

DATE MONDAY APRIL 10, 2023

THE KEARNS METRO TOWNSHIP COUNCIL, STATE OF UTAH, MET ON MONDAY, APRIL 10, 2023, PURSUANT TO ADJOURNMENT ON MONDAY, MARCH 13, 2023, AT 6:30 P.M. AT THE KEARNS LIBRARY AT 5350 SOUTH 4220 WEST, KEARNS, UTAH 84118.

COUNCIL MEMBERS PRESENT: ALAN PETERSON
PATRICK SCHAEFFER
CHRYSTAL BUTTERFIELD
TINA SNOW
KELLY BUSH, Mayor

OTHERS IN ATTENDANCE: NATHAN BRACKEN, LEGAL COUNSEL
AMY PITT, METRO TOWNSHIP CLERK

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Mayor Kelly Bush, Chair, presided.

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Public Meeting

Citizen Public Input

None.

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Proclamation to Support Ongoing Efforts of Child Abuse Prevention

The Council reviewed the following Resolution adopting a Proclamation to Support Ongoing Efforts of Child Abuse Prevention:

RESOLUTION #2023-04-01

Date: April 10, 2023

A RESOLUTION PROCLAIMING APRIL 2023 CHILD ABUSE PREVENTION MONTH IN KEARNS.

WHEREAS, THE CHILDREN OF THE Kearns Metro Township (“Kearns”) are the future of our state’s success and investing in their general welfare, safety and livelihood are of utmost priority; and

WHEREAS, all children deserve to grow up in a safe and nurturing environment to assure they reach their full potential as they grown and develop; and

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WHEREAS, the protection of children and strengthening of families is of concern and responsibility of all Kearns citizens because the wellness of children affects our lives now and will continue to affect us in the future; and

WHEREAS, child abuse respects no racial, religious, socio-economic or geographic boundaries, and

WHEREAS, all citizens of Kearns need to become more aware of child abuse and its prevention within their respective communities and actively encourage and support parents to raise their children in a safe and nurturing environment, and

WHEREAS, preventing child abuse requires each member of the community to be attentive to the problems of families around them and commit to do everything they can do to help.

NOW, THEREFORE, BE IT RESOLVED BY THE Kearns Metro Township Council that effective immediately:

1. The month of April is designated as CHILD ABUSE PREVENTION MONTH in Kearns.
2. The Kearns Metro Township Council calls upon all Kearns citizens to renew their commitment to be educated on the impact of child abuse and join in working for its prevention within our communities.

PASSED and ADOPTED this 10th day of April, 2023.

KEARNS METRO TOWNSHIP

By: /s/ KELLY F. BUSH
Mayor

ATTEST

/s/ LANNIE CHAPMAN
Clerk/Recorder

Council Member Snow, seconded by Council Member Peterson, moved to approve the resolution on child abuse prevention. The motion passed unanimously.



Stakeholder Updates

Kearns Improvement District (KID)

Greg Anderson, General Manager, KID, stated KID will receive an award from the American Concrete Institute for project of the year for its new water tank that sits in the foothills on Kennecott land. He played a timelapse of the construction of the projects, which will service the upper part of the district for the next 40 years.

He discussed how KID has been working on complying with mandates from the Environmental Protection Agency (EPA) and Utah Drinking Water's lead and copper standards, which require KID to inventory every pipe to determine if they contain lead. He played a video showing how KID is currently complying with these standards. In the coming weeks, he will finalize a map that will be made publicly available.

He stated public response to the drought has been helpful. KID saved over 21 percent over what it used in 2020. It anticipates Jordanelle and Deer Creek will fill up to 100 percent capacity. There are still concerns, but it will be citizens who ultimately save the Great Salt Lake through conservation efforts. He urged citizens to apply for grants to remove turf and replace it with eco-friendly landscaping.

Wasatch Front Waste & Recycling District (WFWRD)

Nothing to report.

Unified Fire Authority (UFA)

Captain Wade Russell stated 18 captains will become new battalion chiefs after participating in the Captains' Boot Camp. UFA, along with the Department of Public Safety (DPS), is launching a statewide public relations campaign to warn people about the dangers of being near fast-flowing water. Chief Russell previously sent fireworks maps to the Council, which the Council received. UFA is working on its upcoming pancake breakfast. It received 204 calls for service and there were two incidents. The first was a trash fire in the detached garage. The second was an incident at Stan's Market involving a patron who was arrested and charged with aggravated arson.

Unified Police Department (UPD)

Chief Levi Hughes presented the Officer of the Month award to Detective Omar Flores, who closed two very violent crime cases affecting Kearns. He also presented the Division Commander award to Sean Williams, who was able to diffuse a violent hostage situation with a suicidal gunman without injuries to the gunman or his family. He asked the Council if it wants UPD to continue to do traffic enforcement in school zones. He reviewed a case involving a fugitive who broke into several homes and ultimately surrendered himself to Adult Probation and Parole (AP&P). Finally, he reviewed statistics and reports.

Kearns Community Council

Paula Larsen, Chair, Kearns Community Council, distributed the event calendar even though some of the dates were tentative. The Kearns Community Council held its annual Easter Egg hunt where it hid 1600 eggs and decorated Easter bonnets. The Community Council will not hold a large ceremony for Armed Forces Day this year. Rather, it will work on the cannon. There will be a flag retirement ceremony, though, and citizens can turn in flags that are ready to be retired.

MyKearns

Nothing to report.

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Planning

Mayor Bush stated traffic on 4700 South is still a nightmare. Kearns has an opportunity to apply for a grant to build a pedestrian bridge that would go over the tracks to Kearns High School. This would allow Kearns to meet its general plan and has been forwarded to Kayla Mauldin, Long Range Planner, Municipal Services District (MSD). Kearns was approved for the Thriving Communities Technical Assistance Program, which helps communities obtain grants. \$2 million has been transferred over to the MSD.

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Legal Updates/Information

UPD/SLVLESA Update

Nathan Bracken, Legal Counsel, Kearns Metro Township, stated he and Mayor Bush met with other city attorneys and mayors last week from other townships and Brighton. He was asked to put together a resolution template for all parties to consider with the intent of providing a unified position on where the metro townships stand. He emailed that out earlier that morning, and he had a few edits to the template. Points of consensus are:

- There needs to be a short-term model that complies with HB 374.
- It will probably take two years to come up with the best possible model.
- Mayors and attorneys need to work together.
- This would not dissolve UPD; it would require the County to leave UPD.

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- Outside UPD, metro townships do not have taxing authority. For that reason, SLVLESA needs to remain intact.
- HB 374 does not affect SLVLESA other than requiring the Sheriff to resign, which she has.
- SLVLESA is a local district and the only way to withdraw is in the Code.
- Only municipalities can withdraw from SLVLESA.
- SLVLESA cannot be dissolved.
- Taxes collected by SLVLESA for unincorporated lands need to stay with those lands.

SLVLESA Resolution/Letter

Nathan Bracken reviewed the Unified Police Department (UPD) cover letter and read the resolution into the record:

KEARNS METRO TOWNSHIP COUNCIL

RESOLUTION NO. 2023-04-02

DATE: April 10, 2023

A RESOLUTION ESTABLISHING POLICY AND PROVIDING DIRECTION REGARDING THE IMPLEMENTATION OF H.B. 374 (“COUNTY SHERIFF AMENDMENTS”)

WHEREAS, the Kearns Metro Township Council (“Municipality”) is a municipal corporation and political subdivision of the State of Utah and, with few exceptions, has the same powers and duties as a city or town pursuant to Utah Code § 10-3c-103; and

WHEREAS, the Unified Police Department (“UPD”) was created pursuant to an interlocal agreement and currently provides law enforcement services to the Metro Townships of Copperton, Emigration Canyon, Kearns, Magna, and White City (the “Metro Townships”) as well as the Town of Brighton, unincorporated Salt Lake County (the “County”), and the Cities of Holladay, Midvale, and Millcreek (collectively, the “UPD Members”); and

WHEREAS, the Municipality, the other Metro Townships, the Town of Brighton, and the County are also members of the Salt Lake Valley Law Enforcement Service Area (“SLVLESA”), a special district (previously known as a local district)¹ that levies taxes within its jurisdiction for law enforcement services and contracts with UPD to provide law enforcement services to the Municipality and the other areas within SLVLESA’s service area; and

WHEREAS, the Salt Lake County Sheriff (the “Sheriff”) has served as the chief executive officer of UPD and SLVLESA since their inception; and

WHEREAS, during the 2023 Legislative Session, the Utah Legislature passed H.B. 374 with the intended purpose of dissolving UPD, raising questions about the provision of law enforcement services within the Municipality and the other UPD Members; and

WHEREAS, H.B. 374 sought to address concerns that the County Sheriff's current role as the chief executive officer of UPD and SLVLESA created a perceived conflict of interest and possible double taxation for non-UPD Members with respect to the county-wide services the Sheriff is required by law to provide to all municipalities within the County; and

WHEREAS, to accomplish its objectives, H.B. 374 effectively removes the Sheriff as the chief executive officer of UPD and SLVLESA, among other things; and

WHEREAS, effective July 1, 2025, H.B. 374 will repeal Subsection 11-13-202(4) of the Interlocal Cooperation Act (the "Title 11 Provision"), which requires the Sheriff "to provide or direct the law enforcement services provided under the [UPD interlocal] agreement;" and

WHEREAS, effective July 1, 2025, H.B. 374 will also repeal Subsections 17-22-2(1)(o) and 17-22-2(3) (the "Title 17 Provisions") within Title 17 of the Utah Code, which collectively: (1) authorize the Sheriff to serve as UPD's chief executive officer as allowed under the UPD interlocal agreement; and (2) the role of the Sheriff to serve in SLVLESA; and

WHEREAS, because UPD and its related statutory provisions are unique to the County as a county of the first class, the anticipated effect of H.B. 374 is to require the Municipality and the other UPD Members to receive law enforcement services in the same manner as municipalities located outside of the County; namely, through the creation of their own police forces, contracts with the Sheriff or another municipality for law enforcement services, or the formation of an interlocal policing service; and

WHEREAS, in the near-term, however, the Municipality and the other Metro Townships lack the statutory authority to impose property taxes or otherwise fund law enforcement services outside of SLVLESA, which may limit their ability to fund and receive law enforcement services in the same way as municipalities do that are not Metro Townships; and

WHEREAS, while H.B. 374 presents an opportunity for the Municipality and the other UPD Members to build and improve upon the law enforcement services they have received through UPD, implementing this goal will likely require more time than H.B. 374 affords, particularly if additional legislation is needed to provide the Municipality and the other Metro Townships with the same authority as other municipalities to fund law enforcement services; and

WHEREAS, to ensure an orderly implementation of H.B. 374 and to provide certainty to its citizens and its law enforcement officers, the Kearns Metro Township Council finds that it is necessary to adopt certain positions and provide direction regarding the Council's goals and priorities for the implementation of H.B. 374; and

NOW, THEREFORE, BE IT RESOLVED by the Kearns Metro Township Council that:

1. Direction to City Attorney: The Council directs the City Attorney as follows:
 - a. The City Attorney is authorized and instructed to engage in negotiations with UPD, the other UPD Members, SLVLESA and its members, and all other relevant

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persons or entities needed to implement H.B. 374 consistent with this Resolution; and

- b. In consultation with the Mayor, the City Attorney is authorized to secure the services of any subcontractors that may be needed for the City Attorney to carry out their duties under this Resolution, including but not limited to the hiring of facilitators and economic experts to assist the City Attorney; and
- c. The Mayor shall oversee and direct the City Attorney with respect to the implementation of this Resolution.

2. Near-Term Objectives: It is the Council's position that the development and implementation of an adequate successor to the current UPD law enforcement model will likely require more time than H.B. 374 affords, in which case:

- a. The City Attorney is authorized and directed to negotiate a near-term law enforcement agreement or other arrangement that: (1) complies with H.B. 374 and the current statutory framework so that the Municipality will continue to receive law enforcement services following the implementation of the Title 11 Provision and the Title 17 Provisions; but (2) does not preclude the Municipality from considering and implementing other law enforcement arrangements in the long-term; and
- b. Notwithstanding the apparent intent of H.B. 374, the Council finds that the Title 11 Provision and the Title 17 Provisions do not necessarily require the dissolution of UPD because they are specific to the Sheriff and do not modify the authority of the Municipality and the other UPD Members under Utah Code § 11-13-202 to execute interlocal agreements for law enforcement services, in which case reconstituting UPD as an interlocal policing service through a restatement of the current UPD interlocal agreement may represent the most available option for a near-term law enforcement model.

3. SLVLESA: Because the Municipality and the other Metro Townships may lack the ability to fund law enforcement services outside of SLVLESA, the Council adopts the following positions and polices related to SLVLESA:

- a. Any law enforcement arrangement the Municipality may execute in the near-term under the current statutory framework will likely require compliance with the current SLVLESA funding model; and
- b. The Council recognizes that H.B. 374 may require the County to develop a new funding model for the countywide services the Sheriff provides, but because such funding will benefit all municipalities within the County, it is therefore separate and distinct from the property taxes SLVLESA collects and manages to fund the law enforcement services that benefit the specific unincorporated lands within SLVLESA, in which case the Council supports the development of an agreement between SLVLESA and the County to fund the policing of such lands by the Sheriff or another law enforcement agency; and

- c. While the Title 17 Provisions of H.B. 374 may require the removal of the Sheriff as SLVLESA's chief executive officer, it is the Council's position that the bill does not otherwise impact or modify SLVLESA nor does it allow the County to withdrawal from or dissolve SLVLESA because: (1) the bill did not modify the withdrawal provisions that apply to special districts that provide law enforcement services; namely, Utah Code § 17B-1-505 and 17B-1-505.5; (2) those provisions only allow municipalities to withdraw from such special districts; and (3) unlike a "special service district," SLVLESA is a fully independent political subdivision of the State of Utah pursuant to Utah Code § 17B-1-103, and therefore cannot be dissolved by the unilateral action of any one of its member entities pursuant to Utah Code § 17B-1-1301, et seq.;² and
- d. It is the Council's position that the funding SLVLESA collects from the County's unincorporated lands does not constitute double taxation nor qualify as a subsidy that unduly benefits the municipal members of SLVLESA because: (1) the property taxes collected from the unincorporated areas of the County are not used to provide countywide services but rather to fund the policing services the unincorporated lands require, are proportionate to the large size of the unincorporated lands, and must remain with those lands and communities rather than be comingled with the funding the County provides to the Sheriff for countywide services; (2) the municipal members of SLVLESA also contribute property taxes to SLVLESA for the law enforcement services they receive that are proportionate to their respective sizes; and (3) while the SLVLESA funding model may allow SLVLESA's member entities to reduce costs by pooling their collective resources, municipal participation in SLVLESA is voluntary and any municipality in the County, can join SLVLESA to realize these cost savings if they so choose; and
- e. Because of the key role SLVLESA will play in funding law enforcement services to the Metro Townships, the Municipality calls on the SLVLESA Board of Trustees to hire a general manager and/or legal counsel as soon as possible; and
- f. For the reasons stated above, the Council opposes any effort to withdraw or remove the County from SLVLESA or to dissolve SLVLESA; and
- g. To provide the Municipality with maximum flexibility in developing a long-term successor to the current UPD law enforcement model, the Council supports the development and passage of legislation that authorizes the Municipality and the other Metro Townships to fund law enforcement services in a manner that is similar to other municipalities, in addition to the SLVLESA funding model, and instructs the City Attorney, in consultation with the Mayor, to develop such legislation for the 2024 legislative session in collaboration with the other Metro Townships and their respective city attorneys; and
- h. Because of the key role that SVLESA will likely play in the provision of near-term and long-term law enforcement services to Municipality and the other members of SLVLESA, the Municipality's representative to SLVLESA is directed to: (1) to work

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with other members of the SLVLESA Board of Trustees to jointly request and participate in training from the Utah Association of Special Districts (“UASD”) on the operation of special districts generally and the specific laws and regulations that apply to SLVLESA specifically; and (2) if a joint training from the UASD is not possible, to request and participate in individual training from the UASD or the City Attorney on the operation of special districts generally and the specific laws and regulations that govern SLVLESA specifically.

4. Direction to Representatives of the Municipality:

- a. The Municipality’s representatives to the UPD Board of Trustees and the SLVLESA Board of Trustees are directed to vote in accordance with this Resolution; and
- b. In consultation with the Mayor and subject to the Mayor’s oversight and direction, all staff and agents of the Municipality are authorized and instructed to provide the City Attorney with any assistance the City Attorney may direct or otherwise require.

5. Dissemination and Coordination:

- a. If one or more of the other Metro Townships and the Town of Brighton adopt similar resolutions, the Mayor is authorized to execute and send the joint letter attached to this Resolution to the County Mayor, the Chair of UPD, and the Chair of SLVLESA; and
- b. The Mayor and the City Attorney are authorized to provide copies of this Resolution to UPD, SLVLESA, the respective members of those entities, and to the public as they deem necessary and prudent; and
- c. The Mayor and the City Attorney are authorized to develop and distribute any other joint communications or other strategies with the other UPD Members and members of SLVLESA as they deem necessary and prudent to implement this Resolution if such communications and strategies comply with this Resolution; and
- d. The Mayor and the City Attorney are authorized to work with the Municipality’s elected representatives and any other members of the Utah Legislature to develop and pass any legislation that may be needed to implement this Resolution.

6. Coordination with the Council: The Mayor and/or the City Attorney shall update the Council on the implementation of this Resolution at each regular Council meeting until further notice.

7. Effective Date: This Resolution will take effect immediately upon its adoption and execution.

¹ Effective February 27, 2023, all local districts in Utah were renamed “special districts” pursuant to H.B. 22 (“Local District Amendments”).

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2 As a special district, SLVLESA is separate and distinct from “special service districts,” which are governed by Title 17D of the Utah Code. Unlike a special district, a special service district is not fully independent and is ultimately under the control of the municipality or county that created it. Cf. Utah Code § 17D-1-603(1) (authorizing counties to adopt resolutions “approving...the dissolution of a special service district.”).

KEARNS METRO TOWNSHIP COUNCIL

By: /s/ KELLY F. BUSH
Mayor

ATTEST

/s/ LANNIE CHAPMAN
Clerk

Council Member Snow, seconded by Council Member Butterfield, moved to approve Resolution No. 2023-04-02, allowing for any non-substantive edits in the next few days. The motion passed unanimously.



Other Business

Ranked Choice Voting Resolution

Council Member Snow, seconded by Council Member Butterfield, moved to approve the following Resolution No. 2023-04-03, authorizing the use of ranked-choice voting for the 2023 Kearns Metro Township municipal election.

KEARNS METRO TOWNSHIP COUNCIL

RESOLUTION NO. 2023-04-03

DATE: April 10, 2023

A RESOLUTION AUTHORIZING THE USE OF RANKED CHOICE VOTING FOR
THE 2023 KEARNS METRO TOWNSHIP MUNICIPAL ELECTION

WHEREAS, the Utah Legislature passed House Bills 35 and 75 during the 2018 and 2021 General Sessions to allow municipalities to conduct nonpartisan races using ranked choice voting in accordance with the requirements of 20A-4-602 of the Utah Code and all other applicable provisions of law, during any odd-numbered year that the program is in effect; and

WHEREAS, the Kearns Metro Township Council, on or before May 1, 2023, must provide written notice to the Lieutenant Governor and Salt Lake County Clerk stating that the Kearns Metro Township (“Kearns”) intends to participate in the program for the year specified in the notice; and

WHEREAS, the Kearns Council finds that it would be in the best interest of Kearns and of its citizens to hold its 2023 municipal elections by ranked choice voting.

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NOW, THEREFORE, BE IT RESOLVED by the Kearns Metro Township Council effective immediately:

1. Kearns adopts ranked choice voting for the 2023 municipal elections, and that by this resolution, gives notice to the Lieutenant Governor and to the Salt Lake County Clerk to use of ranked choice voting for its 2023 municipal elections; and be it further; and
2. The Mayor is hereby authorized and directed to do all things necessary to cause the 2023 Kearns municipal elections to be held in accordance with the ranked choice voting process.

PASSED AND APPROVED by the Kearns Metro Township Council in Kearns, Salt Lake County this 10th day of April, 2023.

KEARNS METRO TOWNSHIP COUNCIL

By: /s/ KELLY F. BUSH
Mayor

ATTEST

/s/ LANNIE CHAPMAN
Clerk

Minutes

Council Member Butterfield, seconded by Council Member Peterson, moved to approve the minutes of the Kearns Metro Township Council meeting held on March 13, 2023. The motion passed unanimously.

Future Agenda Business

Nothing to report.

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THERE BEING NO FURTHER BUSINESS to come before the Council at this time, the meeting was adjourned.

LANNIE CHAPMAN
METRO TOWNSHIP CLERK

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By _____
Deputy Clerk

CHAIR, KEARNS METRO TOWNSHIP

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