CIVIL ENFORCEMENT.¹

1-06-010.	Purpose.
1-06-020.	Scope.
1-06-030.	Enforcement Action.
1-06-040.	Civil Liability.
1-06-050.	Definitions.
1-06-060.	Notice Requirements.
1-06-065.	<u>Complaint Procedure.</u>
1-06-070.	Investigation and Inspection.
1-06-080.	Notice of Violation.
1-06-090.	Warning Period.
1-06-100.	Immediate Enforcement.
1-06-105.	<u>Subsequent Violations.</u>
1-06-110.	Civil Citation.
1-06-120.	Civil Penalties.
1-06-130.	Request for Administrative Hearing.
1-06-140.	Scheduling Administrative Hearing.
1-06-150.	Administrative Hearing Procedures.
1-06-160.	Failure to Attend Administrative Hearing.
1-06-170.	Administrative Order.
1-06-180.	Appeal of Administrative Hearing Order.
1-06-190.	Failure to Comply.
1-06-200.	Collection.

1-06-010. Purpose.

The City Council finds that the enforcement of the Centerville Municipal Code is an important public service and is vital to the protection of the public's health, safety, welfare and quality of life. Pursuant to *Utah Code Ann.* § 10-3-703, the City Council is authorized to impose a minimum criminal or civil penalty for the violation of any municipal ordinance. The City Council finds that it is in the best interest of the City to establish and provide an enforcement system that allows for a combination of criminal and civil enforcement remedies and penalties.

1-06-020. Scope.

The provisions of this Chapter may be applied to any and all violations of the Centerville Municipal Code, exclusive of violations of the provisions of Title 12 (Zoning Code); Title 13 (Criminal Code); and Title 14 (Traffic Code). The provisions of this Chapter are intended to provide additional remedies for the City to use to achieve compliance with City Ordinances. The remedies, penalties and procedures set forth herein are not intended to limit or waive any right or remedy provided by law. The provisions of this Chapter shall not invalidate any other chapter, section or provision of the Centerville Municipal Code, but shall be read in conjunction with such chapters, sections and provision, and shall be used as an additional remedy for enforcement of violations.

1-06-030. Enforcement Action.

Except as otherwise restricted by law, the The City shall have the sole discretion in deciding whether to pursue a criminal or civil enforcement action for the violation of any ordinances or applicable code requirements; and the The provisions of this Chapter shall not be construed to limit the City's right to prosecute any violation as a criminal offense. In accordance with Utah Code Ann. § 10-3-703.7, as amended, the The City may not impose a civil penalty for a civil violation that occurs in conjunction with another criminal episode that will be prosecuted in a criminal proceeding.

¹ Enacted by Ord. No. 2008-05, April 15, 2008

1-06-040. Civil Liability.

By establishing performance standards or by establishing obligations to act, it is the intent of the City Council that City employees and officers are exercising discretionary authority in pursuit of an essential governmental function and that any such standards or obligations shall not be construed as creating a ministerial duty for purposes of tort liability.

1-06-050. Definitions.

For purposes of this Chapter, the following words shall be defined as set forth herein:

(a) **Civil Citation.** Civil citation means a citation issued to a responsible person which gives notice of a violation and the civil penalty for such violation.

(b) **Enforcement Official.** Enforcement official means any person authorized by the City to enforce violations of the Centerville Municipal Code, including, but not limited to code enforcement officers, zoning officers, police officers, and building inspection officials.

(c) **Hearing Officer.** Hearing officer shall mean a person appointed, contracted or hired by the City to conduct administrative hearings and to issue administrative orders as provided in this Chapter.

(d) **Notice of Violation.** Notice of violation means a written notice that informs the responsible person of Code violations and orders certain steps to correct or remedy the violations.

(e) **Person.** Person means any natural person, firm, joint venture, partnership, association, club, company, corporation, limited liability company, business trust, organization, or any other entity that is recognized by law.

(f) **Property Owner.** Property owner means the record owner of real property as shown on the records of the Davis County Assessor or Recorder's Office.

(g) **Responsible Person.** Responsible person means any person(s) who is responsible for causing or maintaining a violation of the Centerville Municipal Code. The property owner, tenant, person with a legal interest in the property, or person in possession of the real property shall be liable for any violation maintained on the property.

1-06-060. Notice Requirements.

Whenever notice is required to be given under this Chapter, the notice shall be served by one of the following methods, unless different provisions are otherwise specifically stated to apply:

(a) **Personal service;**

(b) **Certified mail, return receipt requested, postage prepaid, to the last known address(es) of the responsible person(s);**

(c) **Posting the notice conspicuously on or in front of the property, if inhabited; if the property is uninhabited, the notice must be personally served, mailed or published as provided herein; or**

(d) **Published in a newspaper of general circulation when the identity or whereabouts of the person to be served are unknown and cannot be ascertained through reasonable diligence, where service is impracticable under the circumstances, or where there exists good cause to believe the person to be served is avoiding service.**

Failure of a responsible person to receive notice shall not affect the validity of any action taken hereunder if notice has been served in the manner set forth above. Service by certified mail shall be deemed served on the date signed for on the return receipt.

1-06-065. Complaint Procedure.

Centerville City generally uses the complaint-based methodology for code enforcement whereby the City pursues code enforcement upon receipt of a complaint. Any person desiring to file a complaint regarding a civil code violation may do so by filling out a Centerville City Civil Complaint Form ("Civil Complaint Form") or by contacting the appropriate Department or the City Manager. The City will accept complaints by phone or in writing. If complaints are made by phone, City staff will fill out the Civil Complaint Form. All official complaints will be logged by the City and thereafter investigated by the applicable Department. If requested and contact information is provided, the City will follow up with the complainant and provide a summary of the investigation and the enforcement action taken, if any. The City may also use a systematic approach to code enforcement whereby the City conducts systematic sweeps or reviews of various areas of the City for code violations. The City may use the systematic approach when deemed necessary to address safety issues, rampant violations in a particular area, as part of an awareness campaign, or as directed by the City Council.

1-06-070. Investigation and Inspection.

An enforcement official may investigate any purported violation of City Ordinances and take such action as is warranted under the circumstances in accordance with the provisions and procedures set forth in this Chapter. An enforcement official is authorized to enter upon any property or premises to ascertain whether the provisions of City Ordinances are being obeyed and to make any reasonable examination or survey necessary to determine compliance. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations and surveys shall be done in a reasonable manner. If such inspection, entry, examination or survey requires entry onto private property, the enforcement official shall provide and with prior notice and obtain approval from the property owner or responsible person. If a property owner or responsible person refuses to allow an enforcement official to enter property, the enforcement official shall obtain a search warrant or administrative warrant before entering the property.

1-06-080. Notice of Violation.

Except as otherwise provided herein, if an enforcement official determines that any provision of the Centerville Municipal Code is being violated or continues to exist and immediate enforcement action is not necessary under the circumstances, the enforcement official shall provide a written notice of violation to the property owner or other responsible person. Such written notice of violation shall indicate the nature of the violation, the action necessary to correct the violation, the warning period established before further enforcement action or penalties, and the potential enforcement action and/or penalties to be imposed for failure to cure the violation within the established warning period. Such notice of violation shall be served in accordance with Section 1-06-060. Such notice of violation shall serve to start the warning period. A notice of violation shall not be required for violations requiring immediate enforcement under Section 1-06-100, or for subsequent violations within a 12-month period under Section 1-06-105, as amended.

1-06-090. Warning Period.

Unless otherwise determined by an enforcement official, the warning period for correction of violations set forth in the notice of violation shall be ten (10) days from the date of receipt of the notice of violation. If the violation remains uncured after expiration of the warning period, the enforcement official shall pursue further enforcement action as deemed appropriate in accordance with the provisions provided herein. The enforcement official is authorized, ~~in his or her discretion,~~ to extend the warning period, up not to exceed an additional thirty (30) days, if the enforcement official determines that good cause exists for such extended warning period and the extension will not create or perpetuate a situation

imminently dangerous to life or property. The enforcement official is authorized to grant an extension beyond the additional thirty (30) days, on similar grounds and findings; provided, any such extension. Any such extension shall require written agreement by the property owner or person responsible for the violation to remedy the violations within a set time frame and to comply with any and all conditions of extension as required by the enforcement official. A request for extension shall be filed in writing by the property owner or person responsible for the violation prior to the expiration of the ten (10) day response period. A warning period shall not be required for violations requiring immediate enforcement under Section 1-06-100, or for subsequent violations within a 12-month period under Section 1-06-105, as amended.

1-06-100. Immediate Enforcement.

The enforcement official is not required to provide a notice of violation or warning period for any continuing development or construction, storm drainage violations, or an emergency situation. In the case of a violation involving either such continuing construction or development, storm drainage violations, or an emergency situation, as reasonably determined by the enforcement official, the enforcement official may use the enforcement powers and remedies available to it under this Chapter, including issuance of a civil citation, without prior notice or notice of violation.

1-06-105. Subsequent Violations.

The enforcement official is not required to provide a Notice of Violation or Warning Period for the same subsequent civil code violation occurring on the same property within a twelve (12) month period from the date of the first Notice of Violation. In the case of such subsequent violation(s) occurring on the same property within a twelve (12) month period, the enforcement official may use the enforcement powers and remedies provided under this Chapter, including issuance of a civil citation, without prior notice or notice of violation. In accordance with applicable statutes, property owners with weed violations need only be provided one notice of violation per season.

1-06-110. Civil Citation.

If any violation remains uncured after issuance of a notice of violation and expiration of the warning period set forth therein, as applicable, a civil citation may be issued to the property owner or other responsible person for the violation and civil penalties imposed for such violation. The civil citation shall be served in the manner set forth in Section 1-06-060. Each civil citation shall include the date and location of all violations, the Code sections violated, the amount of the civil penalty imposed for each violation, an explanation of how the civil penalty shall be paid and the consequences for failure to pay, an explanation of the right to and the procedures for requesting an administrative hearing, and the signature of the enforcement official issuing the citation.

1-06-120. Civil Penalties.²

Civil penalties to be imposed for a civil citation shall be imposed in accordance with the civil penalties fee schedule adopted by the City. Pursuant to Utah Code Ann. § 10-3-703, the City Council may prescribe a minimum civil penalty for Code violations by a fine not to exceed the maximum class B misdemeanor fine which is \$1,000. Civil penalties shall be due and owing to the City within twenty (20) days from the date of service. The civil penalty shall double if not paid within twenty (20) days from the date of service. The civil penalty shall triple if not paid within forty (40) days from the date of service. After forty (40) days, unpaid civil penalties shall accrue interest at the rate set forth by the State of Utah for unpaid judgments. Payment of any civil penalty shall not excuse any failure to correct a violation or the reoccurrence of the violation, nor shall it bar further enforcement action by the City. A civil citation and civil penalties may be imposed for each and every day a violation occurs or continues to exist. Additional civil penalties may be imposed for subsequent or recurring same violations reoccurring offenses on the same property within twelve (12) months one-year from the date of the civil

² Amended by Ord. No. 2008-16, September 2, 2008

citationimposition of a civil penalty. Such graduated penalties for subsequent or recurring violations shall be adopted by the City Council and set forth in the City Fee Schedule. Civil penalties may not be imposed for a civil violation that occurs in conjunction with another criminal violation as part of a single criminal episode that will be prosecuted in a criminal proceeding. Civil penalties shall be paid to the City Finance Department.

1-06-130. Request for Administrative Hearing.

Any responsible person served with a civil citation shall have the right to request an administrative hearing before a hearing officer by filing a written application for hearing. Such written request for hearing shall be filed with the City Recorder within ten (10) days from the date of service of the civil citation or other specified date set forth therein. Failure to request an administrative hearing as provided herein within ten (10) days from the date of service of the civil citation or other specified time frame shall constitute a waiver of the right to an administrative hearing and the right to an appeal.

1-06-140. Scheduling Administrative Hearing.

Upon receipt of a request for an administrative hearing, the City Manager shall appoint, contract with or hire a hearing officer to hear the matter. As soon as practicable after being appointed, the hearing officer shall schedule a date, time and place for the administrative hearing and shall send written notice of same to the responsible person(s). Notice of the hearing shall be served on the responsible person(s) in accordance with the provisions of Section 1-06-060.

1-06-150. Administrative Hearing Procedures.

Administrative hearings are intended to be informal in nature. Formal rules of evidence and discovery shall not apply; provided, all persons shall be afforded due process of law, including adequate notice, an opportunity to be heard, and adequate explanation of the reasons justifying any action. The City shall bear the burden of proof to establish the existence of a violation of the Code. Such proof shall be established by a preponderance of the evidence. All administrative hearings shall be open to the public and shall be recorded. The responsible person shall have the right to be represented by an attorney. If an attorney will be representing a responsible person at a hearing, notice of the attorney's name, address and telephone number shall be given to the City at least one (1) day prior to the hearing. If such notice is not given, the hearing may be continued at the City's request, and all costs of the continuance shall be assessed to the responsible person. The burden to prove any raised defenses shall be upon the party raising any such defense.

1-06-160. Failure to Attend Administrative Hearing.

A responsible person who fails to appear at an administrative hearing shall be deemed to have waived the right to such hearing, the adjudication of issues related to the hearing, and the right to appeal, provided that proper notice of the hearing has been given as provided in Section 1-06-060.

1-06-170. Administrative Order.

After holding the administrative hearing, the hearing officer shall issue a written administrative order affirming, rejecting or modifying the civil citation and/or civil penalties. The administrative order shall become final on the date of signing by the hearing officer. The administrative order shall be served on all parties in accordance with the provisions of Section 1-06-060.

1-06-180. Appeal of Administrative Hearing Order.

Any responsible person adversely affected by a final administrative order may file a petition for review in the district court. Any such appeal shall be filed within thirty (30) days after the administrative order is final. In the petition, the plaintiff may only allege that the administrative order was arbitrary, capricious or illegal. The court shall presume the administrative order is valid, review the record to

determine whether the order was arbitrary, capricious or illegal, and affirm the order if it is supported by substantial evidence in the record. The record of the proceedings shall be transmitted to the reviewing court. The filing of the petition does not stay execution of an administrative order, unless so ordered by the hearing officer.

1-06-190. Failure to Comply.

It shall be unlawful for a responsible person to fail to comply with any notice of violation, civil citation, or administrative order, or to pay the required civil penalties as imposed hereunder. A violation of this Section shall be a class B misdemeanor.

1-06-200. Collection.

The City may use any lawful means available to collect any unpaid civil penalties imposed under this Chapter, including costs and reasonable attorney's fees.

RESOLUTION NO. 2013-07

A RESOLUTION AMENDING SECTION XII OF THE CENTERVILLE CITY FEE SCHEDULE REGARDING CIVIL PENALTIES FOR MUNICIPAL CODE VIOLATIONS

WHEREAS, the City Council has recently adopted amendments to Title 1, Chapter 6 of the Centerville Municipal Code regarding civil enforcement procedures for municipal code violations and providing a civil penalty for such violations; and

WHEREAS, the City Council desires to amend the City Fee Schedule to add a graduated civil penalty provision for applicable municipal code violations and subsequent or recurring violations within a 12-month period; and

WHEREAS, the City Council has determined that the amendments to the City Fee Schedule adopting a graduated civil penalty for municipal code violations and subsequent or recurring violations are reasonable and in the best interest of the public to provide for the protection of the public's health, safety and welfare.

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF CENTERVILLE, UTAH, AS FOLLOWS:

Section 1. **Amendment.** The City Council hereby amends Section XII of the Centerville City Fee Schedule regarding Civil Penalties for municipal code violations to read in its entirety as follows:

XII. CIVIL PENALTIES.

- A. **Code Violations.** Except as otherwise provided in Subsections (B) and (C), the civil penalty applicable to Centerville City Code violations enforced pursuant to Chapter 1-06 regarding civil enforcement procedures, shall be \$150\$120 for the first violation, \$300 for the second violation, and \$500 for any subsequent same code violations occurring on the same property within twelve (12) months from the date of the civil citation. The civil penalty shall double (\$240) for any outstanding citation if not paid within 20 days from ~~of~~ the date of service and shall triple (\$360) if not paid within 40 days from ~~of~~ the date of service.

- B. **Zoning Ordinance Violations.** Any violation of Title 12 of the Centerville City Code regarding Zoning Ordinances enforced pursuant to the civil enforcement procedures set forth therein shall be subject to the civil penalty set forth in Section I.H.5. of this City Fee Schedule.

- C. Traffic and Criminal Code Violations. The civil enforcement procedures set forth in Chapter 1-06 of the Centerville City Code are not applicable to violations of Title 13 (Criminal Code) or Title 14 (Traffic Code). Violations of such Titles shall be pursued as criminal violations subject to criminal fines and penalties set forth by law.
- D. Appeals. A fee in the amount of fifty percent (50%) of the original civil penalty shall be charged for the filing of an appeal of any civil penalty or notice of violation in accordance with applicable City Ordinances.

Section 2. Severability. If any section, clause or portion of this Resolution is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

Section 3. Effective Date. This Resolution shall become effective immediately.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF CENTERVILLE CITY,
STATE OF UTAH, ON THIS 5th DAY OF FEBRUARY, 2013.**

CENTERVILLE CITY

By: _____
Mayor Ronald G. Russell

ATTEST:

Marsha L. Morrow, City Recorder

CENTERVILLE CITY COUNCIL

Staff Backup Report

Item No. 5

Date of City Council Meeting: February 5, 2013

Short Title: Amendment of FY 2013 Budget

Initiated By: Blaine Lutz, Finance Director

Scheduled Time: 7:50 (30 min.)

RECOMMENDATION

Hold a public hearing as required by law to increase appropriations for the budget of funds for Fiscal Year 2012-2013. Following the public hearing, adopt Resolution No. 2013-06 amending the Fiscal Year 2012-2013 Budget of Funds.

BACKGROUND

Notice of this public hearing was advertised in the Davis County Clipper (enclosed), posted in three public places within the city, as well as posted on the City's website.

The proposed amendments are attached. The amendments address several issues discussed by the Council.

- Allocates budget for full-time in-house attorney.
- Repayment of the loan from the Parks Capital Improvement Fund for trails.
- Increases budget for the South Davis Metro Fire Agency assessment.
- Allocates additional budget for increased snow plowing costs.
- Allocates additional funding for street projects.
- Allocates budget for UTOPIA operating assessment.

The UTOPIA operating assessment is the result of a recommendation to no longer include funding for operations in future bond issues for expansion of the fiber network within the member cities. The Legislative Audit released last year criticized this practice. The member cities, therefore, would pay shares of the diminishing operating subsidy directly until the subsidy is eliminated, which is projected to be about three years. On February 11, the UTOPIA/UIA Boards will consider a 50/50 formula for allocating the operating subsidy among the UTOPIA cities—50% based on the value of assets within each city and 50% based on the original pledge percentages associated with the repayment of UTOPIA debt. For the remaining five months of FY 2013, Centerville's share would be an estimated \$73,400. This would be paid from General Fund reserves, not current revenues.

**NOTICE OF PUBLIC HEARING
CENTERVILLE CITY AND
FISCAL YEAR 2013 AMENDED BUDGET**

Notice is hereby given that the Centerville City Council will hold a public hearing at 7:00 p.m., or as soon thereafter as the matter may be heard, on Tuesday, February 5, 2013 to receive public input on the Fiscal Year 2013 amended budget. This public hearing will be held in the City Council Chambers located at City Hall, 250 North Main, Centerville, Utah. A copy of the amended budget is available for public inspection at City Hall, Monday through Friday, 8:00 a.m. to 5:00 p.m. or at the City's website at www.centervilleut.net.

All interested parties are invited to attend the public hearing and make comment on the proposed amended budget for the fiscal year beginning July 1, 2012 and ending June 30, 2013. Written comments may also be submitted and should be delivered to City Hall no later than 5:00 p.m. on Monday, February 4, 2013.

MARSHA L. MORROW
Centerville City Recorder

Publish in the Davis County Clipper on Thursday, January 24, 2013.

RESOLUTION NO. 2013-06

A RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 BUDGET OF FUNDS AND ACCOUNTS FOR CENTERVILLE CITY AND GIVING AN EFFECTIVE DATE.

WHEREAS, in order to conform with the Utah State Code and Accounting Procedures as outlined in the Uniform Accounting Manual, it is necessary to amend the City budget which states revenues and expenditures for the Fiscal Year ending June 30, 2013.

NOW THEREFORE, be it resolved by the City Council of Centerville City, Utah, as follows:

Section 1. Amendment. That the Fiscal Year 2012-2013 Budget be amended, including all funds and accounts, as shown in the Budget format attached and dated February 5, 2013.

Section 2. Effective Date. This Resolution shall become effective February 5, 2013.

PASSED AND ADOPTED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, on this 5TH day of February, 2013.

CENTERVILLE CITY

By: _____
Mayor

ATTEST:

I hereby certify that the above-mentioned Resolution, entitled "A Resolution Amending the Fiscal Year 2012-2013 Budget of Funds and Accounts for Centerville City and Giving an Effective Date," is a true and accurate copy, including all attachments of the Resolution passed on Tuesday, the 5th of February, 2013.

Marsha L. Morrow, City Recorder

FY 2013 General Fund Revenues & Expenditures Proposed Amended Budget February 5, 2013
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	2012/13 Original Approved	2012/13 Proposed	Adjustment	note
<u>Revenues</u>				
Property Tax/Fee in Lieu	\$1,081,081	\$1,081,081	\$0	
Sales Tax	\$3,259,500	\$3,259,500	\$0	
Franchise Taxes	\$1,118,000	\$1,118,000	\$0	
Licenses & Permits	\$337,250	\$337,250	\$0	
Intergovernmental	\$504,540	\$504,540	\$0	
Charges for Services	\$785,875	\$823,325	\$37,450	1
Fines	\$475,000	\$475,000	\$0	
Miscellaneous	\$56,250	\$56,250	\$0	
Contributions & Transfers	\$132,500	\$182,500	\$50,000	2
Total General Fund Revenues	\$7,749,996	\$7,837,446	\$87,450	
Use of Designated Fund Balance				
Use of Undesignated Fund Balance/Other Proceeds	\$4,200	\$202,916	\$198,716	3
Total Sources of Revenues	\$7,754,196	\$8,040,362	\$286,166	
<u>Expenditures</u>				
City Council	\$112,203	\$101,508	-\$10,695	1
Justice Court	\$221,060	\$221,060	\$0	
Executive	\$383,648	\$383,648	\$0	
Attorney	\$0	\$107,766	\$107,766	2
Finance	\$484,830	\$484,830	\$0	
Legal	\$127,000	\$55,000	-\$72,000	3
Emergency Management	\$8,400	\$8,400	\$0	
Elections	\$0	\$0	\$0	
Youth Council	\$7,000	\$7,000	\$0	
Police	\$2,148,316	\$2,148,316	\$0	
Liquor Law	\$20,000	\$20,000	\$0	
School Crossing	\$52,099	\$52,099	\$0	
DARE	\$99,648	\$99,648	\$0	
K-9	\$2,250	\$2,250	\$0	
Animal Control	\$23,300	\$23,300	\$0	
Fire	\$783,477	\$794,172	\$10,695	4
Public Works Administration	\$273,713	\$273,713	\$0	
Streets	\$628,858	\$668,858	\$40,000	5
Street Projects	\$587,000	\$724,000	\$137,000	6
GIS	\$88,192	\$88,192	\$0	
Engineering	\$86,500	\$86,500	\$0	
Parks	\$742,842	\$742,842	\$0	
Community Events	\$23,650	\$23,650	\$0	
City Hall	\$119,151	\$119,151	\$0	
Parks & Recreation Facility	\$10,910	\$10,910	\$0	
Public Works Facility	\$32,790	\$32,790	\$0	
Public Works Storage	\$6,210	\$6,210	\$0	
Community Development	\$285,376	\$285,376	\$0	
Building Inspection	\$121,550	\$121,550	\$0	
Transfers/Other	\$274,223	\$347,623	\$73,400	7
Total General Fund Expenditures	\$7,754,196	\$8,040,362	\$286,166	
Use of Fund Balance				
Sources Over (Under) Expenditures	\$0	\$0	\$0	

General Fund Proposed Amended Budget Notes FY 2013

Revenues

Note #	1	Charges for Service - Other funds	\$37,450 Allocate attorney costs to other funds.
Note #	2	Transfers	\$50,000 Repayment of loan from Park CIF for trails.
Note #	3	Use of Fund Balance	\$198,716 Use of FB - streets UTOPIA assessment. (\$177,000 Streets, \$21,716 UTOPIA.)

Total Sources of Funds

\$286,166

Expenditures

Note#	1	Council Contingency	-\$10,695 For Fire District Assessment.
Note#	2	Attorney	\$107,766 Full time attorney budget.
Note#	3	Legal services	-\$72,000 Re-allocation of contract costs.
Note#	4	Fire Services	\$10,695 Increase from adopted 2013 budget.
Note#	5	Streets/Snow removal	\$40,000 Increase cost of snow removal. Main street budget.
Note#	6	Street projects	\$137,000 Use of FB for street projects. Use \$37,000 Main Street.
Note#	7	Transfers/ Capital projects	\$73,400 Transfer for UTOPIA assessments.

Total Expenditure Adjustment

\$286,166

Revenue over/under expenditures

\$0

Fund Balance June 30, 2012: \$1,156,052

Council Contingency: \$29,493

FY 2011 Other Funds Revenues & Expenditures Proposed Amended Budget 2/5/2013

	2012/13 Approved	2012/13 Amended	Adjustment	Note
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Park Capital Improvement Fund

Fund Balance			\$0	
Park Development Fees	\$42,000	\$95,000	\$53,000	1
<u>Interest</u>	<u>\$0</u>		<u>\$0</u>	
Total	\$42,000	\$95,000	\$53,000	
Capital Projects	\$192,962	\$192,962	\$0	
<u>Transfer to GF</u>	<u>\$0</u>	<u>\$50,000</u>	<u>\$50,000</u>	2
Total	\$192,962	\$242,962	\$50,000	

Note: Current fund balance \$392,073.

1 - Adjust revenues to actual as of 1/2013.

2 - Transfer: repayment of loan for trails.

Capital Project Fund

Fund Balance	\$47,120	\$47,120	\$0	
Transfer/General Fund	\$223,987	\$297,387	\$73,400	1
Transfer/RDA	\$155,990	\$155,990	\$0	
<u>Interest</u>	<u>\$500</u>	<u>\$500</u>	<u>\$0</u>	
Total	\$427,597	\$500,997	\$73,400	
Pledge Payments	\$427,597	\$427,597	\$0	
<u>Assessments</u>	<u>\$0</u>	<u>\$73,400</u>	<u>\$73,400</u>	2
Total	\$427,597	\$500,997	\$73,400	

1 - Budget transfer from GF for assessments.

2- Budget assessments to UTOPIA.

REDEVELOPMENT AGENCY OF CENTERVILLE CITY AGENDA

NOTICE IS HEREBY GIVEN THAT THE REDEVELOPMENT AGENCY OF CENTERVILLE CITY WILL HOLD A PUBLIC MEETING AT 8:40 P.M. ON TUESDAY, FEBRUARY 5, 2013 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 Centerville Redevelopment Agency Board 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. Persons requesting these accommodations for City-sponsored public meetings, services, programs, or events should call Blaine Lutz, Centerville Finance Director, at 295-3477, giving at least 24 hours notice prior to the meeting.

8:40 A. ROLL CALL

B. NEW BUSINESS

- 1. MINUTES REVIEW AND ACCEPTANCE** – January 15, 2013 meeting
- 2. Approve Amendment No. 3 to Grant of Easements and Restrictions for the Centerville Corporate Park Subdivision to add provisions regarding the ownership, maintenance obligations, and assessment calculations for the proposed above-ground parking structure on Lot 201**
- 3. Re-approve Assignment and Assumption Agreement for the Centerville Corporate Park Subdivision regarding assignment of rights and assumption of obligations for Lot 202 under the Corporate Park Governing Documents**

C. ADJOURNMENT

Steve H. Thacker
Executive Director

1 Minutes of the **Redevelopment Agency of Centerville** meeting held Tuesday, January 15,
2 2013 at 9:54 p.m. in the Centerville City Hall Council Chambers, 250 North Main Street,
3 Centerville, Utah.

4
5 **DIRECTORS PRESENT**

6
7 Directors Ronald G. Russell, Chair
8 Ken S. Averett
9 John T. Higginson
10 Sherri Lyn Lindstrom
11 Lawrence Wright

12
13 **DIRECTOR ABSENT** Justin Y. Allen

14
15 **STAFF PRESENT** Steve Thacker, RDA Executive Director
16 Blaine Lutz, Finance Director
17 Lisa Romney, City Attorney
18 Katie Rust, Recording Secretary

19
20 **APPOINTMENT**

21
22 Chair Russell recommended that Mayor Pro Tem Higginson serve as Vice Chair of the
23 RDA. Director Lindstrom made a **motion** to appoint Ronald G. Russell as Chair, and Director
24 John T. Higginson as Vice Chair of the RDA for 2013. Director Wright seconded the motion,
25 which passed by unanimous vote (5-0).

26
27 **ADJOURNMENT**

28
29 Director Wright made a **motion** to adjourn the meeting at 9:55 p.m. Director Lindstrom
30 seconded the motion, which was passed by unanimous vote (5-0).

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32
33
34
35
36 _____
Steve Thacker, RDA Executive Director

37
38
39
40
41 _____
Katie Rust, Recording Secretary