



**AGENDA FOR THE WORK / STUDY MEETING  
OF THE CITY COUNCIL  
OF THE CITY OF SPRINGVILLE, UTAH  
COUNCIL CHAMBERS, 110 SOUTH MAIN STREET  
MAY 20, 2014 – 5:15 P.M.**

**MAYOR AND COUNCIL DINNER – 4:45 P.M.**

*The Mayor and Council will meet in the Council Work Room for informal discussion and dinner. No action will be taken on any items.*

**CALL TO ORDER- 5:15 P.M.**

**COUNCIL BUSINESS**

1. Minutes – March 4, 2014 Work/Study Meeting
  2. Calendar
    - May 26 – Memorial Day (City Offices Closed)
    - June 3 - Work/Study Meeting 5:15 p.m., City Council Meeting 7:00 p.m.
    - June 7-14 – Art City Days
    - June 10 – Work/Study Meeting 5:15 p.m.
    - June 14 – Grand Parade 10:00 a.m.
    - June 17 – Work/Study Meeting 5:15 p.m., City Council Meeting 7:00 p.m.
  3. Discussion on this evening's Regular Meeting agenda items
    - a) Invocation – Councilmember Conover
    - b) Pledge of Allegiance – Councilmember Sorensen
    - c) Consent Agenda
  4. Approval of all City purchase orders properly signed (SCC §2-10-110(5))
  5. Approval of Re-Appointment to the Landmark Preservation Commission – Von Allman and Mark Gillies
  6. Approval of Re-Appointment to the Planning Commission – Brad Mertz and Frank Young
- 4. DISCUSSIONS/PRESENTATIONS**
- a) Power Distribution – Brandon Graham
  - b) Public Works, Wastewater Collection Master Plan Discussion – Jeff Anderson, City Engineer
  - c) Open Meetings Training – John Penrod, Assistant City Administrator/City Attorney
- 5. MAYOR, COUNCIL, AND ADMINISTRATIVE REPORTS**
- a) Southern Utah Valley Power Systems – Councilmember Craig Conover

This meeting was noticed in compliance with Utah Code 52-4-202 on May 15, 2014. Agendas and minutes are accessible through the Springville City website at [www.springville.org/agendasminutes](http://www.springville.org/agendasminutes). Council Meeting agendas are available through the Utah Public Meeting Notice website at <http://www.utah.gov/pmn/index.html>. Email subscriptions to Utah Public Meeting Notices are available through their website.

In compliance with the Americans with Disabilities Act, the City will make reasonable accommodations to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Recorder at (801) 489-2700 at least three business days prior to the meeting.

**6. CLOSED SESSION**

*The Springville City Council may temporarily recess the regular meeting and convene in a closed session to discuss pending or reasonably imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205*

**ADJOURNMENT**

This meeting was noticed in compliance with Utah Code 52-4-202 on May 15, 2014. Agendas and minutes are accessible through the Springville City website at [www.springville.org/agendasminutes](http://www.springville.org/agendasminutes). Council Meeting agendas are available through the Utah Public Meeting Notice website at <http://www.utah.gov/pmn/index.html>. Email subscriptions to Utah Public Meeting Notices are available through their website.

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**MINUTES FOR THE WORK / STUDY MEETING  
OF THE CITY COUNCIL  
OF THE CITY OF SPRINGVILLE, UTAH  
COUNCIL CHAMBERS, 110 SOUTH MAIN STREET  
MARCH 04, 2014 – 5:15 P.M.**

6

The following are the minutes of the Work/Study Meeting of the Springville City Council. The meeting was held on **Tuesday, March 04, 2014 at 5:15 p.m.** in the Springville City Civic Center Council Chambers, 110 South Main Street, Springville, Utah. Adequate notice of this meeting, as required by law, was posted in the Civic Center and on the City's website, and delivered to members of the Council, media, and interested citizens.

12

COUNCILMEMBER CHILD MOVED TO APPOINT COUNCILMEMBER CONOVER AS MAYOR PRO TEM. COUNCILMEMBER CREER SECONDED THE MOTION, AND ALL VOTED AYE.

16

Mayor Pro Tem Craig Conover presided. In addition to Mayor Pro Tem Conover, the following were present: Councilmember Richard Child, Councilmember Christopher Creer, Councilmember Dean Olsen, City Administrator Troy Fitzgerald, Assistant City Administrator/Finance Director Bruce Riddle, Assistant City Administrator/City Attorney John Penrod, and City Recorder Kim Rayburn. Also present were: Community Development Director Fred Aegerter, Public Works Director Brad Stapley, Power Director Leon Fredrickson, Public Safety Director Scott Finlayson, Administrative Services Manager Rod Oldroyd, Director of Recreation Chuck Keeler, and Museum of Art Director Dr. Rita Wright. Mayor Clyde was excused.

26

**CALL TO ORDER**

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Mayor Pro Tem Conover called the meeting to order at 5:15 p.m. and excused Mayor Clyde.

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**COUNCIL BUSINESS**

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**1. Minutes** – February 04, 2014, City Council Meeting

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COUNCIL MEMBER CONOVER MOVED TO ACCEPT THE MINUTES OF THE FEBRUARY 4, 2014, CITY COUNCIL MEETING, AS MODIFIED. LINE #142 CITIZEN SHOULD BE BUSINESSES AND LINE #205 SHOULD STATE, ALL WELLS LESS THAN 30 FEET DEEP COUNCIL MEMBER CREER SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR OF THE MOTION. THE MOTION PASSED UNANIMOUSLY.

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**2. Calendar**

- 42 • March 11 – Joint Work/Study Meeting of the City Council and the Planning Commission, 5:15 p.m.;
- March 09 – Daylight Savings;
- 44 • March 17 – St. Patrick’s Day;
- March 18 – Work/Study Meeting 5:15 p.m., City Council Meeting 7:00 p.m.;
- 46 • March 20 – First Day of Spring;
- March 21 – Pet Products Council;
- 48 • April 1 – Work/Study Meeting 5:15 p.m., City Council Meeting 7:00 p.m.; and
- April 1 – April Fools’ Day

50

**3. Discussion on this evening’s Regular Meeting agenda items**

52

a) Invocation – Council Member Sorensen

b) Pledge of Allegiance – Council Member Child

54

c) Consent Agenda

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1) Approval of all City purchase orders properly signed (SCC §2-10-110(5));

58

2) Approval of a Boundary Agreement Between Fern Hanson Family Partnership, Hollow Acres LP, and Springville City at West Chappell Drive – Cris Child, Airport Manager;

58

3) Approval to amend the Hangar Ground Lease to include a revised Indemnification Clause – Cris Child, Airport Manager;

60

4) Approval to amend the Stonehenge of Springville Subdivision, Plat A, located at approximately 450 South 950 West in the Neighborhood Commercial Zone – Fred Aegerter, Director of Community Development;

62

5) Approval of a Class B Beer License to Art City Trolley located at 256 North Main – Kim Rayburn, City Recorder;

64

6) Approval of the appointment of Philip Carlson to the Springville Arts Commission;

66

7) Approval of the appointment of Julie Ann Ahlborn to the Springville Arts Commission;

68

8) Approval of the appointment of Clair Anderson to the Springville/Spanish Fork Airport Board;

70

9) Approval of the appointment of Joey Franklin to the Springville Library Board;

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10) Approval of the appointment of Keith Leatham to the Springville Library Board;

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11) Approval of the appointment of Delora Bertleson to the Springville Arts Commission;

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12) Approval of the appointment of Ginny Ackerson to the Springville Arts Commission; and

78

13) Approval of the appointment of Council Member Dean Olsen to South Utah Valley Animal Services Special;

80

Mayor Pro Tem Conover asked if there was any discussion. There was none.

82 **4. Discussions/Presentations**

a) **Legal**

84 Shannon Acor, Springville's Art City Substance Abuse Prevention (ASAP) Coordinator,  
spoke about the SHARP (Student Health and Risk Prevention) Survey conducted in 2013. She  
86 stated that it surveys grades 6, 8, 10 and 12. It encompasses 39 school districts throughout the  
state, in addition to 14 charter schools, and is administered every two years. This study also  
88 provides information on how students in Springville compare with the State of Utah, as well as  
students across the United States.

90 Ms. Acor reported that alcohol use is down among 8th and 12th graders for the first time,  
and the use of chewing tobacco is below the state norm. Prescription drugs, cigarette, and  
92 marijuana use are also down in all grades. This means that averages of all grades were  
calculated in these areas. Ms. Acor displayed a graph representing Springville's lifetime  
94 substance use rates, and explained that the survey asks students how often they have used a  
substance in their lifetime, compared to how frequently they have used it in the past 30 days.  
96 She reported that overall these numbers are decreasing as well as how data is collected.

The survey also provides information on various factors that can help protect youth in the  
98 community. Ms. Acor reported on the survey data collected which shows that 84% of students  
claim they have strong family attachments, 78% have a strong sense of religion in their home,  
100 87% believe in a moral order, 82% have interaction with pro-social peers, and 86% are rewarded  
for pro-social involvement.

102 Ms. Acor reported on some of the risk factors upon which preventative measures have  
been based. One concern is with an increase in the number of students carrying handguns. It  
104 was noted that the City is above the State and National norm in this area. Additionally, all  
grades reported that students are in need of mental health treatment. There was an increase from  
106 less than 10% to over 16% of students who have seriously contemplated suicide, from the years  
2011 to 2013. Ms. Acor emphasized that this data is specific to Springville. Council Member  
108 Child inquired as to how this statistic compares with the state's average. Ms. Acor noted that the  
state average is around 18%. In response to a question raised by Council Member Conover  
110 about how many students are included in the data, Ms. Acor stated that the percentage reflects  
about 500 out of 1,400 students. Council Member Olsen inquired about the statistic regarding  
112 students carrying handguns. Ms. Acor explained that current statistics reflect students who carry  
handguns on their person in any setting at any time. She noted that they are lifetime usage rates.

114 Further findings shown in the report were discussed. Ms. Acor reported that about 38%  
of students report that they have a low commitment to school and noted that social groups  
116 contribute to bad behavior. Statistics from the report also reflect a low neighborhood attachment.  
Ms. Acor explained that Springville ranks above the state average in this category.

118 Ms. Acor explained that ASAP utilizes all of the information generated from the SHARP  
Survey to follow the Communities That Care Model, which increases protective factors and  
120 lowers risk factors. She explained that ASAP provides opportunities and rewards for pro-social  
involvement, positive interaction with peers, and opportunities for increased neighborhood unity.  
122 Students have been involved in planning City activities such as Battle of the Bands, the Skate

124 Park Competition, the Masquerade Ball, and Town Hall Meetings. Furthermore, ASAP has  
helped coordinate the Mayor's Recognition Award for students who have been instrumental in  
these programs.

126 ASAP has worked with the National Alliance on Mental Health (NAMI) to bring forward  
a program called Hope for Tomorrow, which focuses on various abuse disorders and suicide  
128 prevention. The Question, Persuade, and Refer (QPR) training program has also been  
implemented to address teen suicide. Ms. Acor stated that ASAP has explored having a Mental  
130 Health Week this Fall where the entire community would gather for various awareness  
opportunities. She commented that all of these programs and activities are intended to help  
132 students make correct choices.

Council Member Conover asked if the numbers in the survey were reflective only of  
134 Springville High School. Ms. Acor answered affirmatively and added that the Merit College  
Preparatory School did not participate. The survey in it's entirety also includes 14 charter  
136 schools across the district. She noted, however, that charter schools generally tend to not  
participate in surveys. City Attorney, John Penrod, added that the school district has offered to  
138 share survey information with the district, with the expectation being to review and discuss it  
publicly. A copy of the SHARP Survey for the Spring was also available.

140 City Administrator Troy Fitzgerald remarked that the survey also includes both national  
and regional information, so that comparisons can be reviewed. Attorney Penrod reiterated  
142 Ms. Acor's request to have a week dedicated to suicide prevention awareness. He explained that  
the Council's approval is necessary in order to move forward with that type of an event.  
144 Ms. Acor added that ASAP is looking at tentative dates in either September or October for  
awareness week. Staff and Members of the Council expressed interest in approaching Merit  
146 College Preparatory School and other charter schools to invite them to participate. Ms. Acor  
mentioned that there is also an alternative high school in the district called Landmark High  
148 School. Landmark High School has reached out and expressed interest to ASAP about bringing  
a mental health program to their school, based on a need. Ms. Acor explained that the school  
150 district needs to approve a program prior to implementation.

Attorney Penrod provided additional updates for his department and explained that he  
152 wanted to discuss prosecution, risk management, and certain cases with the Council. First, he  
wanted to follow up on some points the Judge made during a previous meeting. Attorney Penrod  
154 explained that the Prosecutor's schedule has increased tremendously due to changes that have  
occurred recently in Springville and Spanish Fork. The scheduling increase was partly due to the  
156 fact that Class A Misdemeanors are now entitled to a preliminary hearing. He reported that there  
are currently 65 cases in the Justice Court, 28 Review Hearings, 12 Order to Show Cause  
158 Hearings, and other courts range from five to 10 percent. Attorney Penrod reported that even  
though the number of court cases has increased, trials have decreased from 2004 to 2013.

160 Additional numbers were reported, including charges dismissed, with a high of 2,273 in  
2009 and a low of 1,085 in 2004. Attorney Penrod noted that the highest amount of charges filed  
162 also occurred in 2009. He proceeded to describe Plea Agreements, and reported that between  
July 2012 and June 2013, the Justice Court had 339 Pleas in Abeyance. As long as the

164 conditions of the Plea in Abeyance are met, the charges are removed and the case is dismissed.  
165 Attorney Penrod reviewed different requirements for Pleas in Abeyance based on different  
166 offenses.

167 Council Member Sorensen asked if Pleas in Abeyance often occur on sex offenses.  
168 Attorney Penrod replied that most sex offenses go to felony court, however, it depends on the  
169 case. Springville City does not address felony cases as they are all referred to the Utah County  
170 Attorney's Office by the Police Department. Most Pleas in Abeyance handled by the City's  
171 Legal Department include speeding and first time marijuana possession. Pleas in Abeyance are  
172 used when a victim is not cooperating or the evidence is questionable. Other reasons for Pleas in  
173 Abeyance involve lacking proof of insurance or expired vehicle registrations and zoning  
174 ordinance violations.

175 Attorney Penrod reported that in the past year there were six charges dismissed in the  
176 Justice Court. No cases were dismissed, with the exception of one defendant who died. He  
177 explained that one case had bad evidence, which made the case not viable. Two cases were  
178 dismissed in Felony Court. Attorney Penrod reviewed the process of screening citations. There  
179 were 39 charges of theft that were dismissed, 17 were Pleas in Abeyance first time offenses, four  
180 were sent to the County as Felonies, and two were filed in Spanish Fork as Class A  
181 Misdemeanors.

182 Attorney Penrod described some of the challenges relative to domestic violence and  
183 assault cases. In many instances, once the cases get to court, one of the spouses won't testify  
184 against the other. In these situations, Pleas in Abeyance can be very beneficial. It was noted that  
185 between July 2012 and June 2013, three cases were dismissed, all at the request of the victim.  
186 Furthermore, 26 drug related charges were dismissed, including nine Pleas in Abeyance, one sent  
187 to the County for felony and another that was sent to Juvenile Court. Other types of drug-related  
188 charges were discussed.

189 Data on drivers' license violations from February 2014 were reported. Seven charges  
190 were dismissed, two Pleas in Abeyance, and an additional two dismissals because the defendant  
191 pled to more serious charges. Attorney Penrod reported on cases from the previous month.  
192 Council Member Olsen asked Police Chief Scott Finlayson how he felt these cases were being  
193 handled by the Legal Department. Chief Finlayson responded that he hadn't received any  
194 complaints or issues on how cases are being treated.

195 Attorney Penrod continued his presentation by discussing Risk Management. He  
196 presented a display listing current Workers' Compensation claims against the City since they  
197 joined the Trust last July. Council Member Conover commented that the scenarios presented  
198 differ from the Utah Risk Management Mutual Association (URMMA) standards. Attorney  
199 Penrod replied that the Trust provides a more traditional insurance, has many more members,  
200 and provides trainings and webinars for various departments.

201 Recent cases were reviewed. It was reported that a short time ago the Utah Supreme  
202 Court gave Springville's Legal Department a case entitled *Kerr vs. the City of Salt Lake*. This  
203 case could profoundly affect cities, as it could potentially take away from governmental  
204 immunity. The case also raises questions about when a City is liable for injuries related to

sidewalk damage, and Attorney Penrod explained how Springville has a discretionary function in the matter.

The facts of the *Kerr vs. the City of Salt Lake* case were reviewed, which involved a downtown hotel contacting the City about problems with a sidewalk in front of their building. Salt Lake City has 800 miles of sidewalk. Within seven days of being notified, City workers went to the location to evaluate the problem. Under Salt Lake City policies, three actions can be taken. First, an assessment of repair costs can be made and then charged to the property owner. Second, the sidewalk can be closed off until the repairs have been made. Third, it can be cut in a way that the sidewalks all match up.

Attorney Penrod reported that eight days after the City was notified of the problem, a person walking in front of the hotel tripped and shattered their knee cap. The hotel testified that three-fourths of one inch to one inch of displacement in the sidewalk had been present for the past 18 months. The court concluded that this was a sufficient time frame for the City to have discovered the problem. However, the City has a policy that divides Salt Lake's 800 miles of sidewalk into quadrants that are monitored by various City employees on a rotating schedule that takes place over a period of more than one year. Using this standard it is impossible to monitor all of the sidewalks in one year. In the end, the jury found the City liable. Attorney Penrod provided additional explanation on how the decision was made.

Attorney Penrod suggested that if the Council establishes a policy that defines hazardous sidewalk conditions, all future cases that occur in Springville that are similar to the *Kerr vs. the City of Salt Lake* case can be resolved with policy level decisions. This would, therefore, carry less liability. City Administrator, Troy Fitzgerald, added that over the past few years, the City has promoted giving more authority to employees to make decisions. By eliminating strict and rigid guidelines, issues are able to be resolved more quickly. The Council needs to decide if they want to adopt strict policies, as suggested by Attorney Penrod, in order to eliminate additional legal risks, or allow City employees to make more decisions in order to provide a quicker response to citizens' concerns as they come forward.

Attorney Penrod referred to *The Town of Greece vs. Galloway* case that relates to prayer in public meetings. The Supreme Court will be making a decision in the next few months. Attorney Penrod would notify the Council of updates. He briefly discussed the *Reed vs. The Town of Gilbert* case regarding their sign ordinance.

#### **b) Parks and Recreation**

Recreation Director, Chuck Keeler, referenced a previous meeting where ideas for the float during Art City Days were discussed. This year's theme will be "A Great Place to Live," as recommended by the Art City Days Committee and City staff. Director Keeler announced that Mark Wills has been contracted for the Friday night concert, and a variety group from Provo called The Strike will perform on Saturday. Regarding the float, several bids were received from several professional float builders. Creative Concepts submitted a bid for \$10,000, Innovative Design Concepts bid \$11,500, and Modern Display bid \$10,000. Director Keeler reported that the City has used Innovative Design Concepts and Modern Display in previous years but they

246 have never used Creative Concepts. The Art City Committee reviewed the bids from all three  
247 companies. The display will focus on the splash pad, Bartholomew Pond, and parks.

248 There was additional discussion about focusing the float on outdoor activities. Director  
249 Keeler suggested displaying a young boy fishing on a dock. Administrator Fitzgerald asked if  
250 the dock will exist at that point, and explained that a dock might not be the best option. Council  
251 Member Conover mentioned using golf as a focus. Council Member Sorensen suggested having  
252 a basketball court to represent the girls' basketball team winning the State Championship.  
253 Director Keeler agreed to work with Modern Display to make necessary changes to the float.

254 Director Keeler reported that he met with the Chamber of Commerce who is enthusiastic  
255 about the idea of having Business Bingo at Art City Days. The Chamber will provide a list of  
256 businesses that can be involved in that activity. It was noted that next year is the 50th year for  
257 Art City Days. As a result, a larger budget will likely be requested.

258

### c) Public Works

260 Public Works Director, Brad Stapley, addressed this year's proposed budget. He noted  
261 that crack sealing for roads has been approved and that in general roads have a seven-year plan.

262 It was noted that the cost difference between chip sealing and milling is significant.  
263 Chips are rougher and protect the roads. It was recommended that chip sealing not be done in  
264 residential areas, and to use crack sealing first. It was noted that 400 East is only going to be  
265 crack sealed because the pavement is newer. Council Member Sorensen remarked that some  
266 roads haven't been repaired in 13 years. Director Stapley replied that those roads will be added  
267 to a future plan.

268 There was discussion about bus benches. It was noted that the pull-out benches were  
269 installed by private individuals. There was also mention of the RFP document with one response  
270 coming from a company in Florida. They set up benches that provide many benefits. It is  
271 important that they meet both UTA and UDOT standards, since they will be on public property.  
272 They will also need to be registered with UTA and UDOT. It was noted that use of benches for  
273 advertising will be restricted. Council Member Sorensen asked how to make these limitations.  
274 Attorney Penrod suggested establishing a specific policy with guidelines on the matter. It was  
275 also noted that the City has a total of 30 bus stops.

276 Director Stapley stated that the City does not want to locate benches in residential areas;  
277 however, residential areas still need to be addressed. Council Member Conover commented that  
278 the bus routes are dependent on UTA, and subject to change. Administrator Fitzgerald added  
279 that the City could provide the service by installing the benches and paying for them without  
280 advertising. Director Stapley pointed out that there are more bus stops in residential areas than  
281 there are in commercial areas. Council Member Sorensen remarked that other cities have bus  
282 benches in residential areas and felt that it would not be problematic for Springville either.  
283 Council Member Olsen asked about maintenance. Director Stapley replied that the company  
284 installing them will assume responsibility. There was additional discussion about citizen  
285 concerns with bus benches being located in their neighborhoods as well as the best way to fund  
286 them.

288 Administrator Fitzgerald stated that staff will coordinate with UTA to determine which  
290 bus stops are the busiest. Council Member Sorensen felt it would be nice for citizens to have a  
292 place to sit while they wait for the bus. Council Member Child asked if the City could also use  
294 canopies. Director Stapley replied that they could potentially do both at busier stops. Council  
Member Sorensen stated that canopies do not need to be installed in residential areas. In  
conclusion, staff explained that they would do more research on the matter and come forward to  
the Council with additional recommendations at a later date.

**5. MAYOR, COUNCIL, AND ADMINISTRATIVE REPORTS**

**a) Landmarks Preservation Commission**

Council Member Sorensen noted the Landmark Preservation Commission has not had  
meetings to this date and they plan to meet before the end of June

**b) Historical Society**

There was no comment.

**6. CLOSED SESSION**

*The Springville City Council may temporarily recess the regular meeting and convene in  
a Closed Session to discuss pending or reasonably imminent litigation, and the  
purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-  
4-205.*

COUNCIL MEMBER CHILD MOVED TO TEMPORARILY ADJOURN TO A CLOSED  
SESSION AT 6:48 P.M. AS PROVIDED BY U.C.A. §52-4-205 IN ORDER TO DISCUSS  
PENDING OR REASONABLY IMMINENT LITIGATION. COUNCIL MEMBER CREER  
SECONDED THE MOTION. THE VOTE IS RECORDED AS FOLLOWS: COUNCIL  
MEMBER OLSEN – AYE; COUNCIL MEMBER CREER – AYE; COUNCIL MEMBER  
CONOVER – AYE; COUNCIL MEMBER SORENSEN – AYE. THE MOTION CARRIED  
UNANIMOUSLY.

THE WORK/STUDY MEETING OF THE CITY COUNCIL WAS RECONVENED BY  
CONSENSUS AT 6:55 P.M.

**ADJOURNMENT**

COUNCIL MEMBER SORENSEN MOVED TO ADJOURN THE WORK/STUDY MEETING  
OF THE CITY COUNCIL MEETING AT 6:58 P.M. COUNCIL MEMBER OLSEN  
SECONDED THE MOTION, AND ALL PRESENT VOTED AYE. THE MOTION PASSED  
UNANIMOUSLY.



**AGENDA FOR THE REGULAR MEETING  
OF THE CITY COUNCIL  
OF THE CITY OF SPRINGVILLE, UTAH  
COUNCIL CHAMBERS, 110 SOUTH MAIN STREET  
May 20, 2014 – 7:00 P.M.**

**CALL TO ORDER  
INVOCATION AND PLEDGE  
APPROVAL OF THE MEETING'S AGENDA  
APPROVAL OF THE MINUTES  
MAYOR'S COMMENTS**

**CEREMONIAL AGENDA**

1. Presentation of the Mayor's Awards – Shannon Acor, ASAP Coordinator
2. Presentation of the APPA and IPSA Safety Award
3. Art City Days Rodeo Royalty

**PUBLIC COMMENT:** *Audience members may bring any item not on the agenda to the Mayor and Council's attention. Please complete and submit a "Request to Speak" form. Comments will be limited to two or three minutes, at the discretion of the Mayor. State Law prohibits the Council from acting on items that do not appear on the agenda.*

**CONSENT AGENDA\***

4. Approval of all City purchase orders properly signed (Springville City Code §2-10-110(5))
5. Approval of Re-Appointment to the Landmark Preservation Commission – Von Allman and Mark Gillies
6. Approval of Re-Appointment to the Planning Commission – Brad Mertz and Frank Young

**PUBLIC HEARING**

7. Public Hearing to consider an Ordinance adopting the **Storm Drain** Master Plan, the Impact Fee Facility Plan and Impact Fee Analysis; establishing an Impact Fee Calculation Methodology and establishing a Storm Drain Impact Fee to be imposed on all new and/or expanding development – Jeff Anderson, City Engineer
8. Public Hearing to consider an Ordinance adopting the **Culinary Water** Master Plan, the Impact Fee Facility Plan and Impact Fee Analysis; establishing an Impact Fee

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- Kim Rayburn, City Recorder

The next regular Council Meeting will be held on June 03, 2014 at 7:00 p.m. in the Civic Center Council Chambers, 110 South Main Street, Springville, unless otherwise noticed. In compliance with the Americans with Disabilities Act, the City will make reasonable accommodations to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Recorder at (801) 489-2700 at least three business days prior to the meeting.

\*The Consent Agenda consists of items that are administrative actions where no additional discussion is needed. When approved, the recommendations in the staff reports become the action of the Council. The Agenda provides an opportunity for public comment. If after the public comment the Council removes an item from the consent agenda for discussion, the item will keep its agenda number and will be added to the regular agenda for discussion, unless placed otherwise by the Council.

THIS AGENDA IS SUBJECT TO CHANGE WITH A MINIMUM OF 24-HOURS NOTICE

Calculation Methodology and establishing a Culinary Water Impact Fee to be imposed on all new and/or expanding development – Jeff Anderson, City Engineer

9. Public Hearing to consider an Ordinance adopting the **Wastewater Collection** Master Plan, the Impact Fee Facility Plan and Impact Fee Analysis; establishing an Impact Fee Calculation Methodology and establishing a Sewer Impact Fee to be imposed on all new and/or expanding development – Jeff Anderson, City Engineer
10. Public Hearing to consider an Ordinance adopting the **Pressurized Irrigation** Master Plan, the Impact Fee Facility Plan and Impact Fee Analysis; establishing an Impact Fee Calculation Methodology and establishing a Pressurized Irrigation Impact Fee to be imposed on all new and/or expanding development – Jeff Anderson, City Engineer

#### **REGULAR AGENDA**

11. Consideration of an Ordinance that establishes a local ethics commission to review complaints against elected and appointed officials for violations of the Municipal Officer's and Employees' Ethics Act – John Penrod, Assistant City Administrator/City Attorney
12. Consideration of an Inter-local Agreement creating a Utah County Ethics Commission – John Penrod, Assistant City Administrator/City Attorney

#### **MAYOR, COUNCIL AND ADMINISTRATIVE REPORTS**

#### **CLOSED SESSION**

13. *The Springville City Council may temporarily recess the regular meeting and convene in a closed session to discuss pending or reasonably imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205*

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- Kim Rayburn, City Recorder

The next regular Council Meeting will be held on June 03, 2014 at 7:00 p.m. in the Civic Center Council Chambers, 110 South Main Street, Springville, unless otherwise noticed. In compliance with the Americans with Disabilities Act, the City will make reasonable accommodations to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Recorder at (801) 489-2700 at least three business days prior to the meeting.

\*The Consent Agenda consists of items that are administrative actions where no additional discussion is needed. When approved, the recommendations in the staff reports become the action of the Council. The Agenda provides an opportunity for public comment. If after the public comment the Council removes an item from the consent agenda for discussion, the item will keep its agenda number and will be added to the regular agenda for discussion, unless placed otherwise by the Council.



## STAFF REPORT

**DATE:** May 14, 2014

**TO:** Honorable Mayor and City Council

**FROM:** Jeffrey L. Anderson, Springville City Engineer

**SUBJECT:** **ADOPTION OF THE STORM DRAIN MASTER PLAN, STORM DRAIN IMPACT FEE ANALYSIS, AND IMPACT FEE ORDINANCE**

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### **RECOMMENDED ACTION**

Motion to:

- Adopt the Storm Drain Master Plan and Capital Improvements Plan Update prepared by City Staff and engineering consultant Bowen Collins and Associates;
- Adopt the Storm Drain Impact Fee Analysis report prepared by Lewis Young Robertson and Burningham, Inc., which establishes a legally-defensible Impact Fee of \$0.162 per square foot of impervious area;
- Adopt Ordinance No. \_\_\_\_\_ which sets forth Impact Fees pursuant to the Utah Impact Fees Act, Utah Code Annotated §11-36a-101, et seq., related to Storm Water, Storm Drainage, and Flood Control Facilities within the Impact Fee Facilities Plan (IFFP) area established in the Storm Drain IFFP; the effective date for imposition of the Impact Fee being \_\_\_\_\_.

### **SUMMARY OF ISSUES/FOCUS OF ACTION**

Springville City recently completed a draft final Storm Drain Master Plan and Capital Improvements Plan Update and submitted this document to the City Council on May 13, 2014. Copies have also been made available to the Utah County Home Builders Association and the general public.

The master plan report addresses the existing and future storm drainage needs for Springville City. A Capital Improvements Plan and Impact Fee Facilities Plan (IFFP) are also contained within this report.

The adoption of the Storm Drain Master Plan is also critical to establishing a legally-defensible Storm Drainage Impact Fee. The impact fee adopted by the City Council determines how much funding will become available through development for storm water projects as growth occurs.

***CITY COUNCIL***

*May 20, 2014*

## **BACKGROUND**

The current Springville City Storm Drainage Master Plan was adopted in 2008. Since that time several things have changed that have required the City to update the existing master plan:

1. In 2011 an update to Springville City's General Plan was adopted. This update included changes to the land use and potential growth of many areas throughout the City. These land use changes altered the future and existing storm drain line sizes for the storm water collection system throughout the city therefore requiring an update to the master plan.
2. In 2011 the Utah State Legislature amended the Impact Fee Act requiring municipalities to prepare an Impact Fee Facilities Plan (IFFP) and base Impact Fees off of this plan. The IFFP looks at growth within a six to ten year time period, establishes an area where that growth may occur, and bases impact fees on the required improvements within that established area.
3. Springville City completed several large storm drain projects identified in the existing master plan.
4. The City mapped and surveyed the storm drain system and has more accurate data to update the storm drain model used in the master plan.

## **DISCUSSION**

The scope of the draft Storm Drain Master Plan and Capital Improvements Plan Update includes the following:

- Review of existing master plans and information.
- Establish an IFFP boundary area.
- Utilize current survey data documenting the existing storm drainage system and update the storm drainage computer model.
- Review and amend storm drain sub-basins as need based on updated topo and survey data.
- Evaluation of the performance of the existing facilities and confirmation of the effect of recommended improvements for the IFFP time frame (six to ten years) and for build out.
- Evaluation of the existing storm drainage facilities and identification of deficiencies in this system.
- Update of the storm drain capital improvement plan including recommendations for immediate and future improvements.
- Prepare the storm drain IFFP with relevant projects within the established time frame (six to ten years) and within the IFFP boundary area.

The Storm Drain Impact Fee Analysis report establishes an impact fee based on the Impact Fee Facilities Plan established in the Storm Drain Master Plan. This impact fee specifically is

based on costs allocable to growth within the IFFP boundary are. *The impact fee is intended to protect existing customers from the cost burden and impact of expanding a system, in this case a storm drainage system that is already adequate for their own needs absent growth.*

Once the capital costs solely due to the need for additional capacity to serve new users in the IFFP boundary area is determined, it is divided by the projected impervious area to arrive at the impact fee amount.

### **MASTER PLAN ENGINEERING CRITERIA**

The draft Storm Drain Master Plan uses the following engineering criteria as a basis for the plan:

- New development is required to design storm drain facilities for peak runoff flow rates from a 10-year, 3-hour duration storm event.
- Existing drainage pipe slopes were established using GPS survey data.
- The use of regional detention basins strategically placed in designated sub-basins throughout the study area. Basins will be sized using the a 10-year, 3-hour duration storm event, and a release rate of 0.15 cfs per acre.

### **RECOMMENDATIONS**

Staff recommends the Council carefully consider the methodology involved in completing the Storm Drain Impact Fee Analysis. The maximum defensible impact fee amount presented in this report represents the highest amount that can be legally charged per square foot of impervious area for new development.

Other factors may influence the final amount of the Storm Drain Impact Fee set by the City Council. These may include current or projected economic trends, long-term growth projections, or present trends of other area cities. The Council can set the actual Storm Drain Impact Fee at any amount less than the maximum defensible amount.

City Staff recommends the full impact fee of \$0.162 per square foot of imperious area be adopted. Establishing an impact fee amount less than \$0.162 would leave a shortfall in anticipated funding to complete the needed capital improvement projects outlined in the Storm Drain IFFP contained in the Storm Drain Master Plan.

### **FISCAL IMPACT**

The draft Storm Drain Master Plan and Capital Improvements Plan Update estimates \$33,306,390 in capital improvement costs for storm drain projects projected out until build-out of the City. Of these costs, the draft Storm Drain IFFP estimates that a total of \$5,577,300 will be required over the next six to ten years within the IFFP boundary area of which

\$4,521,738 are attributable to future development and are therefore can be allocated to impact fees. Adding buy-in to existing facilities as well as professional expenses, less existing impact fee balance, a legally-defensible Impact Fee of up to \$0.162 per square foot of impervious surface will fund the future growth in the IFFP area as can be seen in the following table from the IFA:

TABLE 1.1: IMPACT FEE PER IMPERVIOUS SURFACE (SQUARE FEET)

	GROWTH RELATED COSTS	FUTURE IMP. SURFACE	COST PER SF
Buy-In Component	\$1,048,886	31,162,824	\$0.034
Future Storm Drain Projects	\$4,521,738	31,162,824	\$0.145
Professional Expenses	\$6,722	31,162,824	\$0.001
(Less Impact Fee Fund Balance)	(\$552,579)	31,162,824	(\$0.018)
<b>Total</b>	<b>\$5,024,767</b>		<b>\$0.162</b>

**ORDINANCE NO. # \_\_\_\_\_**

**AN ORDINANCE ADOPTING THE SPRINGVILLE CITY STORM DRAIN MASTER PLAN AND CAPITAL IMPROVEMENTS PLAN UPDATE, THE STORM DRAIN IMPACT FEE FACILITIES PLAN, AND THE STORM DRAIN IMPACT FEE ANALYSIS; AND ENACTING STORM DRAIN IMPACT FEES.**

**WHEREAS**, Springville City has legal authority pursuant to Title 11, Chapter 36a of the Utah Code known as the “Impact Fee Act” (hereinafter the “Act”) to impose development impact fees as a condition of development approval, which impact fees are used to defray capital infrastructure costs attributable to new development activity; and

**WHEREAS**, the City has historically assessed impact fees as a condition of development approval in order to appropriately assign capital infrastructure costs to development in an equitable and proportionate manner; and

**WHEREAS**, on October 8, 2012, pursuant to the Act, the City properly noticed its intent to update its Storm Drain Master Plan and Capital Improvements Plan Update, to create a Storm Drain Impact Fee Facilities Plan, and to amend its Storm Drain Impact Fees based on an updated Storm Drain Impact Fee Analysis; and

**WHEREAS**, the City has reviewed and evaluated the City’s storm drain service area for the storm drain system, which consists of the entire area within the Springville municipal boundary as shown in the Storm Drain Impact Fee Facilities Plan, and has determined that it is in the City’s best interest to establish the said service area for the purpose of imposing Storm Drain Impact Fees; and

**WHEREAS**, pursuant to the requirements of Sections 11-36a-301 and 302 of the Act, Bowen Collins & Associates has prepared the Springville City “Storm Drain Master Plan and Capital Improvements Plan Update” (the “Master Plan”), which includes the Storm Drain Impact Fee Facility Plan (the “IFFP”), attached hereto as Exhibit “A,” which Bowen, Collins & Associates has properly certified pursuant to the requirements of Section 11-36a-306 of the Act; and

**WHEREAS**, pursuant to the requirements of Sections 11-36a-303 and 304 of the Act, Lewis Young Robertson & Burningham, Inc., has prepared the “Springville City Storm Drain Impact Fee Analysis” (the “IFA”), which Lewis Young Robertson & Burningham, Inc. has properly certified pursuant to the requirements of Section 11-36a-306 of the Act; and

**WHEREAS**, Lewis Young Robertson & Burningham, Inc. has also calculated for enactment Storm Drain Impact Fees as set forth in the IFA and pursuant to the requirements of Sections 11-36a-305 of the Act; and

**WHEREAS**, on May 9, 2014, pursuant to Section 11-36a-502 of the Act, a full copy of the Master Plan, the IFFP, the IFA, and this Impact Fee Enactment or Ordinance, along with an executive summary of the IFFP and the IFA that was designed to be understood by a lay person, were made available to the public at the Springville City Public Library, posted on the City's Website, and the Public Notice Website; and

**WHEREAS**, on May 8, 2014, the Provo Daily Herald published a notice of the date, time, and place of the public hearing to consider the Master Plan, the IFFP, the IFA, and this Impact Fee Enactment or Ordinance; and

**WHEREAS**, on May 20, 2014, the Springville City Council held a public hearing regarding the proposed and certified Master Plan, IFFP, IFA, and this Impact Fee Enactment or Ordinance; and

**WHEREAS**, the Springville City Council does now desire to hereby approve and adopt the Master Plan, the IFFP, and the IFA and to formally enact Storm Drain Impact Fees pursuant thereto and pursuant to the requirements of Sections 11-36a-401 through 11-36a-403 of the Act.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of Springville, Utah:

**SECTION 1: Adoption.**

The Master Plan, the IFFP, the IFA, and the Storm Drain Impact Fees as set forth in the IFA are hereby approved and adopted.

**SECTION 2: Service Area.**

The service area established in the IFFP and the IFA and for which Storm Drain Impact Fees are established and imposed is all of Springville City (the "Service Area"). The Service Area is established based upon sound planning and engineering principles for the City's storm drain system services.

**SECTION 3: Level of Service.**

The existing level of service provided by the City’s storm drain system shall remain the same as it was prior to this Ordinance and is hereby again adopted as the level of service to be provided throughout the City. The existing and proposed level of service is fully defined in Chapter 4 of the Master Plan and is based on the design storm event. The following data is used to define the design storm event:

- 1. Storm Duration: 3 Hours
- 2. Storm Distribution: Modified Farmer and Fletcher (see Appendix D)
- 3. Recurrence Interval: 10-year
- 4. Storm Depth (From NOAA Atlas 14): 1.00 inches

**SECTION 4: Impact Fee Analysis and Impact Fee Calculations.**

As found in the IFA, the Storm Drain Impact Fee calculation is based on the following:

- 1. Elements. In calculating the Storm Drain Impact Fee, the City has included those costs allowed, including debt service, if any, that are found under Section 11-36a-305 of the Act.
- 2. Proportionate Share Analysis. Included within the IFA is a proportionate share analysis as required by Section 11-36a-304 of the Act.
- 3. Formula. The Storm Drain Impact Fee is based upon the Act’s required proportionate share analysis in determining the total project costs to maintain the City’s current storm drain system level of service for new development activity that will occur during the next six (6) to ten (10) years. The following schedule of Storm Drain Impact Fees specify the amount of impact fee to be imposed for each type of development activity and for each type of system improvement and/or the formula the City will use to calculate each impact fee.

TABLE 6.1: CALCULATION OF PROPORTIONATE IMPACT FEE

	GROWTH RELATED COSTS	FUTURE IMP. SURFACE	COST PER SF
Buy-In Component	\$1,048,886	31,162,824	\$0.034
Future Storm Drain Projects	\$4,521,738	31,162,824	\$0.145
Professional Expenses	\$6,722	31,162,824	\$0.001
(Less Impact Fee Fund Balance)	(\$552,579)	31,162,824	(\$0.018)
<b>Total</b>	<b>\$5,024,767</b>		<b>\$0.162</b>

New development will be assessed a fee based on total impervious area multiplied by the impact fee per square feet.

4. Non-standard Impact Fees. The City reserves the right under the Act to assess an adjusted impact fee that more closely matches the true impact that the land use will have upon the storm drain system. This adjustment could result in a different impact fee if evidence suggests a particular user will create a different impact than what is standard for its category.
5. Impact Fee Adjustments.
  - a. The City Council is authorized to adjust the standard fee at the time the fee is charged to:
    - i. respond to:
      1. unusual circumstances in specific cases; or
      2. a request of a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has or will be collected, and
    - ii. ensure that the impact fees are imposed fairly.
  - b. The impact fee may be adjusted for a particular development based on studies or data provided by a developer after review by the City's Impact Fee Administrator and approval by the City Council.
6. Credits and Reimbursements.
  - a. A developer, including a school district or a charter school, shall receive a credit against or proportionate reimbursement of an impact fee from the City if the developer:
    - i. dedicates land for a system improvement,
    - ii. builds and dedicates some or all of a system improvement, or
    - iii. dedicates a public facility that the City and the developer agree will reduce the need for a system improvement.
  - b. The City shall require a credit against the impact fee for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:
    - i. are system improvements, or
    - ii. A. are dedicated to the public, and  
B. offset the need for an identified system improvement.

**SECTION 5: Assessment.**

The Storm Drain Impact Fee shall be charged for all new service connections where no existing storm water service has been provided by the City or whenever a customer desires to increase the size of an existing storm water service. In the latter instance, the impact fee shall be based on the difference in service capacity between the new and existing service. The impact fee shall be charged throughout the Service Area for all classes of service.

**SECTION 6: Expenditure of Impact Fees.**

The City may expend impact fees only for a system improvement identified in the IFFP and for the specific public facility type for which the fee was collected. Impact fees will be expended on a first-in-first-out basis. Impact fees collected pursuant to this Ordinance shall be expended or encumbered for a permissible use within six (6) years of their receipt. The City may hold the fees for longer than six (6) years if it identifies, in writing, an extraordinary and compelling reason why the fees should be held longer than six (6) years and an absolute date by which the fees will be expended.

**SECTION 7: Refunds.**

The City shall refund any impact fee paid by a developer, plus interest earned, when:

1. the developer does not proceed with the development activity and has filed a written request for a refund;
2. the fee has not be spent or encumbered; and
3. no impact has resulted.

An impact that would preclude a developer from a refund from the City may include any impact reasonably identified by the City, including but not limited to, the City having sized facilities and/or paid for, installed and/or caused the installation of facilities based, in whole or in part, upon the developer's planned development activity even though that capacity may, at some future time, be utilized by another development.

**SECTION 8: Impact Fee Challenges.**

A person or entity that has standing to challenge an impact fee may appeal the impact fee pursuant to Title 14, Chapter 5 of the Springville City Code. The procedures and time limitations for challenging an impact fee, including procedures for mediation and/or arbitration, shall be as set forth in Sections

11-36a-702 through 705 of the Act. The applicable remedies for an impact fee challenge shall be limited to those set forth in Section 11-36a-701 of the Act.

**SECTION 9: Accounting of Impact Fees.**

The City shall follow all of the accounting and reporting requirements found in Section 11-36a-601 of the Act.

**SECTION 10: Severability.**

If any portion or provision of this Ordinance shall be declared invalid for any reason, such decision shall not affect the remaining portions of this Ordinance that shall remain in full force and effect. For this purpose, the provisions of this Enactment are declared to be severable.

**SECTION 11: Effective Date.**

This Ordinance will become effective 90 days after the day on which it is approved.

**SECTION 12: Publication.**

The City Recorder shall cause this ordinance or a short summary hereof to be published in the *Daily Herald*, a newspaper published and of general circulation in the City.

ADOPTED by the City Council of Springville, Utah, this \_\_\_\_ day of \_\_\_\_\_ 2014.

SPRINGVILLE CITY

\_\_\_\_\_  
MAYOR WILFORD W. CLYDE

ATTEST:

\_\_\_\_\_  
CITY RECORDER



## STAFF REPORT

**DATE:** May 14, 2014

**TO:** Honorable Mayor and City Council

**FROM:** Jeffrey L. Anderson, Springville City Engineer

**SUBJECT:** **ADOPTION OF THE CULINARY WATER MASTER PLAN,  
CULINARY WATER IMPACT FEE ANALYSIS, AND CULINARY  
WATER IMPACT FEE ORDINANCE**

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### **RECOMMENDED ACTION**

Motion to:

- Adopt the Culinary Water Master Plan prepared by City Staff;
- Adopt the Culinary Water Impact Fee Analysis report prepared by Lewis Young Robertson and Burningham, Inc., which establishes a legal defensible Impact Fee of \$1,301 per equivalent residential connection (ERC);
- Adopt Ordinance No. \_\_\_\_\_ which sets forth Impact Fees pursuant to the Utah Impact Fees Act, Utah Code Annotated §11-36a-101, et seq., related to culinary water facilities within the Impact Fee Facilities Plan (IFFP) area established in the culinary water IFFP; the effective date for imposition of the Impact Fee being \_\_\_\_\_.

### **SUMMARY OF ISSUES/FOCUS OF ACTION**

Springville City recently completed a draft final Culinary Water Master Plan and submitted this document to the City Council on May 6, 2014. Copies of this draft master plan were also distributed to members of the City's Water Board and the draft plan was approved by this board on March 25, 2014. Copies have also been made available to the Utah County Home Builders Association and the general public.

The master plan report addresses the existing and future water system needs for Springville City. A Capital Facilities Plan and Impact Fee Facilities Plan (IFFP) are also contained within this report.

The adoption of the Culinary Water Plan is also critical to establishing a legal defensible Water Impact Fee. The impact fee adopted by the City Council determines how much funding will become available through development for water projects as growth occurs.

***CITY COUNCIL***

*May 20, 2014*

## **BACKGROUND**

The current Springville City Water Master Plan was adopted in 2006. Since that time several things have changed that have required the City to update the existing master plan:

1. In 2011 an update to Springville City's General Plan was adopted. This update included changes to the land use and potential growth of many areas throughout the City. These land use changes altered the source, storage needs, as well as distribution line sizes for the water system therefore requiring an update to the master plan.
2. In 2011 the Utah State Legislature amended the Impact Fee Act requiring municipalities to prepare an Impact Fee Facilities Plan (IFFP) and base Impact Fees off of this plan. The IFFP looks at growth within a six to ten year time period, establishes an area where that growth may occur, and bases impact fees on the required improvements within that established area.
3. Springville City completed several water projects identified in the existing master plan.

## **DISCUSSION**

The scope of the draft Culinary Water Collection System Master Plan update included the following:

- Review of existing master plans and information.
- Establish an IFFP boundary area.
- Update of the City's GIS database with more accurate field collection and historical knowledge data of the existing system.
- Update of the City's water system model to reflect new development.
- Review of water meter billing records to identify existing water system demands.
- Update of calculations of water system demands.
- Analysis of the computer model to determine existing deficiencies and future needs in the water distribution system.
- Evaluation of the performance of the existing facilities and confirmation of the effect of recommended improvements for the IFFP time frame (six to ten years) and for build out.
- Evaluation of the existing water facilities and identification of deficiencies in this system.
- Development and evaluation of alternative solutions to correct existing deficiencies and future needs Update of the water capital facilities plan including recommendations for immediate and future improvements.
- Preparation of a capital improvements plan to help the City implement the identified solutions to existing deficiencies and future needs, including creation of the 10-yr Impact Fee Facilities Plan (IFFP) for the purpose of determining impact fees.
- Prepare the wastewater IFFP with relevant projects within the established time frame (six to ten years) and within the IFFP boundary area.

The Culinary Water Impact Fee Analysis report establishes an impact fee based on the Impact Fee Facilities Plan established in the Culinary Water Master Plan. This impact fee specifically is based on costs allocable to growth within the IFFP boundary area. *The impact fee is intended to protect existing customers from the cost burden and impact of expanding a system*, in this case water system that is already adequate for their own needs absent growth.

Once the capital costs solely due to the need for additional capacity to serve new users in the IFFP boundary area is determined, it is divided by the projected equivalent residential connections (ERC's) to arrive at the impact fee amount.

### **MASTER PLAN ENGINEERING CRITERIA**

The draft Culinary Water System Master Plan uses the following engineering criteria as a basis for the plan:

- Population projections from the City's Community Development Department.
- Current water usage records to determine water demands for different types of system users.
- Utah Division of Drinking Water System Minimum Sizing Requirements (Section R309-510-5 of the Utah State Code) for source, storage and distribution sizing calculations:
  - Source for peak day demand
    - Indoor use - 800 gallons per day per ERC
    - Outdoor Use - 3.96 gpm per irrigated acre
  - Storage
    - Indoor use - 400 gallons per ERC
    - Outdoor use - 2848 gallons per irrigated acre
    - Fire – 1500 gpm for 2 hour duration (180,000 gallons) per tank group
    - Emergency - 250,000 gallons per tank group
  - Distribution
    - Maintain 20 psi during peak instantaneous usage
    - Maintain 20 psi during maximum day usage with imposed fire flows
    - New service areas added after January 1, 2007 are required to meet the following additional requirements:
      - 30 psi during peak instantaneous demand
      - 40 psi during peak day demand

### **RECOMMENDATIONS**

Staff recommends the Council carefully consider the methodology involved in completing the Culinary Water Impact Fee Analysis. The maximum defensible impact fee amount presented in this report represents the highest amount that can be legally charged per equivalent residential connection (ERC) for new development.

Other factors may influence the final amount of the Culinary Water Impact Fee set by the City Council. These may include current or projected economic trends, long-term growth projections, or present trends of other area cities. The Council can set the actual Culinary Water Impact Fee at any amount less than the maximum defensible amount.

City Staff recommends the full impact fee of \$1,301 per ERC be adopted. Establishing an impact fee amount less than \$1,301 would leave a shortfall in anticipated funding to complete the needed capital improvement projects outlined in the culinary water IFFP contained in the Culinary Water System Master Plan.

**FISCAL IMPACT**

The draft Culinary Water System Master Plan estimates \$23,662,761 in capital improvement costs for water system projects projected out until build-out of the City. Of these costs, the draft water IFFP estimates that a total of \$7,025,314 will be required over the next six to ten years within the IFFP boundary area of which \$2,675,925 are attributable to future development and are therefore can be allocated to impact fees. Adding storage and distribution system buy-in, and professional expenses, a legally-defensible Impact Fee of up to \$1,301 per ERC will fund the future growth in the IFFP area as can be seen in the following table from the IFA:

TABLE 1.1: IMPACT FEE PER ERC

	ESTIMATED OR ACTUAL COST	PERCENT TO GROWTH	COST TO GROWTH	% TO IFFP	COST TO IFFP	ERCs SERVED	FEE PER ERC
Source (Future Facilities)	8,127,000	100%	8,127,000	17%	1,354,500	4,632	292
Storage (Buy-In)	891,476	10%	90,931	85%	77,291	4,632	17
Distribution (Buy-In)	19,255,295	56%	10,686,689	31%	3,270,127	4,632	706
Distribution (Future Facilities)	9,015,261	91%	8,234,960	16%	1,321,425	4,632	285
Impact Fee Fund Balance	-	100%	-	100%	-	4,632	-
Professional Expense	6,722	100%	6,722	100%	6,722	4,632	1
<b>Total</b>	<b>\$37,295,754</b>		<b>\$27,146,302</b>		<b>\$6,030,065</b>		<b>\$1,301</b>

**ORDINANCE NO. # \_\_\_\_\_**

**AN ORDINANCE ADOPTING THE SPRINGVILLE CITY CULINARY WATER MASTER PLAN AND IMPACT FEE FACILITIES PLAN; ADOPTING THE CULINARY WATER IMPACT FEE ANALYSIS; AND ENACTING CULINARY WATER IMPACT FEES.**

**WHEREAS**, Springville City has legal authority pursuant to Title 11, Chapter 36a of the Utah Code known as the “Impact Fee Act” (hereinafter the “Act”) to impose development impact fees as a condition of development approval, which impact fees are used to defray capital infrastructure costs attributable to new development activity; and

**WHEREAS**, the City has historically assessed impact fees as a condition of development approval in order to appropriately assign capital infrastructure costs to development in an equitable and proportionate manner; and

**WHEREAS**, on October 8, 2012, pursuant to the Act, the City properly noticed its intent to update its Culinary Water Master Plan and to create a Culinary Water Impact Fee Facilities Plan (the “IFFP”) and to amend its Culinary Water Impact Fee based on an updated Culinary Water Impact Fee Analysis (the “IFA”); and

**WHEREAS**, the City has reviewed and evaluated the City’s culinary water service area for the culinary water system, which consists of the entire area within the Springville municipal boundary as shown in the Culinary Water Master Plan, and has determined that it is in the City’s best interest to establish the said service area for the purpose of imposing Culinary Water Impact Fees; and

**WHEREAS**, pursuant to the requirements of Sections 11-36a-301 and 302 of the Act, the Springville City Engineer has prepared the “Springville City Culinary Water Master Plan,” which includes the Culinary Water Impact Fee Facility Plan (the “IFFP”), attached hereto as Exhibit “A,” which the City Engineer has properly certified pursuant to the requirements of Section 11-36a-306 of the Act; and

**WHEREAS**, pursuant to the requirements of Sections 11-36a-303 and 304 of the Act, Lewis Young Robertson & Burningham, Inc., has prepared the “Springville City Culinary Water Impact Fee Analysis” (the “IFA”), which Lewis Young Robertson & Burningham, Inc. has properly certified pursuant to the requirements of Section 11-36a-306 of the Act; and

**WHEREAS**, Lewis Young Robertson & Burningham, Inc. has also calculated for enactment Culinary Water Impact Fees as set forth in the IFA and pursuant to the requirements of Sections 11-36a-305 of the Act; and

**WHEREAS**, on May 9, 2014, pursuant to Section 11-36a-502 of the Act, a full copy of the Springville City Culinary Water Master Plan, the IFFP, the IFA, and this Impact Fee Enactment or Ordinance, along with an executive summary of the IFFP and the IFA that was designed to be understood by a lay person, were made available to the public at the Springville City Public Library, posted on the City's Website, and the Public Notice Website; and

**WHEREAS**, on May 8, 2014, the Provo Daily Herald published a notice of the date, time, and place of the public hearing to consider the Springville City Culinary Water Master Plan, IFFP, the IFA, and this Impact Fee Enactment or Ordinance; and

**WHEREAS**, on May 20, 2014, the Springville City Council held a public hearing regarding the proposed and certified Springville Culinary Water Master Plan, the IFFP, the IFA, and this Impact Fee Enactment or Ordinance; and

**WHEREAS**, the Springville City Council does now desire to hereby approve and adopt the Springville City Culinary Water Master Plan, the IFFP, and the IFA and to formally enact Culinary Water Fees pursuant thereto and pursuant to the requirements of Sections 11-36a-401 through 11-36a-403 of the Act.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of Springville, Utah:

**SECTION 1: Adoption.**

The Springville City Culinary Water Master Plan, the IFFP, the IFA, and the Culinary Water Impact Fees as set forth in the IFA are hereby approved and adopted.

**SECTION 2: Service Area.**

The service area established in the IFFP and the IFA and for which Culinary Water Impact Fees are established and imposed is all of Springville City (the "Service Area"). The Service Area is established based upon sound planning and engineering principles for the City's water system services.

### **SECTION 3: Level of Service.**

The existing level of service provided by the City's culinary water system shall remain the same as it was prior to this Ordinance and is hereby again adopted as the level of service to be provided throughout the City. The existing and proposed level of service is fully defined in Chapter 2 of the Culinary Water Master Plan and includes the following:

1. Source – The level of service for water source is based on the peak usage per ERC, with an indoor use of 800 gallons per day and an outdoor (per irrigated acre) use at 3.96 gallons per minute.
2. Storage – The level of service for water storage is based on four components: 400 gallons per ERC for indoor use, 2,848 per irrigated acre for outdoor use, fire storage of 180,000 gallons per tank group, and 1,000,000 gallons of emergency storage.

### **SECTION 4: Impact Fee Analysis and Impact Fee Calculations.**

As found in the IFA, the Culinary Water Impact Fee calculation is based on the following:

1. Elements. In calculating the Culinary Water Impact Fee, the City has included those costs allowed, including debt service, if any, that are found under Section 11-36a-305 of the Act.
2. Proportionate Share Analysis. Included within the IFA is a proportionate share analysis as required by Section 11-36a-304 of the Act.
3. Formula. The Culinary Water Impact Fee is based upon the Act's required proportionate share analysis in determining the total project costs to maintain the City's current culinary water system level of service for new development activity that will occur during the next six (6) to ten (10) years. The following schedule of Culinary Water Impact Fees specify the amount of impact fee to be imposed for each type of development activity and for each type of system improvement and/or the formula the City will use to calculate each impact fee.

TABLE 6.1: CALCULATION OF PROPORTIONATE IMPACT FEE

	ESTIMATED OR ACTUAL COST	PERCENT TO GROWTH	COST TO GROWTH	% TO IFFP	COST TO IFFP	ERCs SERVED	FEE PER ERC
Source (Future Facilities)	8,127,000	100%	8,127,000	17%	1,354,500	4,632	292
Storage (Buy-In)	891,476	10%	90,931	85%	77,291	4,632	17
Distribution (Buy-In)	19,255,295	56%	10,686,689	31%	3,270,127	4,632	706
Distribution (Future Facilities)	9,015,261	91%	8,234,960	16%	1,321,425	4,632	285
Impact Fee Fund Balance	-	100%	-	100%	-	4,632	-
Professional Expense	6,722	100%	6,722	100%	6,722	4,632	1
<b>Total</b>	<b>\$37,295,754</b>		<b>\$27,146,302</b>		<b>\$6,030,065</b>		<b>\$1,301</b>

TABLE 6.2: IMPACT FEE BY METER SIZE

CONNECTION SIZE	MULTIPLIER	IMPACT FEE PER METER	EXISTING FEE	CHANGE
1	1.0	\$1,301	\$1,849	-30%
1 1/2	3.3	\$4,332	\$6,163	-30%
2	5.3	\$6,934	\$9,861	-30%

For meters not listed, the fee will be calculated on a case by case basis using the fee per ERC of \$1,301

4. Non-standard Impact Fees. The City reserves the right under the Act to assess an adjusted impact fee that more closely matches the true impact that the land use will have upon the culinary water system. This adjustment could result in a different impact fee if evidence suggests a particular user will create a different impact than what is standard for its category.
5. Impact Fee Adjustments.
  - a. The City Council is authorized to adjust the standard fee at the time the fee is charged to:
    - i. respond to:
      1. unusual circumstances in specific cases; or
      2. a request of a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has or will be collected, and
    - ii. ensure that the impact fees are imposed fairly.
  - b. The impact fee may be adjusted for a particular development based on studies or data provided by a developer after review by the City’s Impact Fee Administrator and approval by the City Council.

6. Credits and Reimbursements.

- a. A developer, including a school district or a charter school, shall receive a credit against or proportionate reimbursement of an impact fee from the City if the developer:
  - i. dedicates land for a system improvement,
  - ii. builds and dedicates some or all of a system improvement, or
  - iii. dedicates a public facility that the City and the developer agree will reduce the need for a system improvement.
- b. The City shall require a credit against the impact fee for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:
  - i. are system improvements, or
  - ii. A. are dedicated to the public, and  
B. offset the need for an identified system improvement.

**SECTION 5: Assessment.**

The Culinary Water Impact Fee shall be charged for all new service connections where no existing water service has been provided by the City or whenever a customer desires to increase the size of an existing water service. In the latter instance, the impact fee shall be based on the difference in service capacity between the new and existing service. The impact fee shall be charged throughout the Service Area for all classes of service.

**SECTION 6: Expenditure of Impact Fees.**

The City may expend impact fees only for a system improvement identified in the IFFP and for the specific public facility type for which the fee was collected. Impact fees will be expended on a first-in-first-out basis. Impact fees collected pursuant to this Ordinance shall be expended or encumbered for a permissible use within six (6) years of their receipt. The City may hold the fees for longer than six (6) years if it identifies, in writing, an extraordinary and compelling reason why the fees should be held longer than six (6) years and an absolute date by which the fees will be expended.

## **SECTION 7: Refunds.**

The City shall refund any impact fee paid by a developer, plus interest earned, when:

1. the developer does not proceed with the development activity and has filed a written request for a refund;
2. the fee has not be spent or encumbered; and
3. no impact has resulted.

An impact that would preclude a developer from a refund from the City may include any impact reasonably identified by the City, including but not limited to, the City having sized facilities and/or paid for, installed and/or caused the installation of facilities based, in whole or in part, upon the developer's planned development activity even though that capacity may, at some future time, be utilized by another development.

## **SECTION 8: Impact Fee Challenges.**

A person or entity that has standing to challenge an impact fee may appeal the impact fee pursuant to Title 14, Chapter 5 of the Springville City Code. The procedures and time limitations for challenging an impact fee, including procedures for mediation and/or arbitration, shall be as set forth in Sections 11-36a-702 through 705 of the Act. The applicable remedies for an impact fee challenge shall be limited to those set forth in Section 11-36a-701 of the Act.

## **SECTION 9: Accounting of Impact Fees.**

The City shall follow all of the accounting and reporting requirements found in Section 11-36a-601 of the Act.

## **SECTION 10: Severability.**

If any portion or provision of this Ordinance shall be declared invalid for any reason, such decision shall not affect the remaining portions of this Ordinance that shall remain in full force and effect. For this purpose, the provisions of this Enactment are declared to be severable.

**SECTION 11: Effective Date.**

This Ordinance will become effective 90 days after the day on which it is approved.

**SECTION 12: Publication.**

The City Recorder shall cause this ordinance or a short summary hereof to be published in the *Daily Herald*, a newspaper published and of general circulation in the City.

ADOPTED by the City Council of Springville, Utah, this \_\_\_\_ day of \_\_\_\_\_ 2014.

SPRINGVILLE CITY

\_\_\_\_\_  
MAYOR WILFORD W. CLYDE

ATTEST:

\_\_\_\_\_  
CITY RECORDER



## STAFF REPORT

**DATE:** May 14, 2014

**TO:** Honorable Mayor and City Council

**FROM:** Jeffrey L. Anderson, Springville City Engineer

**SUBJECT:** **ADOPTION OF THE WASTEWATER COLLECTION SYSTEM MASTER PLAN, WASTEWATER IMPACT FEE ANALYSIS, AND IMPACT FEE ORDINANCE**

---

### **RECOMMENDED ACTION**

Motion to:

- Adopt the Wastewater Collection System Master Plan and Capital Facilities Plan prepared by City Staff;
- Adopt the Wastewater Impact Fee Analysis report prepared by Lewis Young Robertson and Burningham, Inc., which establishes a legal defensible Impact Fee of \$1,426 per equivalent residential connection (ERC);
- Adopt Ordinance No. \_\_\_\_\_ which sets forth Impact Fees pursuant to the Utah Impact Fees Act, Utah Code Annotated §11-36a-101, et seq., related to wastewater collection facilities within the Impact Fee Facilities Plan (IFFP) area established in the Wastewater IFFP; the effective date for imposition of the Impact Fee being \_\_\_\_\_.

### **SUMMARY OF ISSUES/FOCUS OF ACTION**

Springville City recently completed a draft final Wastewater Collection System Master Plan & Capital Facilities Plan and submitted this document to the City Council on May 20, 2014. Copies of this draft master plan were also distributed to members of the City's Water Board and the draft plan was approved by this board on April 8, 2014. Copies have also been made available to the Utah County Home Builders Association and the general public.

The master plan report addresses the existing and future wastewater collection needs for Springville City. A Capital Facilities Plan and Impact Fee Facilities Plan (IFFP) are also contained within this report.

The adoption of the Wastewater Collection System Master Plan is also critical to establishing a legal defensible Wastewater Impact Fee. The impact fee adopted by the City Council

***CITY COUNCIL***

*May 20, 2014*

determines how much funding will become available through development for wastewater projects as growth occurs.

## **BACKGROUND**

The current Springville City Wastewater Master Plan was adopted in 2006. Since that time several things have changed that have required the City to update the existing master plan:

1. In 2011 an update to Springville City's General Plan was adopted. This update included changes to the land use and potential growth of many areas throughout the City. These land use changes altered the future and existing sewer line sizes for the wastewater collection system throughout the city therefore requiring an update to the master plan.
2. In 2011 the Utah State Legislature amended the Impact Fee Act requiring municipalities to prepare an Impact Fee Facilities Plan (IFFP) and base Impact Fees off of this plan. The IFFP looks at growth within a six to ten year time period, establishes an area where that growth may occur, and bases impact fees on the required improvements within that established area.
3. Springville City completed several wastewater projects identified in the existing master plan.
4. The City mapped and surveyed the wastewater system and has more accurate data to update the wastewater model used in the master plan.

## **DISCUSSION**

The scope of the draft Wastewater Collection System Master Plan and Capital Facilities Plan update includes the following:

- Review of existing master plans and information
- Establish an IFFP boundary area.
- Utilize current survey data documenting the existing wastewater system and update the wastewater computer model.
- Review and amend wastewater collection sub-basins as need based on updated topo and survey data.
- Review of waste water treatment plant and lift station records to identify existing wastewater collection system loading characteristics.
- Evaluation of the performance of the existing facilities and confirmation of the effect of recommended improvements for the IFFP time frame (six to ten years) and for build out.
- Evaluation of the existing wastewater facilities and identification of deficiencies in this system.
- Update of the wastewater capital facilities plan including recommendations for immediate and future improvements.
- Prepare the wastewater IFFP with relevant projects within the established time frame (six to ten years) and within the IFFP boundary area.

The Wastewater Impact Fee Analysis report establishes an impact fee based on the Impact Fee Facilities Plan established in the Wastewater Master Plan. This impact fee specifically is based on costs allocable to growth within the IFFP boundary area. *The impact fee is intended to protect existing customers from the cost burden and impact of expanding a system*, in this case wastewater system that is already adequate for their own needs absence growth.

Once the capital costs solely due to the need for additional capacity to serve new users in the IFFP boundary area is determined, it is divided by the projected equivalent residential connections (ERC's) to arrive at the impact fee amount.

### **MASTER PLAN ENGINEERING CRITERIA**

The draft Wastewater Collection System Master Plan uses the following engineering criteria as a basis for the plan:

- Utilize population projections from the Water Master Plan and current water usage records to determine sewer flows. The calculated wastewater average flows per ERC is 230 gallons per day.
- Full pipe flow is defined when the ratio of depth of flow (d) to the diameter of the pipe (D) is equal to 75% (i.e.  $d/D = 75\%$ ). The remaining capacity of the pipe will be utilized to convey inflow into the system
- Infiltration was assumed to be one third (33%) of the total daily flows in the wastewater system.
- Existing sewer pipe slopes were established using GPS survey data.
- Minimum velocity of wastewater flows in the pipe will be no less than 2 feet per second.
- The calculated peaking factors are as follows:
  - Residential flows - 2
  - Non-residential flows – 1.3
  - Mixed flows – 1.65

### **ALTERNATIVES**

Staff recommends the Council carefully consider the methodology involved in completing the Wastewater Impact Fee Analysis. The maximum defensible impact fee amount presented in this report represents the highest amount that can be legally charged per equivalent residential connection (ERC) for new development.

Other factors may influence the final amount of the Wastewater Impact Fee set by the City Council. These may include current or projected economic trends, long-term growth projections, or present trends of other area cities. The Council can set the actual Wastewater Impact Fee at any amount less than the maximum defensible amount.

City Staff recommends the full impact fee of \$1,426 per ERC be adopted. Establishing an impact fee amount less than \$1,426 would leave a shortfall in anticipated funding to complete the needed capital improvement projects outlined in the Wastewater IFFP contained in the Wastewater Collection System Master Plan.

**FISCAL IMPACT**

The draft Wastewater Collection System Master Plan and Capital Facilities Plan estimates \$13,281,196 in capital improvement costs for wastewater collection system projects projected out until build-out of the City. Of these costs, the draft Wastewater IFFP estimates that a total of \$3,490,558 will be required over the next six to ten years within the IFFP boundary area of which \$783,380 are attributable to future development and are therefore can be allocated to impact fees. Adding collection system and treatment buy-in (including debt-related expenses), future treatment facilities, and professional expenses, a legally-defensible Impact Fee of up to \$1,426 per ERC will fund the future growth in the IFFP area as can be seen in the following table from the IFA:

TABLE 1.1: IMPACT FEE PER ERC

IMPACT FEE CALCULATION	ESTIMATED IFFP COST	PERCENT TO GROWTH	COST TO GROWTH	ERCs SERVED	COST PER ERC
Collection: Buy-In (Including Debt Related Expense)	\$4,147,448	14.8%	\$611,935	4,632	\$132
Collection: Future Facilities	\$3,490,558	22.4%	\$783,380	4,632	\$169
Treatment: Buy-In (Including Debt Related Expense)	\$14,812,918	32.7%	\$4,847,645	4,632	\$1,047
Treatment: Future Facilities	\$654,319	54.4%	\$355,645	4,632	\$77
Impact Fee Fund Balance	-	-	-	4,632	-
Professional Expense	\$6,723	100.0%	\$6,723	4,632	\$1
<b>Total</b>	<b>\$23,111,965</b>		<b>\$6,605,328</b>		<b>\$1,426</b>

**ORDINANCE NO. # \_\_\_\_\_**

**AN ORDINANCE ADOPTING THE SPRINGVILLE CITY WASTEWATER COLLECTION SYSTEM MASTER PLAN AND IMPACT FEE FACILITIES PLAN; ADOPTING THE WASTEWATER IMPACT FEE ANALYSIS; AND ENACTING WASTEWATER IMPACT FEES.**

**WHEREAS**, Springville City has legal authority pursuant to Title 11, Chapter 36a of the Utah Code known as the “Impact Fee Act” (hereinafter the “Act”) to impose development impact fees as a condition of development approval, which impact fees are used to defray capital infrastructure costs attributable to new development activity; and

**WHEREAS**, the City has historically assessed impact fees as a condition of development approval in order to appropriately assign capital infrastructure costs to development in an equitable and proportionate manner; and

**WHEREAS**, on October 8, 2012, pursuant to the Act, the City properly noticed its intent to update its Wastewater Collection System Master Plan and to create a Wastewater Impact Fee Facilities Plan and to amend its Wastewater Impact Fees based on an updated Wastewater Impact Fee Analysis; and

**WHEREAS**, the City has reviewed and evaluated the City’s wastewater service area for the wastewater system, which consists of the entire area within the Springville municipal boundary as shown in the Wastewater Collection System Master Plan, and has determined that it is in the City’s best interest to establish the said service area for the purpose of imposing Wastewater Impact Fees; and

**WHEREAS**, pursuant to the requirements of Sections 11-36a-301 and 302 of the Act, the Springville City Engineer has prepared the “Springville City Wastewater Collection System Master Plan,” which includes the Wastewater Impact Fee Facility Plan (the “IFFP”), attached hereto as Exhibit “A,” which the City Engineer has properly certified pursuant to the requirements of Section 11-36a-306 of the Act; and

**WHEREAS**, pursuant to the requirements of Sections 11-36a-303 and 304 of the Act, Lewis Young Robertson & Burningham, Inc., has prepared the “Springville City Wastewater Impact Fee

Analysis” (the “IFA”), which Lewis Young Robertson & Burningham, Inc. has properly certified pursuant to the requirements of Section 11-36a-306 of the Act; and

**WHEREAS**, Lewis Young Robertson & Burningham, Inc. has also calculated for enactment Wastewater Impact Fees as set forth in the IFA and pursuant to the requirements of Sections 11-36a-305 of the Act; and

**WHEREAS**, on May 9, 2014, pursuant to Section 11-36a-502 of the Act, a full copy of the Springville City Wastewater Collection System Master Plan, the IFFP, the IFA, and this Impact Fee Enactment or Ordinance, along with an executive summary of the IFFP and the IFA that was designed to be understood by a lay person, were made available to the public at the Springville City Public Library, posted on the City’s Website, and the Public Notice Website; and

**WHEREAS**, on May 8, 2014, the Provo Daily Herald published a notice of the date, time, and place of the public hearing to consider the Springville City Wastewater Collection System Master Plan, IFFP, the IFA, and this Impact Fee Enactment or Ordinance; and

**WHEREAS**, on May 20, 2014, the Springville City Council held a public hearing regarding the proposed and certified Springville Wastewater Collection System Master Plan, the IFFP, the IFA, and this Impact Fee Enactment or Ordinance; and

**WHEREAS**, the Springville City Council does now desire to hereby approve and adopt the Springville City Wastewater Collection System Master Plan, the IFFP, and the IFA and to formally enact Wastewater Impact Fees pursuant thereto and pursuant to the requirements of Sections 11-36a-401 through 11-36a-403 of the Act.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of Springville, Utah:

**SECTION 1: Adoption.**

The Springville City Wastewater Collection System Master Plan, the IFFP, the IFA, and the Wastewater Impact Fees as set forth in the IFA are hereby approved and adopted.

**SECTION 2: Service Area.**

The service area established in the IFFP and the IFA and for which Wastewater Impact Fees are established and imposed is all of Springville City (the “Service Area”). The Service Area is

established based upon sound planning and engineering principles for the City's wastewater system services.

**SECTION 3: Level of Service.**

The existing level of service provided by the City's wastewater collection system shall remain the same as it was prior to this Ordinance and is hereby again adopted as the level of service to be provided throughout the City. The existing and proposed level of service is fully defined in Chapter 6 of the Wastewater Collection System Master Plan and includes a level of service that is 230 gallons per day for an equivalent residential connection.

**SECTION 4: Impact Fee Analysis and Impact Fee Calculations.**

As found in the IFA, the Wastewater Impact Fee calculation is based on the following:

1. Elements. In calculating the Wastewater Impact Fee, the City has included those costs allowed, including debt service, if any, that are found under Section 11-36a-305 of the Act.
2. Proportionate Share Analysis. Included within the IFA is a proportionate share analysis as required by Section 11-36a-304 of the Act.
3. Formula. The Wastewater Impact Fee is based upon the Act's required proportionate share analysis in determining the total project costs to maintain the City's current wastewater system level of service for new development activity that will occur during the next six (6) to ten (10) years. The following schedule of Wastewater Impact Fees specify the amount of impact fee to be imposed for each type of development activity and for each type of system improvement and/or the formula the City will use to calculate each impact fee.

TABLE 6.1: CALCULATION OF PROPORTIONATE IMPACT FEE

IMPACT FEE CALCULATION	ESTIMATED COST	PERCENT TO GROWTH	COST TO GROWTH	ERCs SERVED	COST PER ERC*
Collection: Buy-In (Including Debt Related Expense)	\$4,147,448	14.8%	\$611,935	4,632	\$132
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Treatment: Buy-In (Including Debt Related Expense)	\$14,812,918	32.7%	\$4,847,645	4,632	\$1,047
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Impact Fee Fund Balance	-	-	-	4,632	-
Professional Expense	\$6,723	100.0%	\$6,723	4,632	\$1
<b>Total</b>	<b>\$23,111,965</b>		<b>\$6,605,328</b>		<b>\$1,426</b>

\*Cost per ERC is rounded to the nearest whole dollar

TABLE 6.2: IMPACT FEE BY METER SIZE

CONNECTION SIZE	NOMINAL MULTIPLIER	IMPACT FEE PER METER SIZE	EXISTING FEE	CHANGE
1	1.0	\$1,426	\$1,619	-12%
1 1/2	3.3	\$4,749	\$5,391	-12%
2	5.3	\$7,601	\$8,629	-12%

For turbine type meters & sizes not listed, the fee per meter size will be calculated on a case by case basis using the fee per ERC of \$1,426.

4. Non-standard Impact Fees. The City reserves the right under the Act to assess an adjusted impact fee that more closely matches the true impact that the land use will have upon the Wastewater system. This adjustment could result in a different impact fee if evidence suggests a particular user will create a different impact than what is standard for its category.
5. Impact Fee Adjustments.
  - a. The City Council is authorized to adjust the standard fee at the time the fee is charged to:
    - i. respond to:
      1. unusual circumstances in specific cases; or
      2. a request of a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has or will be collected, and
    - ii. ensure that the impact fees are imposed fairly.
  - b. The impact fee may be adjusted for a particular development based on studies or data provided by a developer after review by the City’s Impact Fee Administrator and approval by the City Council.

6. Credits and Reimbursements.

- a. A developer, including a school district or a charter school, shall receive a credit against or proportionate reimbursement of an impact fee from the City if the developer:
  - i. dedicates land for a system improvement,
  - ii. builds and dedicates some or all of a system improvement, or
  - iii. dedicates a public facility that the City and the developer agree will reduce the need for a system improvement.
- b. The City shall require a credit against the impact fee for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:
  - i. are system improvements, or
  - ii. A. are dedicated to the public, and  
B. offset the need for an identified system improvement.

**SECTION 5: Assessment.**

The Wastewater Impact Fee shall be charged for all new service connections where no existing water service has been provided by the City or whenever a customer desires to increase the size of an existing water service. In the latter instance, the impact fee shall be based on the difference in service capacity between the new and existing service. The impact fee shall be charged throughout the Service Area for all classes of service.

**SECTION 6: Expenditure of Impact Fees.**

The City may expend impact fees only for a system improvement identified in the IFFP and for the specific public facility type for which the fee was collected. Impact fees will be expended on a first-in-first-out basis. Impact fees collected pursuant to this Ordinance shall be expended or encumbered for a permissible use within six (6) years of their receipt. The City may hold the fees for longer than six (6) years if it identifies, in writing, an extraordinary and compelling reason why the fees should be held longer than six (6) years and an absolute date by which the fees will be expended.

**SECTION 7: Refunds.**

The City shall refund any impact fee paid by a developer, plus interest earned, when:

1. the developer does not proceed with the development activity and has filed a written request for a refund;
2. the fee has not be spent or encumbered; and
3. no impact has resulted.

An impact that would preclude a developer from a refund from the City may include any impact reasonably identified by the City, including but not limited to, the City having sized facilities and/or paid for, installed and/or caused the installation of facilities based, in whole or in part, upon the developer's planned development activity even though that capacity may, at some future time, be utilized by another development.

**SECTION 8: Impact Fee Challenges.**

A person or entity that has standing to challenge an impact fee may appeal the impact fee pursuant to Title 14, Chapter 5 of the Springville City Code. The procedures and time limitations for challenging an impact fee, including procedures for mediation and/or arbitration, shall be as set forth in Sections 11-36a-702 through 705 of the Act. The applicable remedies for an impact fee challenge shall be limited to those set forth in Section 11-36a-701 of the Act.

**SECTION 9: Accounting of Impact Fees.**

The City shall follow all of the accounting and reporting requirements found in Section 11-36a-601 of the Act.

**SECTION 10: Severability.**

If any portion or provision of this Ordinance shall be declared invalid for any reason, such decision shall not affect the remaining portions of this Ordinance that shall remain in full force and effect. For this purpose, the provisions of this Enactment are declared to be severable.

**SECTION 11: Effective Date.**

This Ordinance will become effective 90 days after the day on which it is approved.

**SECTION 12: Publication.**

The City Recorder shall cause this ordinance or a short summary hereof to be published in the *Daily Herald*, a newspaper published and of general circulation in the City.

ADOPTED by the City Council of Springville, Utah, this \_\_\_\_ day of \_\_\_\_\_ 2014.

SPRINGVILLE CITY

\_\_\_\_\_  
MAYOR WILFORD W. CLYDE

ATTEST:

\_\_\_\_\_  
CITY RECORDER



## STAFF REPORT

**DATE:** May 14, 2014

**TO:** Honorable Mayor and City Council

**FROM:** Jeffrey L. Anderson, Springville City Engineer

**SUBJECT:** **ADOPTION OF THE PRESSURE IRRIGATION SYSTEM MASTER PLAN, PRESSURE IRRIGATION IMPACT FEE FACILITIES PLAN, PRESSURE IRRIGATION IMPACT FEE ANALYSIS, AND IMPACT FEE ORDINANCE**

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### **RECOMMENDED ACTION**

Motion to:

- Adopt the Pressure Irrigation System Master Plan and Capital Facilities Plan and the Pressure Irrigation Impact Fee Facilities Plan prepared by City Staff and the engineering consultant JUB Engineers, Inc.;
- Adopt the Pressure Irrigation Impact Fee Analysis report prepared by Lewis Young Robertson and Burningham, Inc., which establishes a legal defensible Impact Fee of \$0.138 per square foot of irrigable area;
- Adopt Ordinance No. \_\_\_\_\_ which sets forth Impact Fees pursuant to the Utah Impact Fees Act, Utah Code Annotated §11-36a-101, et seq., related to pressurized irrigation storage, source or distribution facilities within the Impact Fee Facilities Plan (IFFP) area established in the Wastewater IFFP; the effective date for imposition of the Impact Fee being \_\_\_\_\_.

### **SUMMARY OF ISSUES/FOCUS OF ACTION**

Springville City recently completed a draft final Pressure Irrigation System Master Plan & Capital Facilities Plan and submitted this document to the City Council on May 6, 2014. Copies of this draft master plan were also distributed to members of the City's Water Board on April 22, 2014 and the Impact Fee Analysis (IFA) on May 13, 2014 and both were approved by this board. Copies have also been made available to the Utah County Home Builders Association and the general public.

The master plan report addresses the existing and future pressure irrigation needs for Springville City. A Capital Facilities Plan and Impact Fee Facilities Plan (IFFP) are also contained within this report.

***CITY COUNCIL***

*May 20, 2014*

The adoption of the Pressure Irrigation System Master Plan is also critical to establishing a legal defensible Wastewater Impact Fee. The impact fee adopted by the City Council determines how much funding will become available through development for wastewater projects as growth occurs.

## **BACKGROUND**

The current Springville City Drinking & Secondary Water Systems Master Plan was adopted in 2006. Since that time several things have changed that have required the City to update the existing master plan:

1. In 2011 an update to Springville City's General Plan was adopted. This update included changes to the land use and potential growth of many areas throughout the City. These land use changes altered the future and existing pressure irrigation line sizes for the pressure irrigation system throughout the city therefore requiring an update to the master plan.
2. In 2011 the Utah State Legislature amended the Impact Fee Act requiring municipalities to prepare an Impact Fee Facilities Plan (IFFP) and base Impact Fees off of this plan. The IFFP looks at growth within a six to ten year time period, establishes an area where that growth may occur, and bases impact fees on the required improvements within that established area.
3. Springville City amended the pressure irrigation source and storage location identified in the existing master plan. The City agreed to a pressurized irrigation pond to be located on the east side of town within a proposed new City park. The pond would be a joint use recreation amenity and storage reservoir for the irrigation system. The pressure irrigation system would now be gravity fed to obtain pressure rather than using pumps as recommended in the existing master plan.
4. The City applied for and received a \$9 million dollar grant to help get the pressure irrigation system up and functioning. Several projects have been completed or are presently under construction using these funds to construct the initial phase of the system.

## **DISCUSSION**

The scope of the draft Pressure Irrigation Collection System Master Plan and Capital Facilities Plan update includes the following:

- Review of existing master plans and information.
- Establish an IFFP boundary area.
- Create a pressure irrigation computer model for the Westfields area of Springville using a gravity fed system with a pond located in the east side of the City.
- Determine system demand, required supply and required storage for the pressure irrigation system for startup, during the IFFP time period and to build out.

- Evaluation of the performance of the existing infrastructure and a development of an implementation plan to get the pressure irrigation system up and running.
- Recommendations for future pressure irrigation facilities and evaluation of the future pressure irrigation facilities for the IFFP time frame (six to ten years) and for build out.
- Update of the pressure irrigation capital facilities plan including recommendations for immediate and future improvements.
- Prepare the Pressure Irrigation IFFP with relevant projects within the established time frame (six to ten years) and within the IFFP boundary area.

The Pressure Irrigation Impact Fee Analysis report establishes an impact fee based on the Impact Fee Facilities Plan established in the Pressure Irrigation System Master Plan. This impact fee specifically is based on costs allocable to growth within the IFFP boundary. *The impact fee is intended to protect existing customers from the cost burden and impact of expanding a system*, in this case pressure irrigation system that would already be adequate for their own needs absence growth.

Once the capital costs solely due to the need for additional capacity to serve new users in the IFFP boundary area is determined, it is divided by the projected irrigable area to arrive at the impact fee amount.

### **MASTER PLAN ENGINEERING CRITERIA**

The draft Pressure Irrigation System Master Plan uses the following engineering criteria as a basis for the plan:

- Utilize population projections from the City's Community Development Department, and State of Utah standards to determine outdoor water usage needs.
- Review City water rights and water share information to make recommendations for sources for the pressurized system.
- The distribution system will be designed to maintain a minimum of 40 psi during peak instantaneous demand (8 GPM per irrigated acre)
- The system storage facility was designed to the State of Utah standard for outdoor watering needs for peak day demands. The peak day demands were estimated to be 4.00 GPM per irrigated acre.
- The maximum velocity for water in the pipes used for modeling the system was 5 feet per second.
- Peaking factor of 2 used to calculate peak instantaneous flow rate.

### **RECOMMENDATIONS**

Staff recommends the Council carefully consider the methodology involved in completing the Wastewater Impact Fee Analysis. The maximum defensible impact fee amount presented in

this report represents the highest amount that can be legally charged per square foot of irrigable area for new development.

Other factors may influence the final amount of the Pressure Irrigation Impact Fee set by the City Council. These may include current or projected economic trends, long-term growth projections, or present trends of other area cities. The Council can set the actual Pressure Irrigation Impact Fee at any amount less than the maximum defensible amount.

City Staff recommends the full impact fee of \$0.138 per square foot of irrigable area be adopted. Establishing an impact fee amount less than \$0.138 would leave a shortfall in anticipated funding to complete the needed capital improvement projects outlined in the Pressure Irrigation IFFP contained in the Pressure Irrigation System Master Plan.

### **FISCAL IMPACT**

The draft Pressure Irrigation System Master Plan and Capital Facilities Plan estimates \$13,991,279 in capital improvement costs for pressure irrigation projects projected out until build-out of the City with \$9,000,000 of that being paid for using grant money. The draft Pressure Irrigation IFFP estimates that a total of \$4,991,279 will be required over the next six to ten years within the IFFP boundary area of which \$2,805,798 are attributable to future development and are therefore can be allocated to impact fees. A legally-defensible Impact Fee of up to \$0.138 per square foot of irrigable area will fund the future growth in the IFFP area as can be seen in the following table from the IFA:

TABLE 1.1: IMPACT FEE PER ERC

	TOTAL COST TO SERVICE AREA	ALLOCATION OF GRANT	REMAINING TO BE FUNDED	% TO GROWTH WITHIN IFFP	COST TO GROWTH	IRRIG. ACRES SERVED	FEE PER IRRIGABLE ACRE
<b>Phase 1 (through 2016)</b>							
Storage	\$1,930,986	\$1,789,385	\$141,601	9%	\$12,494	466	\$27
Distribution	\$7,208,142	\$6,679,563	\$528,579	32%	\$167,618	466	\$360
Other Distribution Impr.	\$573,076	\$531,052	\$42,024	25%	\$10,574	466	\$23
Sub-Total Phase 1	\$9,712,203	\$9,000,000	\$712,203		\$190,686		\$409
<b>Phase 2 (2016-2023)</b>							
Source	\$1,599,335	-	\$1,599,335	100%	\$1,599,335	466	\$3,432
Distribution	\$1,796,245	-	\$1,796,245	46%	\$826,251	466	\$1,773
Other Distribution Impr.	\$927,288	-	\$927,288	25%	\$233,318	466	\$501
Sub-Total Phase 2	\$4,322,867	-	\$4,322,867		\$2,658,903		\$5,706
<b>Miscellaneous</b>							
Impact Fee Fund Balance	(\$57,722)	-	(\$57,722)	100%	(\$57,722)	466	(\$124)
Professional Expense	\$13,930	-	\$13,930	100%	\$13,930	466	\$30
Sub-Total Misc.	(\$43,792)	-	(\$43,792)		(\$43,792)	466	(\$94)
<b>TOTAL</b>	<b>\$13,991,279</b>	<b>\$9,000,000</b>	<b>\$4,991,279</b>		<b>\$2,805,798</b>	<b>466</b>	<b>\$6,021</b>
					<b>Fee per square foot (sf)</b>		<b>\$0.138</b>

New development will assessed a fee based on total irrigable area (acres or square feet) multiplied by the impact fee per acre or per square foot.

**ORDINANCE NO. # \_\_\_\_\_**

**AN ORDINANCE ADOPTING THE SPRINGVILLE CITY PRESSURE IRRIGATION SYSTEM MASTER PLAN & CAPITAL FACILITIES PLAN FOR THE WEST FIELDS, THE SPRINGVILLE CITY PRESSURE IRRIGATION SYSTEM IMPACT FEE FACILITIES PLAN, AND THE SPRINGVILLE CITY PRESSURIZED IRRIGATION IMPACT FEE ANALYSIS; AND ENACTING THE PRESSURIZED IRRIGATION IMPACT FEES.**

**WHEREAS**, Springville City has legal authority pursuant to Title 11, Chapter 36a of the Utah Code known as the “Impact Fee Act” (hereinafter the “Act”) to impose development impact fees as a condition of development approval, which impact fees are used to defray capital infrastructure costs attributable to new development activity; and

**WHEREAS**, the City has historically assessed impact fees as a condition of development approval in order to appropriately assign capital infrastructure costs to development in an equitable and proportionate manner; and

**WHEREAS**, on October 8, 2012, pursuant to the Act, the City properly noticed its intent to update its Pressure Irrigation System Master Plan and Capital Improvements Plan for the West Fields Update, to create a Pressure Irrigation System Impact Fee Facilities Plan, and to amend its Pressurized Irrigation Impact Fees based on an updated Pressure Irrigation System Impact Fee Analysis; and

**WHEREAS**, the City has reviewed and evaluated the City’s pressure irrigation system service area for the West Fields area, as shown on Figure 1-2 in Appendix B of the Pressure Irrigation Impact Fee Facilities Plan, attached hereto as Exhibit “A,” and has determined that it is in the City’s best interest to establish the said service area for the purpose of imposing Pressure Irrigation System Impact Fees; and

**WHEREAS**, pursuant to the requirements of Sections 11-36a-301 and 302 of the Act, J-U-B Engineers, Inc., has prepared the “Springville City Pressure Irrigation System Master Plan & Capital Facilities Plan for the West Fields” (the “Master Plan”) and the “Springville City Pressure Irrigation System Impact Fee Facilities Plan” (the “IFFP”), both of which are attached hereto as Exhibit “B,” which J-U-B Engineers, Inc. has properly certified pursuant to the requirements of Section 11-36a-306 of the Act; and

**WHEREAS**, pursuant to the requirements of Sections 11-36a-303 and 304 of the Act, Lewis Young Robertson & Burningham, Inc., has prepared the “Springville City Pressurized Irrigation

Impact Fee Analysis” (the “IFA”), which Lewis Young Robertson & Burningham, Inc. has properly certified pursuant to the requirements of Section 11-36a-306 of the Act; and

**WHEREAS**, Lewis Young Robertson & Burningham, Inc. has also calculated for enactment Pressurized Irrigation Impact Fees as set forth in the IFA and pursuant to the requirements of Sections 11-36a-305 of the Act; and

**WHEREAS**, on May 9, 2014, pursuant to Section 11-36a-502 of the Act, a full copy of the Master Plan, the IFFP, the IFA, and this Impact Fee Enactment or Ordinance, along with an executive summary of the IFFP and the IFA that was designed to be understood by a lay person, were made available to the public at the Springville City Public Library, posted on the City’s Website, and the Public Notice Website; and

**WHEREAS**, on May 8, 2014, the Provo Daily Herald published a notice of the date, time, and place of the public hearing to consider the Master Plan, the IFFP, the IFA, and this Impact Fee Enactment or Ordinance; and

**WHEREAS**, on May 20, 2014, the Springville City Council held a public hearing regarding the proposed and certified Master Plan, IFFP, IFA, and this Impact Fee Enactment or Ordinance; and

**WHEREAS**, the Springville City Council does now desire to hereby approve and adopt the Master Plan, the IFFP, and the IFA and to formally enact Pressurized Irrigation Impact Fees pursuant thereto and pursuant to the requirements of Sections 11-36a-401 through 11-36a-403 of the Act.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of Springville, Utah:

**SECTION 1: Adoption.**

The Master Plan, the IFFP, the IFA, and the Pressurized Irrigation Impact Fees as set forth in the IFA are hereby approved and adopted.

**SECTION 2: Service Area.**

The service area established in the IFFP and the IFA and for which Pressurized Irrigation Impact Fees are established and imposed is the West Fields as shown on Figure 1-2 in Appendix B of the IFFP, attached hereto as Exhibit “A” (the “Service Area”). The Service Area is established based upon sound planning and engineering principles for the City’s pressurized irrigation system services.

### **SECTION 3: Level of Service.**

The existing level of service provided by the City's pressurized irrigation system shall remain the same as it was prior to this Ordinance and is hereby again adopted as the level of service to be provided throughout the Service Area. The existing and proposed level of service is fully defined in Section 4 of the IFFP and Section IV of the Master Plan and includes the following:

1. Minimum Pressure Peaks Demands. The distribution system was designed with the ability to maintain a minimum pressure of 40 psi during peak instantaneous demand (8.00 gpm per irrigated acre).
2. Minimum Storage. The system storage facility was designed to the State of Utah standard for outdoor watering needs for peak day demands. The peak day demands were estimated to be 4.00 gpm per irrigated acre.
3. Ability of the System to Meet Peak Demands. The overall system was designed to meet peak demands. This was accomplished by appropriately sizing pipes to meet peak demands while maintaining a maximum velocity to avoid damage to the system infrastructure. The maximum velocity for water in the pipes used for modeling the system was 5 feet per second.

### **SECTION 4: Impact Fee Analysis and Impact Fee Calculations.**

As found in the IFA, the Pressurized Irrigation Impact Fee calculation is based on the following:

1. Elements. In calculating the Pressurized Irrigation Impact Fee, the City has included those costs allowed, including debt service, if any, that are found under Section 11-36a-305 of the Act.
2. Proportionate Share Analysis. Included within the IFA is a proportionate share analysis as required by Section 11-36a-304 of the Act.
3. Formula. The Pressurized Irrigation Impact Fee is based upon the Act's required proportionate share analysis in determining the total project costs to maintain the City's current pressurized irrigation system level of service for new development activity that will occur during the next six (6) to ten (10) years within the Service Area. The following schedule of Pressurized Irrigation Impact Fees specify the amount of impact fee to be imposed for each type of development activity and for each type of system improvement and/or the formula the City will use to calculate each impact fee.

TABLE 6.1: CALCULATION OF PROPORTIONATE IMPACT FEE

	TOTAL COST TO SERVICE AREA	ALLOCATION OF GRANT	REMAINING TO BE FUNDED	% TO GROWTH WITHIN IFFP	COST TO GROWTH	IRRIG. ACRES SERVED	FEE PER IRRIGABLE ACRE
<b>Phase 1 (through 2016)</b>							
Storage	\$1,930,986	\$1,789,385	\$141,601	9%	\$12,494	466	\$27
Distribution	\$7,208,142	\$6,679,563	\$528,579	32%	\$167,618	466	\$360
Other Distribution Impr.	\$573,076	\$531,052	\$42,024	25%	\$10,574	466	\$23
<b>Sub-Total Phase 1</b>	<b>\$9,712,203</b>	<b>\$9,000,000</b>	<b>\$712,203</b>		<b>\$190,686</b>		<b>\$409</b>
<b>Phase 2 (2016-2023)</b>							
Source	\$1,599,335	-	\$1,599,335	100%	\$1,599,335	466	\$3,432
Distribution	\$1,796,245	-	\$1,796,245	46%	\$826,251	466	\$1,773
Other Distribution Impr.	\$927,288	-	\$927,288	25%	\$233,318	466	\$501
<b>Sub-Total Phase 2</b>	<b>\$4,322,867</b>	<b>-</b>	<b>\$4,322,867</b>		<b>\$2,658,903</b>		<b>\$5,706</b>
<b>Miscellaneous</b>							
Impact Fee Fund Balance	(\$57,722)	-	(\$57,722)	100%	(\$57,722)	466	(\$124)
Professional Expense	\$13,930	-	\$13,930	100%	\$13,930	466	\$30
<b>Sub-Total Misc.</b>	<b>(\$43,792)</b>	<b>-</b>	<b>(\$43,792)</b>		<b>(\$43,792)</b>	<b>466</b>	<b>(\$94)</b>
<b>TOTAL</b>	<b>\$13,991,279</b>	<b>\$9,000,000</b>	<b>\$4,991,279</b>		<b>\$2,805,798</b>	<b>466</b>	<b>\$6,021</b>
					<b>Fee per square foot (sf)</b>		<b>\$0.138</b>
New development will be assessed a fee based on total irrigable area (acres or square feet) multiplied by the impact fee per acre or per square foot.							

New development will be assessed a fee based on total irrigable area (acres or square feet) multiplied by the impact fee per acre or square foot.

4. Non-standard Impact Fees. The City reserves the right under the Act to assess an adjusted impact fee that more closely matches the true impact that the land use will have upon the pressure irrigation system. This adjustment could result in a different impact fee if evidence suggests a particular user will create a different impact than what is standard for its category.
5. Impact Fee Adjustments.
  - a. The City Council is authorized to adjust the standard fee at the time the fee is charged to:
    - i. respond to:
      1. unusual circumstances in specific cases; or
      2. a request of a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has or will be collected, and
    - ii. ensure that the impact fees are imposed fairly.
  - b. The impact fee may be adjusted for a particular development based on studies or data provided by a developer after review by the City's Impact Fee Administrator and approval by the City Council.

6. Credits and Reimbursements.

- a. A developer, including a school district or a charter school, shall receive a credit against or proportionate reimbursement of an impact fee from the City if the developer:
  - i. dedicates land for a system improvement,
  - ii. builds and dedicates some or all of a system improvement, or
  - iii. dedicates a public facility that the City and the developer agree will reduce the need for a system improvement.
- b. The City shall require a credit against the impact fee for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:
  - i. are system improvements, or
  - ii. A. are dedicated to the public, and  
B. offset the need for an identified system improvement.

**SECTION 5: Assessment.**

The Pressurized Irrigation Impact Fee shall be charged for all new service connections where no existing pressure irrigation service has been provided by the City or whenever a customer desires to increase the size of an existing pressure irrigation service. In the latter instance, the impact fee shall be based on the difference in service capacity between the new and existing service. The impact fee shall be charged throughout the Service Area for all classes of service.

**SECTION 6: Expenditure of Impact Fees.**

The City may expend impact fees only for a system improvement identified in the IFFP and for the specific public facility type for which the fee was collected. Impact fees will be expended on a first-in-first-out basis. Impact fees collected pursuant to this Ordinance shall be expended or encumbered for a permissible use within six (6) years of their receipt. The City may hold the fees for longer than six (6) years if it identifies, in writing, an extraordinary and compelling reason why the fees should be held longer than six (6) years and an absolute date by which the fees will be expended.

**SECTION 7: Refunds.**

The City shall refund any impact fee paid by a developer, plus interest earned, when:

1. the developer does not proceed with the development activity and has filed a written request for a refund;
2. the fee has not be spent or encumbered; and
3. no impact has resulted.

An impact that would preclude a developer from a refund from the City may include any impact reasonably identified by the City, including but not limited to, the City having sized facilities and/or paid for, installed and/or caused the installation of facilities based, in whole or in part, upon the developer's planned development activity even though that capacity may, at some future time, be utilized by another development.

**SECTION 8: Impact Fee Challenges.**

A person or entity that has standing to challenge an impact fee may appeal the impact fee pursuant to Title 14, Chapter 5 of the Springville City Code. The procedures and time limitations for challenging an impact fee, including procedures for mediation and/or arbitration, shall be as set forth in Sections 11-36a-702 through 705 of the Act. The applicable remedies for an impact fee challenge shall be limited to those set forth in Section 11-36a-701 of the Act.

**SECTION 9: Accounting of Impact Fees.**

The City shall follow all of the accounting and reporting requirements found in Section 11-36a-601 of the Act.

**SECTION 10: Severability.**

If any portion or provision of this Ordinance shall be declared invalid for any reason, such decision shall not affect the remaining portions of this Ordinance that shall remain in full force and effect. For this purpose, the provisions of this Enactment are declared to be severable.

**SECTION 11: Effective Date.**

This Ordinance will become effective 90 days after the day on which it is approved.

**SECTION 12: Publication.**

The City Recorder shall cause this ordinance or a short summary hereof to be published in the *Daily Herald*, a newspaper published and of general circulation in the City.

ADOPTED by the City Council of Springville, Utah, this \_\_\_\_ day of \_\_\_\_\_ 2014.

SPRINGVILLE CITY

\_\_\_\_\_  
MAYOR WILFORD W. CLYDE

ATTEST:

\_\_\_\_\_  
CITY RECORDER



## STAFF REPORT

**DATE:** May 15, 2014

**TO:** The Honorable Mayor and City Council

**FROM:** John Penrod, City Attorney

**SUBJECT:** **CONSIDERATION OF APPROVING AN ORDINANCE THAT ESTABLISHES A MUNICIPAL ETHICS COMMISSION AND THE PROCESS FOR FILING, INVESTIGATING, AND ADJUDICATING ETHIC VIOLATION COMPLAINTS.**

### **RECOMMENDATION**

Motion to Approve Ordinance # \_\_\_\_\_ that establishes a Municipal Ethics Commission and the process for filing, investigating and adjudicating complaints alleging ethics violations of elected and appointed officials.

### **GOALS, OBJECTIVES AND STRATEGIES AT ISSUE**

Goal – To develop a local commission to review violations of the Municipal Officers’ and Employees’ Ethics Act by elected and appointed officials.

### **BACKGROUND:**

In 2013, the State Legislature passed a statute that requires all complaints concerning violations of the Municipal Officers’ and Employees’ Ethics Act to be reviewed by either the State’s Political Subdivisions Ethics Review Commission (the “State’s Commission”) or a local municipal commission. The proposed ordinance attached to this report (the “Ordinance”) sets up a local commission that would consist of city attorneys from three other cities to hear ethics violations filed against Springville City elected and appointed officials. The purpose for proposing the local commission is that the local commission should be more convenient, responsive, and accessible than the State’s Commission would be to citizens who file ethics complaints.

The local commission idea was first proposed by several Utah County cities in late 2013 and reviewed with Springville’s City Council at that time. Orem City has been the main driver in putting together an interlocal agreement between Utah County cities. At this time, there are three cities that have passed ordinances and approved the execution of an interlocal agreement for the local commission. Those cities are Payson, Spanish Fork and Pleasant Grove. Orem and Lehi are currently in the process of considering whether or not to join. This same local commission model has been followed in other counties.

The alternative to a local commission is the State’s Commission. The State’s Commission is a seven member commission that includes:

1. A prior judge,
2. A prior mayor or city council member,
3. A prior board of education member,

**CITY COUNCIL AGENDA**

4. Two lay persons, and
5. Two members who served as a prior elected official, judge, or service district board member.

All of the State's Commission members are appointed by the Governor with the advice and consent of the Senate. If the Council elects not to adopt a local commission, the State's Commission will hear ethics complaints filed against a Springville City elected or appointed officer.

The Ordinance sets procedures that are similar to the procedures established in the Utah Code that are followed by the State's Commission. Amongst other provisions, the Ordinance includes the following:

1. Purpose. The purpose of the Ordinance is to prevent elected and appointed officials, which includes the Mayor, City Councilmembers, and City Administrator, from violating the Municipal Officers' and Employees' Ethics Act (the "Act") by instituting a process for reviewing complaints of alleged violations of the Act.
2. Municipal Officers' and Employees' Ethics Act. Included in the Act is the obligation of officers and employees to:
  - a. Not disclose or improperly use private, controlled, or protected information acquired by them by reason of their position or in the course of their duties in order to further substantially their personal economic interest or to secure special privileges or exemptions for the elected or appointed official or others; and avoid the use of their office for personal benefit;
  - b. Not use or attempt to use their position to further substantially their personal economic interest or secure special privileges for the elected or appointed official or for others;
  - c. Not knowingly receive, accept, take, seek, or solicit, directly or indirectly, for the elected or appointed official or for another, a gift of substantial value or a substantial economic benefit tantamount to a gift that:
    - (i) Would tend improperly to influence a reasonable person in the elected or appointed official's position to depart from the faithful and impartial discharge of the person's public duty; or
    - (ii) The elected or appointed official knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the elected or appointed official for official action taken.
  - d. The Municipal Officers' and Employees' Ethics Act also requires public disclosures and filings in certain circumstances as described in the Act, including:
    - (i) Where an elected or appointed official receives or agrees to receive compensation for assisting any person or business entity in any transaction involving Springville City;
    - (ii) Where an elected or appointed official is an officer, director, agent, or employee or the owner of a substantial interest in any business entity which is subject to regulation by Springville City;
    - (iii) Where the elected or appointed official is an officer, director, agent, employee, or owner of a substantial interest in any business entity which does or anticipates doing business with Springville City; and
    - (iv) Where an elected or appointed official has a personal interest or investment which creates a conflict between the elected or appointed official's personal interests and the elected or appointed official's public duties.
3. Commission. The commission under the Ordinance is a three person commission made up of

city attorneys from the participating municipalities and is governed by an interlocal agreement (the "Commission").

4. Complaints. Complaints must meet the following requirements when filed:
  - a. Filed against an elected or appointed official still serving in their position,
  - b. Filed with the City Recorder,
  - c. Made by two people who registered voters and either residents or tax payers,
  - d. Based on direct evidence and sworn statements of a violation of the Act,
  - e. Filed at a time that is not 60 days before a primary or general municipal election,
  - f. Contain detailed statements that include witnesses, facts, and what provisions of the Act have been violated, and
  - g. Accompanied with a \$50 filing fee to offset costs.
  
5. Privacy. There are very strict privacy requirements that surround each complaint. Two key exceptions to the privacy requirements are that:
  - a. the City Attorney may disclose facts or allegations to law enforcement authorities; and
  - b. the elected or appointed official, who the allegations are against, may prepare a defense, which includes containing witnesses.
  
6. Initial Review of the Complaint. The complaint is initially reviewed within 10 business days of the date the complaint is received. If the complaint does not comply with the filing requirements, the Commission will return the complaint with a statement detailing the reasons for non-compliance. If the complaint does comply with filing requirements, the Commission will:
  - a. Accept the Complaint;
  - b. Promptly forward the complaint to the named elected or appointed official;
  - c. If appropriate, request assistance from the City Attorney's office;
  - d. Notify all parties of the privacy requirements; and
  - e. Allow the named official 10 days to file a response to the complaint.
  
7. Legal Representation. The named elected or appointed official may request that the City provide a legal defense if the complaint arises from an act or omission during the performance of official duties, within the scope of employment, or under the color of authority.
  
8. Dismissal. The Commission will dismiss or suspend the complaint if it learns that the named official in the complaint is under criminal investigation for the described allegations in the complaint, the official has resigned, or the allegations do not state a violation of the Act.
  
9. Review of Complaint. In reviewing a complaint, the Commission has discretion to:
  - a. Conduct a confidential, independent investigation of the complaint;
  - b. Conduct a hearing that follows certain evidentiary processes; or
  - c. Do both.

Following an independent investigation and/or hearing on the complaint, the Commission shall make its findings and recommendations.

10. Determination by Commission. The Commission, by majority vote, shall determine whether there is clear and convincing evidence supporting a violation of the Act by the named elected or appointed official. If the Commission determines that one or more of the allegations in the complaint are true, the Commission shall prepare a written report and recommendation for the City Council. The recommendation to the City Council may include any appropriate action or remedy, including but not limited to censure, reprimand, additional ethics training, or removal from office.
11. Action by City Council. Upon receipt of any finding and recommendation by the Commission, the City Council shall review the recommendation and take action at its discretion.
12. State's Commission. In the event that City Attorney determines that it is in the best interest of the City for the State's Commission to review the complaint instead of the Commission, Springfield City will forward the complaint to the State's Commission.

**ALTERNATIVES:**

The Council may elect not to approve the Ordinance and elect to have all complaints filed with the State's Commission or provide direction on what the Council would like to see in a local commission so that staff can prepare an appropriate ordinance.

**FISCAL IMPACT:**

If the City approves the Ordinance, the City will incur the soft costs associated with the City Attorney participating as a commission member for complaints filed against other cities' elected and appointed officials.

Attachments:      Proposed Ordinance

**ORDINANCE NO \_\_\_\_\_**

**AN ORDINANCE ESTABLISHING A MUNICIPAL ETHICS COMMISSION;  
PROVIDING FOR THE MEMBERSHIP THEREOF PURSUANT TO AN  
INTERLOCAL AGREEMENT; AND ESTABLISHING THE PROCESS FOR  
FILING, INVESTIGATING, AND ADJUDICATING ETHIC VIOLATION  
COMPLAINTS.**

**WHEREAS**, the Utah State Legislature has enacted a State law establishing a Political Subdivision Ethics Commission to review complaints regarding alleged violations of the Municipal Officers' and Employees' Ethics Act; and

**WHEREAS**, the State law permits a municipality to establish its own ethics commission to address the applicable complaints; and

**WHEREAS**, in reviewing this option, Springville City has determined that it is in the best interest of its citizenry to have its own commission as established by Interlocal Agreement, being more convenient, responsive, and accessible to the citizenry; and

**WHEREAS**, pursuant to that determination, the City Council finds that it is in the best interest of Springville City and its citizens to establish an ethics commission.

**NOW, THEREFORE, BE IT ORDAINED BY THE SPRINGVILLE CITY COUNCIL,  
AS FOLLOWS:**

1. The City Council hereby enacts Title 2 Chapter 16 of the Springville City Code as follows:

**MUNICIPAL ETHICS COMMISSION**

- |                 |   |
|-----------------|---|
| <b>2-16-101</b> | <b>Purpose.</b>                                       |
| <b>2-16-102</b> | <b>Definitions.</b>                                   |
| <b>2-16-103</b> | <b>Municipal Officers' and Employees' Ethics Act.</b> |
| <b>2-16-104</b> | <b>Municipal Ethics Commission.</b>                   |
| <b>2-16-105</b> | <b>Filing of ethics complaints with Commission.</b>   |
| <b>2-16-106</b> | <b>Privacy.</b>                                       |
| <b>2-16-107</b> | <b>Initial review of complaint.</b>                   |
| <b>2-16-108</b> | <b>Consideration of complaint after acceptance.</b>   |
| <b>2-16-109</b> | <b>Contempt powers.</b>                               |

- 2-16-110 Request by elected or appointed official for legal representation.**
- 2-16-111 Determination by Commission.**
- 2-16-112 Action by City Council.**
- 2-16-113 Knowingly filing of false complaint.**
- 2-16-114 Annual Commission report.**
- 2-16-115 Political Subdivision Ethics Review Commission.**

**2-16-101 Purpose.**

The purpose of this Chapter is to prevent improper influence, avoid the appearance of impropriety, and prohibit elected and appointed officials from receiving unjust financial gain from public service. It also seeks to increase public confidence by assuring that governmental actions are taken ethically.

**2-16-102 Definitions.**

- (1) For the purposes of this Chapter, "Commission" means the Municipal Ethics Commission formed pursuant to Section 2-16-104.
- (2) For the purposes of this Chapter, "elected officials" includes only the members of the Springville City Council and the Mayor.
- (3) For the purposes of this Chapter, "appointed official" means the City Administrator or similar non-elected chief administrative officer.

**2-16-103 Municipal Officers' and Employees' Ethics Act.**

Elected and appointed officials of Springville City are required to comply with the Municipal Officers' and Employees' Ethics Act (Utah Code § 10-3-1301 *et seq.*) as amended, which is incorporated herein by reference.

**2-16-104 Municipal Ethics Commission.**

- (1) Springville City establishes a Municipal Ethics Commission pursuant to Utah Code § 10-3-1311 and Utah Code § 11-13-101 *et seq.* The Commission is a three (3) person commission as provided for in an Interlocal Agreement between Springville City and the other participating municipalities. Upon receiving a complaint the membership of the Commission shall be determined by random selection from the pool of eligible participating municipalities.
- (2) The Office of the City Attorney shall provide the Commission such administrative or other support as requested by the Commission.

**2-16-105 Filing of ethics complaints with Commission.**

- (1) A complaint may only be filed with the Commission under the following conditions:
  - (a) The complaint must be against an elected or appointed official of Springville City who is currently serving in their elected or appointed position and allege a violation of the Municipal Officers' and Employees' Ethics Act;
  - (b) The complaint must be filed with the City Recorder of Springville City on behalf of the Commission;
  - (c) The complaint must be made by either:
    - (i) two or more registered voters who reside within the boundaries of Springville City; or
    - (ii) two or more registered voters who pay a fee or tax to Springville City; or
    - (iii) one or more registered voters who reside within the boundaries of Springville City plus one or more registered voters who pay a fee or tax to Springville City;
  - (d) The complaint must be based upon direct evidence or sworn statements by one or more people with actual knowledge of the facts and circumstances supporting the alleged ethics violation;
  - (e) The complaint may not be filed during the sixty (60) calendar days immediately before a municipal primary election, if the accused elected or appointed official is a candidate in the primary election;
  - (f) The complaint may not be filed during the sixty (60) calendar days immediately

before a municipal general election in which the accused elected or appointed official is a candidate, unless the accused elected or appointed official is unopposed in the election;

- (g) The complaint must be in writing and contain:
  - (i) the name and position of the elected or appointed official alleged to be in violation;
  - (ii) the name, address, and telephone number of each individual who is filing the complaint;
  - (iii) a description of each alleged violation of the Municipal Officers' and Employees' Ethics Act, including a reference to the section of the Act alleged to have been violated;
  - (iv) with reasonable specificity, evidence supporting each allegation, which shall be provided by copies of official records, documentary evidence, or affidavits that include the required information;
  - (v) a list of witnesses that a complainant wishes to have called or interviewed, including for each witness: the name, address, and, if available, one or more telephone numbers of the witness; a brief summary of the testimony to be provided by the witness; a specific description of any documents or evidence a complainant desires the witness to produce;
  - (vi) a statement that each complainant:
    - (A) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the complaint;
    - (B) believes that the complaint is submitted in good faith and not for any improper purpose such as harassing the named elected or appointed official, causing unwarranted harm to the accused elected or appointed official's reputation, or causing unnecessary expenditure of public funds; and
    - (C) believes the allegations contained in the complaint to be true and accurate.
  - (vii) a statement with the signature of each complainant.

(2) Upon receipt of any ethics complaint, the City Recorder shall select the commission using the procedures set forth in the Interlocal Agreement, inform the city attorneys from the selected cities of their selection, then refer the complaint to the Commission. The city recorder shall not notify or inform any other person of the filing of the complaint.

(3) A person filing a complaint under this Chapter is not entitled to reimbursement for attorney fees or costs incurred, regardless of the outcome of the proceedings.

(4) An administrative fee of \$50 must be filed with the complaint. The \$50 filing fee must be paid to the city where the complaint is filed. After the selected commission elects a chairperson, the \$50 administrative fee will be paid to the chairperson's city to defray the costs of administering the complaint.

#### **2-16-106 Privacy.**

(1) Once an ethics complaint has been filed with the City Recorder, neither the City Recorder, the Commission, nor any City employee may disclose the existence of the complaint, any response to the complaint, or any information concerning the alleged ethics violation that is the subject of the complaint, unless otherwise provided in this Chapter.

(2) Nothing in the restrictions above may be construed to hinder or prevent a person or the City Attorney of Springville City from disclosing the facts or allegations about potential criminal violations to a law enforcement authority.

(3) Nothing in this Section may be construed to hinder or prevent the named elected or appointed official from preparing a defense to a complaint, including contacting witnesses or taking other actions in preparation for review by the Commission.

(4) Nothing in this Section may be construed to hinder or prevent any person from disclosing public records.

(5) If any employee or official of the City publicly discloses any private information, appropriate disciplinary action may be taken against such individual.

(6) If a complainant publicly discloses any private records or information obtained from private records, the Commission may summarily dismiss the complaint without prejudice.

(7) All records, that are not public records, received by or generated by or for the Commission are private, controlled, or protected and not subject to disclosure or release, except for the Commission's summary findings and recommendation to the City Council or any document that is classified as public in accordance with Utah Code § 63G-2-301.

**2-16-107 Initial review of complaint.**

(1) Within ten (10) business days after receipt of an ethics complaint, the Commission shall examine the complaint to determine if it is in compliance with the filing requirements of this Chapter.

(2) If the Commission determines that the complaint does not comply with the filing requirements of this Chapter, the Commission shall return the complaint to the first complainant named on the complaint with a statement detailing the reason(s) for non-compliance. At the same time, the Commission shall notify the City Administrator, Mayor, City Council, and the City Attorney that a complaint filed against an unidentified elected or appointed official has been returned for non-compliance with this Chapter and the fact that a complaint was filed and returned shall be kept confidential as to any others until the Commission submits its annual summary report to the City Council and to the Mayor. If a complaint is returned by the Commission, the complainants may file another complaint if the new complaint independently meets the filing requirements of this Chapter.

(3) If the Commission determines that the complaint complies with the filing requirements of this Chapter, the Commission shall:

- (a) Accept the complaint;
- (b) Promptly forward the complaint to the elected or appointed official who is named in the complaint, together with directions for providing a response to the Commission;
- (c) If appropriate, request assistance from the Office of the City Attorney; and
- (d) Notify the complainants, the named elected or appointed official, the City Recorder, and the employees in the Office of the City Attorney of the privacy requirements of this Chapter.

(4) At its discretion, the Commission may determine whether the subject of the complaint should be investigated by a law enforcement agency.

(5) If the Commission learns that the subject of the complaint is under criminal investigation, the Commission may suspend its review of the complaint pending the resolution of the criminal investigation.

(6) The named elected or appointed official shall have the right to present an answer to the complaint. The answer may contain statements, arguments, and evidence. The answer must be filed within ten (10) business days from the date the complaint was forwarded to the elected or appointed official.

- (7) The Commission shall dismiss an ethics complaint if:
- (a) The named elected or appointed official resigns or is removed from office with Springville City;
  - (b) The named elected or appointed official is charged with a criminal violation of the Municipal Officers' and Employees' Ethics Act where the facts and allegations presented in the ethics complaint assert substantially similar facts and allegations as those asserted in the criminal charges; or
  - (c) The allegations in the complaint, if assumed to be true, do not state a violation of the Municipal Officer's and Employees' Ethics Act.

**2-16-108 Consideration of complaint after acceptance.**

(1) After acceptance of a complaint, the Commission has the discretion to:

- (a) Conduct a confidential, independent administrative investigation of the complaint;
- (b) Refer the matter to an independent non-criminal investigator for fact finding and investigation and consider the confidential report of the investigator;
- (c) Conduct a hearing in accordance with Subsection (2); or
- (d) Any combination of the above.

(2) If the Commission uses a hearing to review the complaint, the Commission shall:

- (a) Assure that the hearing includes opening arguments, presentation of evidence,

witnesses and rebuttal, consideration of motions, and closing arguments;

(b) Close the hearing to the public;

(c) Allow the complainants and the named elected or appointed official to retain legal representation, at their discretion; and

(d) Provide administrative subpoenas pursuant to its subpoena powers.

(3) For any hearing, the Commission must provide a notice to the first named complainant and the named elected or appointed official at least five (5) business days prior to the hearing.

(4) The Commission shall determine whether the subject matter of the complaint was previously the subject of a filing or public disclosure. The Commission shall take into consideration efforts by the named elected or appointed official to seek legal direction regarding the subject matter of the complaint and any good faith efforts by the named elected or appointed official in response to legal advice received.

(5) The Commission shall ensure that a record of any Commission meeting or hearing is made, which shall include:

(a) Audio recordings, if any;

(b) Official summaries or minutes taken during the meeting or hearing;

(c) Copies of all documents or other items admitted into evidence or considered by the Commission;

(d) Copies of a document or written order or ruling issued by the Commission; and

(e) Any other information the Commission deems relevant to the findings and recommendation.

#### **2-16-109 Contempt powers.**

(1) The Commission may hold a person in contempt if the person:

(a) Refuses to answer a question, without legal justification, after being directed by the Commission to answer; or

(b) Fails to comply with a subpoena issued by the Commission.

(2) Upon finding a person in contempt, the Commission shall report the person to the Fourth District Court and request a warrant of attachment or order to show cause, as provided in Utah Code § 78B-6-313.

#### **2-16-110 Request by elected or appointed official for legal representation.**

(1) The named elected or appointed official may request that the City provide a legal defense if the complaint arises from an act or omission during the performance of official duties, within the scope of employment, or under the color of authority.

(2) The City Attorney may arrange for such legal defense, where appropriate.

#### **2-16-111 Determination by Commission.**

(1) After review of the complaint, the Commission shall determine whether there is clear and convincing evidence supporting a violation of the Municipal Officers' and Employees' Act by the named elected or appointed official. If there are multiple alleged violations, the Commission shall separately determine whether clear and convincing evidence supports each violation. The determination shall be by majority vote of the Commission.

(2) If the Commission determines that no allegations in the complaint were proved, the Commission shall:

(a) Issue an order that the complaint is dismissed because no allegations in the complaint were found to have been proven;

(b) Provide notice of the determination of an unidentified elected or appointed official at a regular public meeting of the City Council; and

(c) Provide written notice of the determination to the named elected or appointed official and the first named complainant on the complaint.

(3) If the Commission determines that one or more of the allegations in the complaint were proved, the Commission shall:

(a) Prepare written summary findings and a recommendation for the City Council:

or appointed official;

- (i) Listing the name of each complainant and the name of the subject elected or appointed official;
- (ii) For each allegation that was proven:
  - (A) Provide the reference to the Municipal Officers' and Employees' Act ;
  - (B) Summarize the evidence supporting a violation by clear and convincing evidence;
  - (C) Make factual findings; and
- (iii) Recommend appropriate action to the City Council.

- (b) Notify the named elected or appointed official and the first complainant on the complaint of the written summary findings and recommendation for the City Council; and
- (c) Orally report the summary findings and recommendation to the City Council in a regular meeting of the City Council.

(4) If the Commission finds a violation of the Municipal Officers' and Employees' Ethics Act, the Commission may recommend to the City Council any appropriate action or remedy, including but not limited to censure, reprimand, additional ethics training, or removal from office. The Commission's recommendation may depend on the severity of the violation, the elected or appointed official's intent, any history or pattern of abuse by the named elected or appointed official, and any economic or other benefit received by the named elected or appointed official.

**2-16-112 Action by City Council.**

(1) Upon receipt of any finding and recommendation by the Commission, the City Council shall review the recommendation and take action at its discretion.

(2) The elected or appointed official referred for a violation may not participate in the City Council's deliberation or cast a vote as the City Council decides whether to take action and which action to take.

**2-16-113 Knowingly filing of false complaint.**

Any person who files a complaint against an elected or appointed official pursuant to this Chapter, knowing that such complaint is frivolous, malicious, false, or otherwise without merit, shall be guilty of a class B misdemeanor.

**2-16-114 Annual Commission report.**

(1) If there has been any activity by the Commission during the previous years the Commission shall prepare, on an annual basis, a summary report that contains:

- (a) A general description of the activities of the Commission during the past year;
- (b) The number of ethics complaints filed with the Commission;
- (c) The number of ethics complaints dismissed; and
- (d) An executive summary of each complaint where the Commission found a violation of the Municipal Officers' and Employees' Ethics Act or other applicable local ordinance.

(2) The annual report of the Commission shall be filed with the Mayor, City Council, and with the City Manager and shall be a public record.

**2-16-115 Political Subdivision Ethics Review Commission.**

In the event that the City Attorney determines that it is in the best interest of the City, Springville City, pursuant to §10-3-1311(2)(b) of the Utah Code, will forward a complaint received under this Chapter to the Political Subdivisions Ethics Review Commission established under §11-49-201 of the Utah Code for review, instead of sending the complaint to the Commission for review.

2. If any part of this ordinance shall be declared invalid, such decision shall not affect the validity of the remainder of this ordinance.

3. All other ordinances, policies, and resolutions in conflict herewith are hereby repealed.

This ordinance shall take effect immediately upon passage and publication in a newspaper of general circulation in Springville City.

PASSED, APPROVED, AND ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_  
2014.

\_\_\_\_\_  
Wilford W. Clyde, Mayor

ATTEST:

\_\_\_\_\_  
Kim Rayburn, City Recorder

**INTERLOCAL AGREEMENT BETWEEN  
PAYSON CITY, PLEASANT GROVE CITY, SPANISH FORK CITY, AND  
SPRINGVILLE CITY  
FOR THE CREATION OF AN  
ETHICS COMMISSION AS PROVIDED FOR BY STATE LAW**

WHEREAS, Payson City, Pleasant Grove City, Spanish Fork City, and Springville City (Participating Cities) are all public agencies within the State of Utah and may enter into interlocal cooperation agreements pursuant to the Interlocal Cooperation Act, Title 11, Chapter 13 of the Utah Code; and

WHEREAS, the Participating Cities desire to jointly exercise their authority in a manner that is mutually beneficial and economical for each entity and its citizenry; and

WHEREAS, State law provides for the creation of a local ethics commission to review any complaints regarding the actions of a local entity's elected officials and any appointed executive officer; and

WHEREAS, the creation of this commission will provide for independent and knowledgeable individuals with an understanding of the Municipal Officers' and Employees' Ethics Act, the laws regarding conflict of interest, and the applicable administrative processes; and

WHEREAS, this agreement provides for the creation of the local ethics commission, its processes, and provides for a term of the agreement as well as the termination of this agreement; and

WHEREAS, this agreement is to be approved by the governing body of the Participating Cities and their legal counsel; and

WHEREAS the matter having been submitted and the City Council having fully considered the request as it relates to the health, safety, and general welfare of the City.

WITNESSETH, that the Participating Cities as authorized, enter into this interlocal agreement and agree as follows:

**I. LOCAL ETHICS COMMISSION**

1. **Authority to create.** Pursuant to § 11-13-101 *et seq.*, these cities are authorized to enter into this agreement and to establish this commission.

2. **Membership.** The commission is made of a city attorney from each of the Participating Cities.

3. **Membership of commission when convened.** When the commission has been convened upon receiving a complaint, the membership will consist of three city attorneys who will be selected as follows:

(A) A commission member may not be from the city where the complaint originated;

(B) The city recorder who receives the complaint will randomly select three of the remaining cities to serve on the commission. The attorneys from the three cities selected will serve on the commission until the adjudication of the complaint is complete;

(C) After a city attorney has served on a commission, that city will be excluded from any subsequent commission selection process until a city attorney from each of the remaining cities has served on a commission;

(D) The commission is responsible for tracking the service of each of city attorneys so that the city recorders can accurately select the commission; and

(E) The term of the commission appointment ends when the adjudication of the complaint is complete.

4. **No remuneration for service and Governance.** Each member of the commission will serve without additional remuneration, and each city agrees not to seek reimbursement against the others for the service of its representative and any necessary staff support. As a result, there is no need for additional financing or budgeting. For the purposes of Utah Code § 11-13-207, this joint undertaking will be administered jointly by the Participating Cities and it is not anticipated that any real or personal property will be acquired during this undertaking.

5. **Meetings.** The commission will meet for the purpose of reviewing ethics complaints. At the beginning of each investigation, the commission will elect a chairperson. It will be the responsibility of the chairperson to lead the investigation, provide necessary staff support, provide a written conclusion of any investigation, and maintain the file for that investigation.

6. **Powers and procedures.** The commission's processes and authority are as follows:

(A) **Filing of ethics complaints with commission.**

(1) A complaint may only be filed with the commission under the following conditions:

(a) The complaint must be against an elected or appointed official who is currently serving in that position and allege a violation of the Municipal Officers' and Employees' Ethics Act, Utah Code § 10-3-1301 *et seq.* or other applicable local ordinance.

(b) The complaint must be filed with the city recorder of the respective city on behalf of the commission;

- (c) The complaint must be made by either:
  - (i) two or more registered voters who reside within the boundaries of the respective city; or
  - (ii) two or more registered voters who pay a fee or tax to the respective city; or
  - (iii) one or more registered voters who reside within the boundaries of the respective city plus one or more registered voters who pay a fee or tax to the respective city;
- (d) The complaint must be based upon direct evidence or sworn statements by one or more people with actual knowledge of the facts and circumstances supporting the alleged ethics violation;
- (e) The complaint may not be filed during the sixty (60) calendar days immediately before a municipal primary election, if the accused elected official is a candidate in the primary election;
- (f) The complaint may not be filed during the sixty (60) calendar days immediately before a municipal general election in which the accused elected official is a candidate, unless the accused elected official is unopposed in the election;
- (g) The complaint must be in writing and contain:
  - (i) the name and position of the elected or appointed official alleged to be in violation;
  - (ii) the name, address, and telephone number of each individual who is filing the complaint;
  - (iii) a description of each alleged violation of the Municipal Officers' and Employees' Ethics Act, including a reference to the section of the Act alleged to have been violated;

(iv) with reasonable specificity, evidence supporting each allegation, which shall be provided by copies of official records, documentary evidence, or affidavits that include the required information;

(v) a list of witnesses that a complainant wishes to have called or interviewed, including for each witness: the name, address, and, if available, one or more telephone numbers of the witness; a brief summary of the testimony to be provided by the witness; a specific description of any documents or evidence a complainant desires the witness to produce;

(vi) a statement that each complainant:

(A) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the complaint;

(B) believes that the complaint is submitted in good faith and not for any improper purpose such as harassing the named elected or appointed official, causing unwarranted harm to the accused elected or appointed official's reputation, or causing unnecessary expenditure of public funds; and

(C) believes the allegations contained in the complaint to be true and accurate.

(vii) a statement with the signature of each complainant.

(2) Upon receipt of any ethics complaint, the city recorder shall select the commission using the procedures set forth in this Agreement, inform the city attorneys from the selected cities of their selection, then immediately refer the complaint to the commission. The city recorder shall not notify or inform any other person of the filing of the complaint.

(3) A person filing a complaint under this process is not entitled to reimbursement for attorney fees or costs incurred, regardless of the outcome of the proceedings.

(4) An administrative fee of \$50 must be filed with the complaint. The \$50 filing fee must be paid to the city where the complaint is filed. After the selected commission elects a chairperson, the \$50 administrative fee will be paid to the chairperson's city to defray the costs of administering the complaint.

**(B) Privacy.**

(1) Once an ethics complaint has been filed with the city recorder, neither the city recorder, the commission, nor any of the city's employees may disclose the existence of the complaint, any response to the complaint, or any information concerning the alleged ethics violation that is the subject of the complaint, unless otherwise provided by law.

(2) Nothing in the restrictions above may be construed to hinder or prevent a person from disclosing the facts or allegations about potential criminal violations to a law enforcement authority.

(3) Nothing in this section may be construed to hinder or prevent the named elected or appointed official from preparing a defense to a complaint; including contacting witnesses or taking other actions in preparation for review by the commission.

(4) Nothing in this section may be construed to hinder or prevent any person from disclosing public records.

(5) If any employee or official of the cities publicly discloses any private information, appropriate disciplinary action may be taken against such individual.

(6) If a complainant publicly discloses any private records or information obtained from private records, the commission may summarily dismiss the complaint without prejudice.

(7) All records received by or generated by or for the commission are private and not subject to disclosure or release, except for the commission's summary findings and recommendation for the governing body or any document that is classified as public in accordance with Utah Code § 63G-2-301.

**(C) Initial review of complaint.**

(1) Within ten (10) business days after receipt of an ethics complaint, the commission shall examine the complaint to determine if it is in compliance with the filing requirements of paragraph 4. (A).

(2) If the commission determines that the complaint does not comply with the filing requirements, the commission shall return the complaint to the first complainant named on the complaint with a statement detailing the reason(s) for non-compliance. At the same time, the commission shall notify the mayor, city manager, and the city attorney that a complaint filed against an unidentified elected or appointed official has been returned for non-compliance and the fact that a complaint was filed and returned shall be kept confidential from all others until the commission submits its annual summary report to the respective governing bodies and to the city managers. If a complaint is returned by the commission, the complainants may file another complaint if the new complaint independently meets the filing requirements.

(3) If the commission determines that the complaint complies with the filing requirements, the commission shall:

(a) Accept the complaint;

(b) Promptly forward the complaint to the elected or appointed official who is named in the complaint, together with directions for providing a response to the commission; and

(c) Notify the complainants, the named elected or appointed official, the city recorder, and any support staff of the commission of the privacy requirements.

(4) At its discretion, the commission may determine whether the subject of the complaint should be investigated by a law enforcement agency.

(5) If the commission learns that the subject of the complaint is under criminal investigation, the commission may suspend its review of the complaint pending the resolution of the criminal investigation.

(6) The named elected or appointed official shall have the right to present an answer to the complaint. The answer may contain statements, arguments, and evidence. The answer must be filed within ten (10) business days from the date the complaint was forwarded to the elected or appointed official.

(7) The commission shall dismiss an ethics complaint if:

(a) The named elected or appointed official resigns or is removed from office;

(b) The named elected or appointed official is charged with a criminal violation of the Municipal Officers' and Employees' Ethics Act where the facts and allegations presented in the ethics complaint assert substantially similar facts and allegations as those asserted in the criminal charges; or

(c) The allegations in the complaint, if assumed to be true, do not state a violation of the Municipal Officer's and Employees' Ethics Act.

**(D) Consideration of complaint after acceptance.**

(1) After acceptance of a complaint, the commission has the discretion to:

(a) Conduct a confidential, independent administrative investigation of the complaint;

(b) Refer the matter to an independent non-criminal investigator for fact finding and investigation and consider the confidential report of the investigator;

(c) Conduct a hearing in accordance with Subsection (2) of this Section; or

(d) Any combination of the above.

(2) If the commission uses a hearing to review the complaint, the commission shall:

(a) Assure that the hearing includes opening arguments, presentation of evidence, witnesses and rebuttal, consideration of motions, and closing arguments;

(b) Close the hearing to the public;

(c) Allow the complainants and the named elected or appointed official to retain legal representation, at their discretion; and

(d) Provide administrative subpoenas pursuant to its subpoena powers.

(3) For any hearing the commission must provide a notice to the first named complainant and the named elected or appointed official at least five (5) business days prior to the hearing.

(4) The commission shall determine whether the subject matter of the complaint was previously the subject of a filing, public disclosure, or a city attorney ethics advisory opinion. The commission shall take into consideration efforts by the named elected or appointed official to seek legal direction regarding the subject matter of the complaint and any good faith efforts by the named elected or appointed official in response to legal advice received.

(5) The commission shall ensure that a record of any commission meeting or hearing is made, which shall include:

- (a) Audio recordings, if any;
- (b) Official summaries or minutes taken during the meeting or hearing;
- (c) Copies of all documents or other items admitted into evidence or considered by the commission;
- (d) Copies of a document or written order or ruling issued by the commission; and
- (e) Any other information the commission deems relevant to the findings and recommendation.

**(E) Contempt powers.**

- (1) The commission may hold a person in contempt if the person:
  - (a) Refuses to answer a question, without legal justification, after being directed by the commission to answer; or
  - (b) Fails to comply with a subpoena issued by the commission.

(2) Upon finding a person in contempt, the commission shall report the person to the Fourth District Court and request a warrant of attachment or order to show cause, as provided in Utah Code § 78B-6-313.

(F) **Request by elected or appointed official for legal representation.**

(1) The named elected or appointed official may request that their city provide a legal defense if the complaint arises from an act or omission during the performance of official duties, within the scope of employment, or under the color of authority.

(2) The respective city may arrange for such legal defense, where appropriate.

(G) **Determination by commission.**

(1) After review of the complaint, the commission shall determine whether there is clear and convincing evidence supporting a violation of the Municipal Officers' and Employees' Act or applicable local ordinance by the named elected or appointed official. If there are multiple alleged violations, the commission shall separately determine whether clear and convincing evidence supports each violation.

(2) If the commission determines that no allegations in the complaint were proved, the commission shall:

(a) Issue an order that the complaint is dismissed because no allegations in the complaint were found to have been proven;

(b) Provide notice of the determination of an unidentified subject of a complaint (elected or appointed official) at a regular public meeting of the respective city's council; and

(c) Provide written notice of the determination to the named elected or appointed official and the first named complainant on the complaint.

(3) If the commission determines that one or more of the allegations in the complaint were proved, the commission shall:

(a) Prepare written summary findings and a recommendation for the respective city's council:

(i) Listing the name of each complainant and the name of the subject elected or appointed official;

(ii) For each allegation that was proven:

(A) Provide the reference to the Municipal Officers' and Employees' Act or applicable local ordinance;

(B) Summarize the evidence supporting a violation by clear and convincing evidence;

(C) Make factual findings; and

(iii) Recommend appropriate action to the respective city's council.

(b) Notify the named elected or appointed official and the first complainant on the complaint of the written summary findings and recommendation for the respective city's council; and

(c) Orally report the summary findings and recommendation to the respective city's council in a regular meeting of the city council.

(4) If the commission finds a violation of the Municipal Officers' and Employees' Ethics Act or applicable local ordinance, the commission may recommend to the respective city's council any appropriate action or remedy, including but not limited to censure, reprimand, additional ethics training, or removal from office. The commission's recommendation may depend on the severity of the violation, the elected or appointed official's intent, any history or pattern of abuse by the named elected or appointed official, and any economic or other benefit received by the named elected or appointed official.

(H) Annual commission report.

(1) The commission shall prepare, on an annual basis, a summary report that contains:

- (a) A general description of the activities of the commission during the past year;
  - (b) The number of ethics complaints filed with the commission;
  - (c) The number of ethics complaints dismissed; and
  - (d) An executive summary of each complaint where the commission found a violation of the Municipal Officers' and Employees' Ethics Act or applicable local ordinance.
- (2) The annual report of the commission shall be filed with the governing bodies and with the city managers and shall be a public record.

## **II. NO NEW ENTITY**

This agreement is not intended to create a new or separate entity, as contemplated by the Interlocal Agreement Act.

## **III. TERMINATION AND ADDITION OF CITIES**

1. **Termination.** This agreement shall terminate fifty (50) years from the date the last party enters into the agreement. Any party may withdraw from this agreement upon thirty (30) days' written notice, with or without cause.
2. **Addition of Cities.** A city that is not a party to this agreement, may become a Participating City if: (1) the city agrees to be bound by the terms of this agreement; and (2) a majority of the Participating Cities that are bound by this agreement at the time of the request approve of the new city's participation.

This Agreement becomes effect as to each Participating City upon the date each Participating City executes the Agreement.

PAYSON CITY

Date: \_\_\_\_\_

\_\_\_\_\_  
Rich Moore  
Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mark Sorensen  
City Attorney

PLEASANT GROVE CITY

Date: \_\_\_\_\_

\_\_\_\_\_  
Bruce W. Call  
Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Kathy T. Kresser  
City Recorder

\_\_\_\_\_  
Christina Peterson  
City Attorney

SPANISH FORK CITY

Date: \_\_\_\_\_

\_\_\_\_\_  
G. Wayne Andersen  
Mayor

ATTEST:

APPROVED AS TO FORM:

---

Kent Clark  
City Recorder

---

S. Junior Baker  
City Attorney

SPRINGVILLE CITY

Date: \_\_\_\_\_

---

Wilford W. Clyde  
Mayor

ATTEST:

APPROVED AS TO FORM:

---

Kim Rayburn  
City Recorder

---

John Penrod  
City Attorney