RIVERTON CITY
REGULAR CITY COUNCIL MEETING
AGENDA

August 5, 2014

Notice is hereby given that the Riverton City Council will hold a **Regular City Council Meeting** beginning at **6:30 p.m.** on **August 5, 2014** at Riverton City Hall, located at 12830 South 1700 West, Riverton, Utah.

1. GENERAL BUSINESS

1. Call to Order and Roll Call
2. Pledge of Allegiance
3. Presentations/Reports
   1. Recognition of Boy Scouts
4. Public Comments

2. PUBLIC HEARINGS – *There are no Public Hearings scheduled*

3. DISCUSSION/ACTION ITEMS

1. Multi-Family Site Plan, Riverton Peaks, 12700 South Redwood Road, RM-14-D Zone, 88 Units, 6.4 Acres (Approx), Newman Construction, Applicant – *Jason Lethbridge, Planning Manager*

2. Discussion of Incorporation of unused City Property on the North West side of the Water Department High Tank – *Scott Hill, Water Director*

3. Discussion – Ordinance Amendment to allow Residential Chicken Raising - *Jason Lethbridge, Planning Manager*

4. CONSENT AGENDA

1. **Minutes**: RCCM 07-15-14
2. **Bond Releases**: N/A
3. **Resolution No. 14-46** – Ratifying the approval of Change Order #6 given to Peck Ormsby Construction allowing them to continue working on the Police Precinct Project
4. **Resolution No. 14-47** - Authorizing the execution of a Settlement Agreement between Riverton City, Wadsworth Brothers Construction Company, Inc., and Utah Department of Transportation for work associated with 13400 South street from 4000 West to the Mountain View Corridor identified under Federal Aid Project No. F-LC35(199) – *Trace Robinson, Public Works Director*

5. STAFF REPORTS

1. Lance Blackwood, City Manager
2. Safety Training – *Ryan Carter, City Attorney*

6. ELECTED OFFICIAL REPORTS

1. Mayor Bill Applegarth
2. Council Member Brent Johnson
3. Council Member Trent Staggs
4. Council Member Sheldon Stewart

5. Council Member Tricia Tingey
6. Council Member Paul Wayman

7. UPCOMING MEETINGS

1. August 19, 2014 – Regular City Council Meeting – 6:30 p.m.
2. August 26, 2014 - Work Session – 6:30 p.m.
3. September 2, 2014 – Regular City Council Meeting – 6:30 p.m.

8. ADJOURN

Dated this 1st day of August 2014

Virginia Loader, MMC
Recorder

Public Comment Procedure

At each Regular City Council Meeting any person wishing to comment on any item not otherwise on the Agenda may address the Governing Body during the Public Comment period. The comment period is limited to 30 minutes. Any person wishing to comment shall limit their comments to no more than three (3) minutes, unless additional time is authorized by the Mayor. Citizen groups will be asked to appoint a spokesperson, who shall limit their comments to no more than five (5) minutes. All comments shall be directed to the Mayor and City Council. No person addressing the Governing Body during the comment period shall be allowed to comment more than once during that comment period. Speakers should not expect any debate or dialogue with the Mayor, City Council or City Staff during the meeting.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify the City Recorder's Office at 801-208-3126, at least 24 hours prior to the meeting. Accessible parking and entrance are located on the south end of the building with elevator access to the City Council Chambers located on the second floor.

Certificate of Posting

I, Virginia Loader, the duly appointed and acting Recorder for Riverton City certify that, at least 24 hours prior to such meeting, the foregoing City Council Agenda was emailed to the Salt Lake Tribune, Deseret News and the South Valley Journal. A copy of the Agenda was also posted in the City Hall Lobby, on the City's Website at www.rivertoncity.com, and on the Utah Public Meeting Notice Website at http://pmn.utah.gov.

Dated this 1st day of August 2014

Virginia Loader, MMC
Recorder

Item No. 3.1

Issue Paper

Presenter/Submitted By:	Jason Lethbridge, Planning Manager

Subject: **<u>MULTI-FAMILY SITE PLAN,</u> RIVERTON PEAKS, 12700 SOUTH REDWOOD ROAD, RM-14-D ZONE, 88 UNITS, 6.4 ACRES (APPROX), NEWMAN CONSTRUCTION, APPLICANT**	**Meeting Date:** August 5, 2014 **Fiscal Impact:** N/A **Funding Source:** N/A

Background:

This application is for Site Plan approval for the Riverton Peaks multifamily project. The project consists of 88 units on approximately 6.4 acres located at 12700 South Redwood Road. The property is zoned RM-14-D, a multifamily zone with a maximum density of fourteen (14) units per acre. The surrounding property to the north, Commercial Downtown, and the property to the south is zoned RM-14-D, but is currently occupied by the Riverton Hardware Store. The properties to the west across Redwood Road is a mix of RM-8-D and Commercial Downtown, and the property to the east across 1630 West is zoned RR-22. The only property line shared directly with an incompatible use is the south line adjacent to the Riverton Hardware property.

The units are predominantly townhome style, with a mix of row-style units and units clustered around a common courtyard. The site includes 12 detached units, primarily located facing onto 1630 West, to create a street presence more consistent with the single-family developments on the east side of 1630 West. The detached units will be part of the overall development and the yard areas will be included in the open space maintained by the HOA. The unit architecture will consist of a mix of masonry, stucco, and fiber-cement siding material, as shown in the included images. As shown on the attached plans, the project will include a combination of sidewalks and internal walkways to allow for pedestrian movement through the project and along the adjacent roadways. The units all include an attached garage. However, the garages will all be rear access, meaning the internal driveways along the rear of the units will provide common access to each garage. All internal roadways will be private, and no unit will directly access any public street.

Recommendation:

On June 31, 2014, the Planning Commission voted to recommend APPROVAL of this application.

Recommended Motion:

“I move the City Council APPROVE the Riverton Peaks development, a multi-family site plan, to be located at 12700 South Redwood Road with the conditions outlined in the Staff Report.”

RIVERTON CITY
MEMORANDUM

TO: **Honorable Mayor and City Council**

FROM: **Planning Department**

DATE: **August 5, 2014**

SUBJECT: **MULTI-FAMILY SITE PLAN, RIVERTON PEAKS, 12700 SOUTH REDWOOD ROAD, RM-14-D ZONE, 88 UNITS, 6.4 ACRES (APPROX), NEWMAN CONSTRUCTION, APPLICANT**

On July 31, 2014, the Planning Commission voted to APPROVE this multi-family site plan. A record of motion and comments are included below. The Planning Commission specifically added condition #7 below, regarding the number of parking stalls. The Planning Commission recommended the following motion;

I move the City Council APPROVE the Riverton Peaks development, a multi-family site plan, to be located at 12700 South Redwood Road with the following conditions

1. Solid masonry fencing be installed along the south property lines at a minimum eight (8) feet in height.
2. Building architecture comply with approved architectural drawings as well as the architectural requirements found in the RM-14-D zoning ordinance, including the requirement for twenty-five (25) percent of the exterior to be brick or stone.
3. Road and right-of-way improvements to Redwood Road comply with the standards and requirements of the Utah Department of Transportation and all UDOT permits required for that road shall be secured prior to construction.
4. Landscaping within the project boundaries comply with the approved landscaping plan, and be wholly maintained by the Home Owners Association or property owners.
5. The site and associated infrastructure shall comply with the requirements and standards of the Riverton City Engineering Department, and no construction shall commence until final technical approval has been granted based on required submittals.
6. The site and structures comply with any and all applicable Riverton City standards and ordinances, including the International Building and Fire Codes.
7. *Increase the number of parking stalls by 50%.*

BACKGROUND:

This application is for Site Plan approval for the Riverton Peaks multifamily project.. The project consists of 88 units on approximately 6.4 acres located at 12700 South Redwood Road. The property is zoned RM-14-D, a multifamily zone with a maximum density of fourteen (14) units per acre. The surrounding property to the north, Commercial Downtown, and the property to the south is zoned RM-14-D, but is currently occupied by the Riverton Hardware Store. The properties to the west across Redwood Road is a mix of RM-8-D and Commercial Downtown, and the property to the east across 1630 West is zoned RR-22. The only property line shared directly with an incompatible use is the south line adjacent to the Riverton Hardware property.

The units are predominantly townhome style, with a mix of row-style units and units clustered around a common courtyard. The site includes 12 detached units, primarily located facing onto 1630 West, to create a street presence more consistent with the single-family developments on the east side of 1630 West. The detached units will be part of the overall development and the yard areas will be included in the open space maintained by the HOA. The unit architecture will consist of a mix of masonry, stucco,

and fiber-cement siding material, as shown in the included images. As shown on the attached plans, the project will include a combination of sidewalks and internal walkways to allow for pedestrian movement through the project and along the adjacent roadways. The units all include an attached garage. However, the garages will all be rear access, meaning the internal driveways along the rear of the units will provide common access to each garage. All internal roadways will be private, and no unit will directly access any public street. The rear access garages are a type of development that is new to Riverton City, but has been utilized extensively throughout Salt Lake County. It allows for a street front that is more presentable for this type of unit because the garage is to the rear of each unit. Several amendments to the RM-14-D ordinance were made to accommodate this design relative to building setbacks, and the proposed layout does comply with those requirements. The Fire Department has reviewed the internal layout and road dimensions for this project, and has approved the site plan. Access to the site will be from Redwood Road at the existing access point directly south of the Walgreens, and at two points on 1630 West.

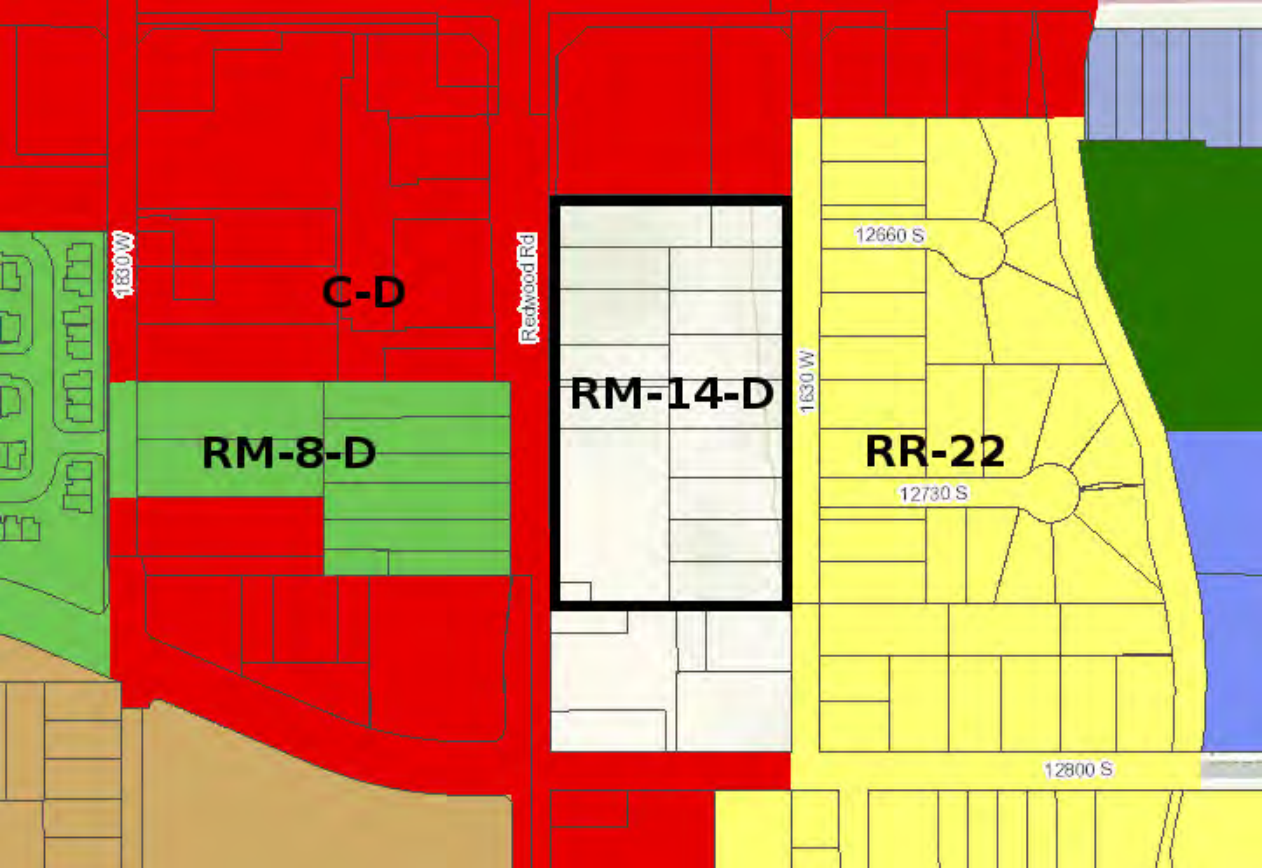
The submitted architectural drawings show both the building forms and the proposed materials. It should be noted that the RM-14-D zone requires a minimum of twenty-five (25) percent of the building exterior to be brick or stone. Several of the building elevations as submitted may not explicitly meet this requirement, but they are intended to show the general building look and architectural theme, and are still governed by the requirements of the ordinance. Condition #2 above reiterates the building materials requirement for zone, and the applicant is aware of the requirement.

The project will have a good mix of unit types, with the larger clusters of townhome style units adjacent to Redwood Road and the Riverton Hardware property, transitioning to the detached units along 1630 West. Fencing along that south property line shall be a solid masonry fence at a minimum of eight (8) feet in height. This is included in the submitted plan. The project has been reviewed by City Departments and is being forwarded to the Commission and Council for action.

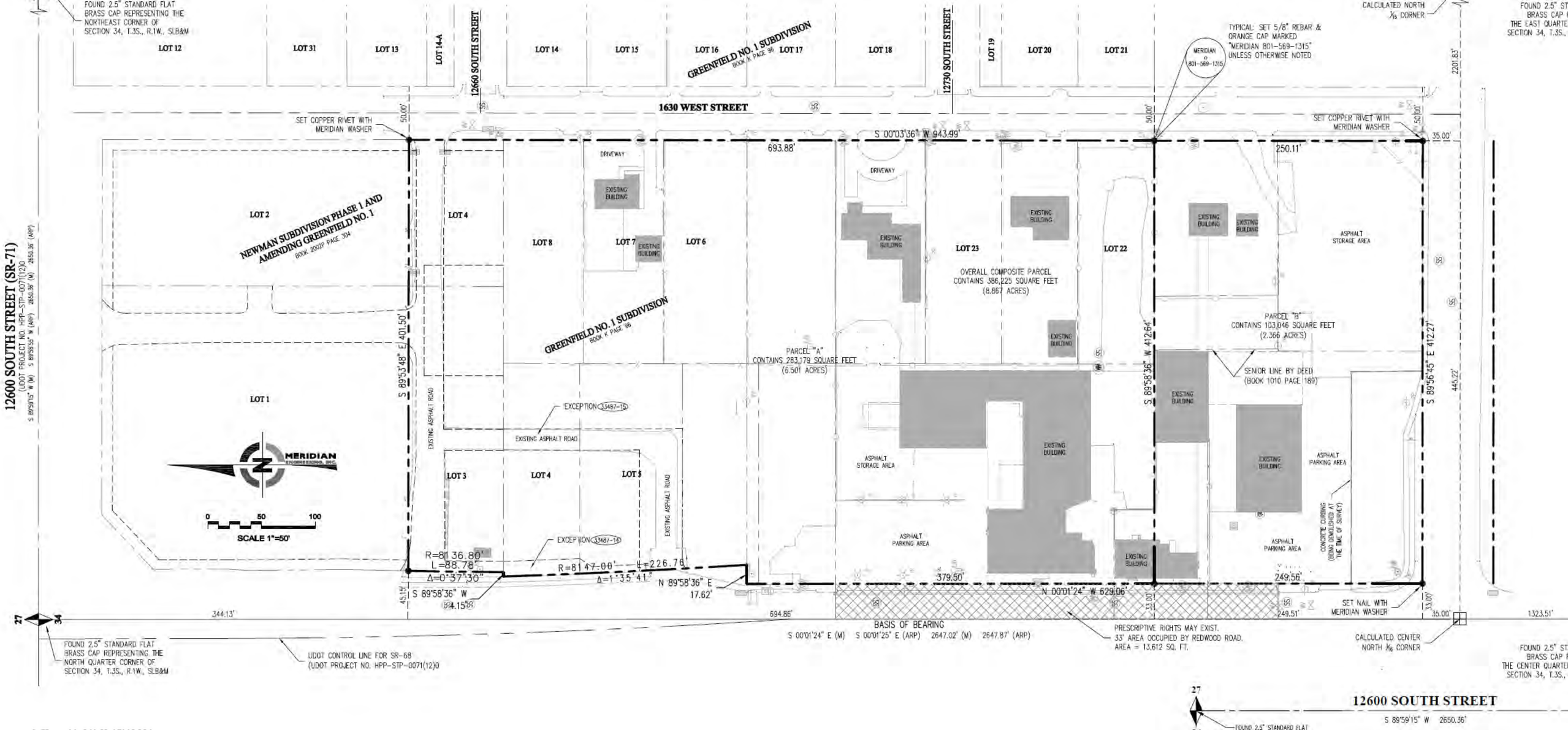
ATTACHMENTS:

The following items are attached for your review:

1. An copy of the Zoning and Aerial Views.
2. Site Plan materials.


1830 W
C-D
Redwood Rd
RM-14-D
1630 W
12660 S
RR-22
RM-8-D
12730 S
12800 S

W 12660 S
S 1630 W
W 12730 S
S 1700 W
68
W 12800 S


FOUND 2.5" STANDARD FLAT BRASS CAP REPRESENTING THE NORTHEAST CORNER OF SECTION 34, T.3S., R.1W., SLB&M
LOT 12
LOT 31
LOT 13
LOT 14-A
12660 SOUTH STREET
LOT 14
LOT 15
LOT 16
GREENFIELD NO. 1 SUBDIVISION
BOOK K PAGE 96
LOT 17
LOT 18
12730 SOUTH STREET
LOT 19
LOT 20
LOT 21
TYPICAL: SET 5/8" REBAR & ORANGE CAP MARKED "MERIDIAN 801-569-1315" UNLESS OTHERWISE NOTED
MERIDIAN 801-569-1315
CALCULATED NORTH 1/16 CORNER
FOUND 2.5" BRASS CAP THE EAST QUARTE SECTION 34, T.3S.
1630 WEST STREET
SET COPPER RIVET WITH MERIDIAN WASHER
50.00'
S 00°03'36" W 943.99'
693.88'
250.11'
35.00'
2201.83'
12600 SOUTH STREET (SR-71)
(UDOT PROJECT NO. HPP-STP-0071(12)0
S 89°59'15" W (M) S 89°58'56" W (ARP) 2650.36' (M) 2650.36' (ARP)
LOT 2
NEWMAN SUBDIVISION PHASE 1 AND AMENDING GREENFIELD NO. 1
BOOK 2002P PAGE 304
LOT 4
LOT 8
LOT 7
LOT 6
DRIVEWAY
EXISTING BUILDING
LOT 23
OVERALL COMPOSITE PARCEL CONTAINS 386,225 SQUARE FEET (8.867 ACRES)
LOT 22
ASPHALT STORAGE AREA
PARCEL "B" CONTAINS 103,046 SQUARE FEET (2.366 ACRES)
SENIOR LINE BY DEED (BOOK 1010 PAGE 189)
S 89°53'48" E 401.50'
S 89°58'36" W 412.64'
S 89°56'45" E 412.27'
445.22'
PARCEL "A" CONTAINS 283,179 SQUARE FEET (6.501 ACRES)
LOT 1
MERIDIAN ENGINEERING, INC.
0 50 100
SCALE 1"=50'
EXCEPTION (3487-15)
EXISTING ASPHALT ROAD
LOT 3
LOT 4
LOT 5
ASPHALT PARKING AREA
CONCRETE CURBING (BEING DEMOLISHED AT THE TIME OF SURVEY)
EXCEPTION (3487-14)
R=8136.80'
L=88.78'
Δ=0°37'30"
R=8147.00'
L=226.76'
Δ=1°35'41"
S 89°58'36" W 84.15'
N 89°58'36" E 17.62'
379.50'
249.56'
N 00°01'24" W 629.06'
33.00'
SET NAIL WITH MERIDIAN WASHER
35.00'
1323.51'
27
34
344.13'
694.86'
BASIS OF BEARING
S 00°01'24" E (M) S 00°01'25" E (ARP) 2647.02' (M) 2647.87' (ARP)
PRESCRIPTIVE RIGHTS MAY EXIST. 33' AREA OCCUPIED BY REDWOOD ROAD. AREA = 13,612 SQ. FT.
CALCULATED CENTER NORTH 1/16 CORNER
FOUND 2.5" ST BRASS CAP F THE CENTER QUARTE SECTION 34, T.3S.,
FOUND 2.5" STANDARD FLAT BRASS CAP REPRESENTING THE NORTH QUARTER CORNER OF SECTION 34, T.3S., R.1W., SLB&M
UDOT CONTROL LINE FOR SR-68 (UDOT PROJECT NO. HPP-STP-0071(12)0
12600 SOUTH STREET
S 89°59'15" W 2650.36'
FOUND 2.5" STANDARD FLAT

1280 0 SOUTH

SITE SUMMARY

ACRES	6.3*
UNITS/ACRE	13.96*
DETACHED HOMES	12
TOWNHOMES	34
COURTYARD	42
TOTAL DWELLING U.	88
OPEN SPACE	1.92 ARCES 30.6% OF SITE
PARKING	28 GUEST STALLS 164 GARAGE STALLS 192 TOTAL STALLS 2.1 STALLS/UNIT

SITE NOTES

1. COMMUNITY PAVILION, PLAYGROUND AND BBQ AREAS
2. DETACHED HOMES ON 1630 WEST ACROSS FROM EXISTING SINGLE FAMILY HOMES
3. SITE STORM WATER DETENTION AREA
4. COURTYARD PATIO AREAS WITH BBQ AND WATER FEATURES
5. PARALLEL PARKING PULL OUT AREAS

PROPOSED SITE PLAN

RIVERTON RDA SITE PLAN

Riverton, Utah

Think Architecture

SITE PLAN CONCEPT

2014.06.24

COLORS ARE REPRESENTATIONAL ONLY. FINAL COLORS MAY VARY FROM ABOVE REPRESENTATION

1630 WEST

REDWOOD ROAD

SITE SUMMARY

	25'	Tree
	20'	Tree
	16'	Tree
	12'	Tree
	8'	Tree
	5 Gal	Shrub
	3 Gal	Shrub
	3 Gal	Shrub
	Grass	
	Multch	

LANDSCAPE PLAN

RIVERTON RDA SITE PLAN

Riverton, Utah

Think Architecture

2014.06.24

COLORS ARE REPRESENTATIONAL ONLY. FINAL COLORS MAY VARY FROM ABOVE REPRESENTATION

Brick
Mountain Red
Interstate Brick

Trim
White
Benjamin Moore

6" Lap Siding
Coventry Gray
Benjamin Moore
HC-169

Asphalt Shingle Roof
Charcoal
GAF
25 Year 3 Tab

Standing Seam Roof
Grey
Standing Seam

TOWNHOME MATERIALS

Think Architecture

RIVERTON RDA SITE PLAN

Riverton, Utah

2014.07.17

COLORS ARE REPRESENTATIONAL ONLY. FINAL COLORS MAY VARY FROM ABOVE REPRESENTATION

TOWNHOME ELEVATIONS

Think Architecture

RIVERTON RDA SITE PLAN

Riverton, Utah

2014.07.17

COLORS ARE REPRESENTATIONAL ONLY. FINAL COLORS MAY VARY FROM ABOVE REPRESENTATION

Brick
Mountain Red
Interstate Brick

Trim
White
Benjamin Moore

6" Lap Siding
Kendall Charcoal
Benjamin Moore
HC-166

6" Lap Siding
White
Benjamin Moore

Asphalt Shingle Roof
Charcoal
GAF
25 Year 3 Tab

Standing Seam Roof
Grey
Standing Seam

COURTYARD MATERIALS

RIVERTON RDA SITE PLAN

Riverton, Utah

Think Architecture

2014.07.17

COLORS ARE REPRESENTATIONAL ONLY. FINAL COLORS MAY VARY FROM ABOVE REPRESENTATION

COURTYARD ELEVATIONS

Think
Architecture

RIVERTON RDA SITE PLAN

Riverton, Utah

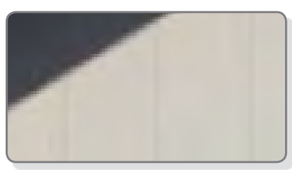
2014.07.17

COLORS ARE REPRESENTATIONAL ONLY. FINAL COLORS MAY VARY FROM ABOVE REPRESENTATION

Brick
Mountain Red
Interstate Brick

Trim
White
Benjamin Moore

6" Lap Siding
Amherst Gray
Benjamin Moore
HC-167



6" Lap Siding
Clarksville Gray
Benjamin Moore
HC-102

Asphalt Shingle Roof
Charcoal
GAF
25 Year 3 Tab

Standing Seam Roof
Grey
Standing Seam

DETACHED MATERIALS

RIVERTON RDA SITE PLAN

Riverton, Utah

Think Architecture

2014.07.17

COLORS ARE REPRESENTATIONAL ONLY. FINAL COLORS MAY VARY FROM ABOVE REPRESENTATION

DETACHED ELEVATIONS

RIVERTON RDA SITE PLAN

Riverton, Utah

Think Architecture

2014.07.17

COLORS ARE REPRESENTATIONAL ONLY. FINAL COLORS MAY VARY FROM ABOVE REPRESENTATION

Planning Commission Record of Motion

Meeting Date: July 31, 2014

Item: Riverton Peaks Multi-Family Site Plan Agenda Item# 1B

	Brian Russell	Dennis Hansen	Kent Hartley	Cade Bryant	James Endrizzi	Scott Kochevar	James Webb
Motion		✓					
Second			✓				

Motion(s): Motion # 1 (if multiple motions)

I move that the Planning Commission APPROVE the Riverton Peaks development, a multi-family site plan, to be located at 12700 South Redwood Road with the following conditions

1. Solid masonry fencing be installed along the south property lines at a minimum eight (8) feet in height.
2. Building architecture comply with approved architectural drawings as well as the architectural requirements found in the RM-14-D zoning ordinance, including the requirement for twenty-five (25) percent of the exterior to be brick or stone.
3. Road and right-of-way improvements to Redwood Road comply with the standards and requirements of the Utah Department of Transportation and all UDOT permits required for that road shall be secured prior to construction.
4. Landscaping within the project boundaries comply with the approved landscaping plan, and be wholly maintained by the Home Owners Association or property owners.
5. The site and associated infrastructure shall comply with the requirements and standards of the Riverton City Engineering Department, and no construction shall commence until final technical approval has been granted based on required submittals.
6. The site and structures comply with any and all applicable Riverton City standards and ordinances, including the International Building and Fire Codes.
7. increase by 50% the number of visitor parking stalls

VOTE:

	Brian Russell	Dennis Hansen	Kent Hartley	Cade Bryant	James Endrizzi	Scott Kochevar	James Webb
AYE	✓	✓	✓		✓	✓	✓
NAY							
ABSTAIN							

☒ PASS

○ FAIL

Item No. 3.2

Issue Paper

Presenter/Submitted By:	Scott Hill, Water Director

Subject: Discuss Incorporation of unused City Property on the North West side of the Water Department High Tank.	**Meeting Date:** August 5, 2014 **Fiscal Impact:** N/A **Funding Source:** N/A

Background:

Currently Riverton City has some unused land on the North West side of the City's High Tank, which is located at the intersection of Murdock Peak Drive and Rosecrest Road, Herriman, Utah. Herriman City is building a park in the surrounding area and would like to landscape this unused property along with their park. Herriman City has suggested that Riverton City's property will be used for a splash pad, open green space, a pavilion and some parking (see attached exhibit). Herriman City will build, landscape, and maintain the unused land. Currently the land has no landscaping and is covered by sagebrush and weeds.

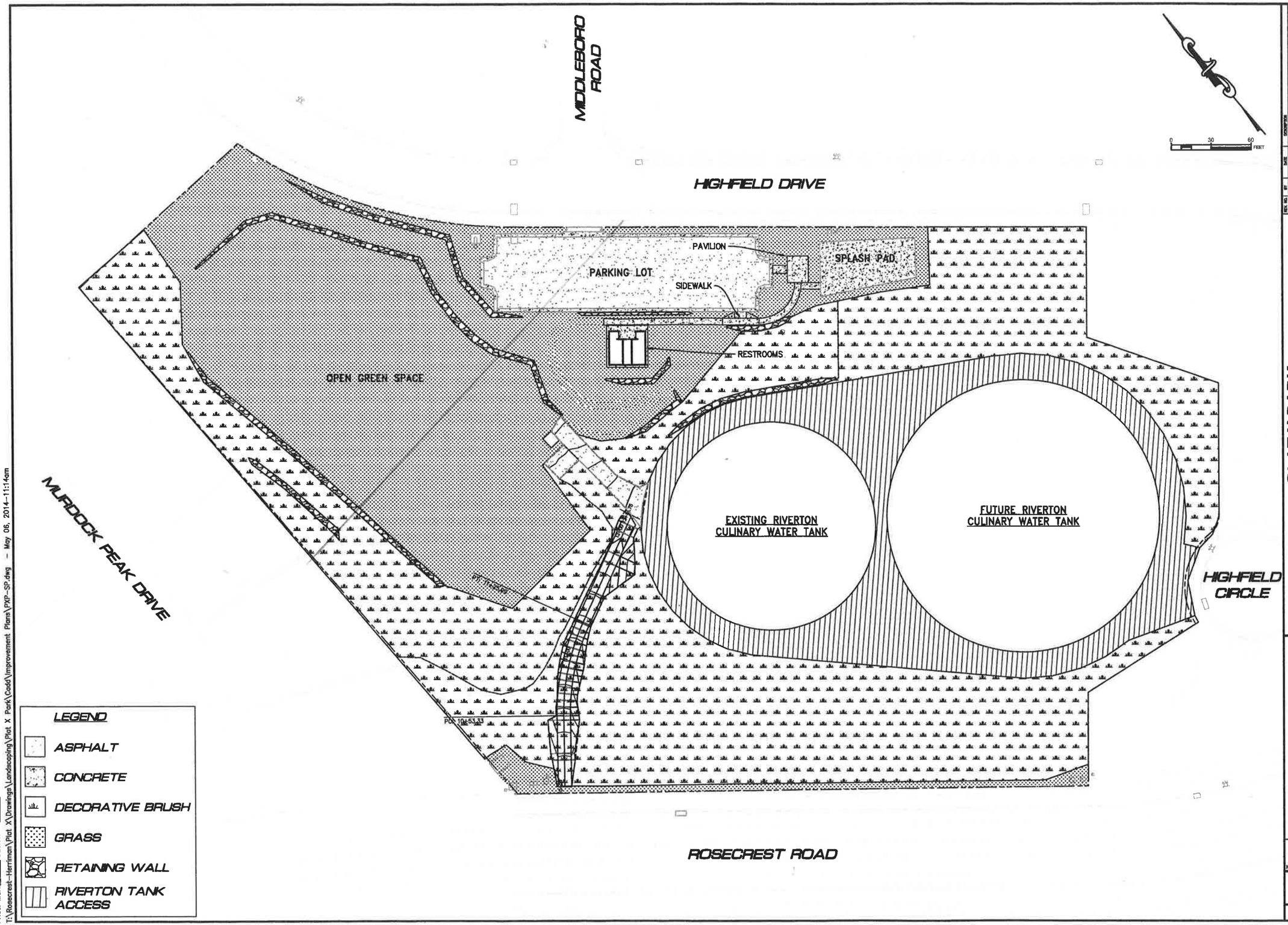
City staff does not recommend transferring ownership of Riverton City property to Herriman to facilitate this development, and Herriman does not appear interested in acquiring Riverton City's property at this time. However, some sort of negotiation will need to take place to establish which entity will be responsible for maintenance of the property, which entity will be responsible for 3rd party liability; and the duration of time any sort of agreement between the parties will remain in effect.

Recommendation:

Staff requests permission to negotiate with Herriman to establish the essential terms whereby Herriman City may landscape and use Riverton City Property on the North West side of the Water Department High Tank.

Recommended Motion:

No motion necessary for permission to proceed. Any final agreement will be returned to the Council at a later date, with the understanding that Council will be at liberty to reject the agreement when approval is sought.



PROJ. MGR.: PROJ. MGR.
DESIGNER: DESIGNER
T:\Rosecrest-Herriman\Plat X\Drawings\Landscaping\Plat X Park\Cadd\Improvement Plans\PXP-SP.dwg – May 06, 2014-11:14am

REV. NO.	BY	DATE	DESCRIPTION

CAUTION
The engineer preparing these plans will not be responsible for, or liable for, unauthorized changes to or uses of these plans. All changes or additions to these plans must be in writing and must be approved by the preparer of these plans.

PLAT X PARK
GENERAL LANDSCAPING PLAN

PREPARED FOR: ROSECREST COMMUNITIES, LLC

DATE:

DATE

ROSECREST

SHEET
SP-2
NUMBER 4 OF 50

SCALE
HORIZONTAL: 1"=30'
VERTICAL: 1"=30'

JOB NUMBER
47-

Item No. 3.3

Issue Paper

Presenter/Submitted By:	Jason Lethbridge, Planning Manager

Subject: **<u>DISCUSSION</u>, ORDINANCE AMENDMENT TO ALLOW RESIDENTIAL CHICKEN RAISING**	**Meeting Date:** August 5, 2014 **Fiscal Impact:** N/A **Funding Source:** N/A

Background:

Current zoning for properties that do not have animal rights only permit up to two "household pets" which also includes chickens. Several residents that live in residential areas without animal rights have expressed interest in allowing more than two chickens on their property for the purpose of food production.

This was last considered by the Council on April 6, 2010. At that time, Staff commented on recent developments from other cities in Utah and SL counties in relation to their chicken ordinances. The council voted unanimously at that time to postpone any ordinance regarding the keeping of chickens in residential areas.

Recent developments in South Jordan and surrounding cities have allowed for up to 6 chickens (no roosters) in permitted residential zones with at least 10,000 square feet. The Council would like to discuss with staff the implications of implementing a similar ordinance and to also review the coop size and set back requirements, care and maintenance guidelines and other rules pertaining to permits, fees, inspections and potential revocation. It is proposed that South Jordan's Residential Chicken Ordinance, Chapter 17.130, be used as a working guide.

Recommendation:

This item is for discussion only.

Proposed Motion

No motion is required at this time.

South Jordan City

Residential Chicken Ordinance

CHAPTER 17.130

OVERLAY AND FLOATING ZONES

SECTION:

17.130.010: Definition and Purpose
17.130.020: Residential Chickens Floating Zone
17.130.020.005: Standards For Residential Chickens
17.130.020.010: Plot Plan, Permits, Fees, Inspections and Potential Revocation
17.130.020.015: Transferability

17.130.010: DEFINITION AND PURPOSE: An overlay zone represents a geographical area or district where additional standards, conditions, and/or uses are superimposed upon the underlying zones within that area or district. A floating zone may allow for additional uses within specific zones. It is not geographically located, but may be applied upon approval of specified standards and conditions having been met. The purpose of overlay zones and floating zones is to provide a zoning tool for the accomplishment of community goals and policies in the pursuit of the public health, safety, and welfare in ways not available through typical zoning.

17.130.020: RESIDENTIAL CHICKENS FLOATING ZONE: The Residential Chickens Floating Zone is established to provide regulations and standards for the raising of chickens and egg production in certain residential zones in the City. The floating zone is intended to encourage sustainable local and family food production, while establishing regulations that control the appropriateness of chickens in a semi-rural environment as needed to protect the health, safety, and welfare of the community. Except for standards herein allowed under the 'Residential Chickens Floating Zone,' land use and development standards shall meet the requirements of the underlying zone.

17.130.020.005: STANDARDS FOR RESIDENTIAL CHICKENS: The Community Development Department may approve requests for the raising of residential chickens and egg production for family food production based upon the following standards being met:

A. Residential Land Use Requirement. The raising of chickens in residentially zoned areas is permitted, subject to the regulations established herein, for minimum 10,000 square foot residential lots within single family Residential "R" Zones, including lots located in PUD subdivisions. Standards for raising chickens on agriculturally zoned properties are regulated based upon animal requirements as set forth under the A-1 and A-5 Zones.

B. Number and Type of Chickens Allowed. Up to six (6) chickens per residential lot may be kept for the purpose of family food production. The keeping of roosters in residential zones is expressly prohibited. Roosters, as part of pullet stock, may be kept temporarily until such stock is four (4) months old.

C. Coop Size and Location. The size, height, and location of chicken coops shall be adequate to house the number of chickens on the property and shall meet the requirements for accessory buildings in the underlying zone, including setbacks and rear lot coverage. In addition to said requirements, chicken coops (or the portion of a larger accessory structure used for the raising of chickens) shall be located at least ten (10) feet from the on-site dwelling, five (5) feet from the

property line of an adjoining neighbor, and forty (40) feet from a dwelling on an adjoining property.

D. Chicken Care and Maintenance Guidelines. The raising of residential chickens and egg production shall be done in such a way that the use is clearly subordinate to the residential character of the property with no significant impacts or nuisances being created for the residential neighborhood in general and adjoining property owners in particular.

1. Education and Awareness. Residents interested in residential chickens and egg production are strongly encouraged to educate themselves as to appropriate chicken raising methods, Salt Lake County Board of Health requirements, and City ordinances before purchasing chickens and equipment, constructing facilities, and obtaining applicable City permits. Residents are also encouraged to discuss their family food production plans with adjoining neighbors. Regardless of approvals by the City, the keeping of residential chickens may be further restricted civilly by homeowners associations and recorded restrictive covenants.

2. Slaughtering. The slaughtering or processing of chickens outdoors for food production is expressly prohibited in residential zones.

3. Feed Containers. The storage and accessibility of chicken feed shall be so handled to discourage rodents, other vermin, and predators.

4. Nuisance. Property owners will ensure that the raising of residential chickens and egg production is properly conducted and monitored to not create impacts to neighbors. Approval to raise residential chickens shall include the construction and maintenance of adequate and comely coops, pens, enclosures, and property fencing that will confine chickens to the property and that do not adversely affect neighborhood property values. The maintenance and cleanliness of facilities and equipment shall be the on-going responsibility of the property owner. If and when nuisance issues arise, property owners will work with neighbors, and City staff as necessary, to amicably resolve concerns. Complaints shall be considered prima facie nuisances with the burden upon property owners to resolve the same.

17.130.020.010: PLOT PLAN, PERMITS, FEES, INSPECTIONS, AND POTENTIAL REVOCATION: A one-time Residential Chicken Permit and fee (as established by the City Council) shall be required for the keeping of residential chickens in approved residential zones. In order to determine compliance with the requirements herein, two copies of a plot plan shall be submitted to the Community Development Department, drawn to scale, clearly showing the location of all existing and proposed structures, coops, pens, enclosures, and property fencing as may be needed depending on the proposed type of residential chicken set-up. The plot plan shall also show building structures on adjoining residential lots. Distances to on-site and off-site structures as well as property lines shall be indicated to facilitate review and compliance.

Before any required building permits may be issued, appropriate building construction plans shall be submitted to the City for review and compliance with building codes, along with any applicable building permit fees. Periodic property inspections may be necessary to determine compliance with residential chicken standards, as may be

deemed appropriate by City staff. Residential chicken permits may be revoked for non-compliance with the standards stated herein.

17.130.020.015: TRANSFERABILITY: Residential chickens and egg production in residential zones is not transferable. Upon sale of the home or the change of primary occupant, the approval for residential chickens shall expire, unless otherwise renewed by the new owner or tenant. A renewed application and permit shall be required if previously approved residential chickens and egg production is discontinued for more than one (1) year by the property occupant.

Riverton City
REGULAR CITY COUNCIL MEETING
Minutes
July 15, 2014

Riverton City Hall
12830 South 1700 West
Riverton, Utah 84065

Attendance:

Mayor William R. Applegarth

Council Members:
Council Member Brent Johnson
Council Member Trent Staggs
Council Member Sheldon Stewart
Council Member Paul Wayman

City Staff:
Lance Blackwood, City Manager
Virginia Loader, Recorder
Ryan Carter, City Attorney
Jeff Hawker, Asst. City Manager
Andrew Aagard, Planner
Sheril Garn, Parks & Recreation Director
Lisa Dudley, Finance Director
Trace Robinson, Public Works Director

Citizens: Michael S. Johnson, Wyoma Darlington, Norma Bench, Jody Burnette, Dustin Matsumori, Patricia Tingey, Jason Best, Terry and Lori Clawson, Fred Law, BJ and Carolyn Mendenhall, Matthew Robison, Tish Buroker, Lynn Rasmussen, Bruce R. Baird, Duane and Valerie Bills, Jennifer Springer, Kelli Olsen, Betsy Mikesell, Dave Curtis, Lowell & LuVera Vawdrey, Nicole Springer, Jason Harder, Steve & Colleen Passey, Tish Buroker, Jessica Knab, Gary Holland Brady Jones

Due to technical difficulties with the recording system, the meeting was not recorded until Page 6 of the written minutes; the portable recorder was then used until the meeting was adjourned.

1. GENERAL BUSINESS

Call to Order and Roll Call

Mayor Applegarth called the meeting to order at 6:30 p.m. and welcomed those in attendance. He then conducted a Roll Call and Council Members Johnson, Staggs, Stewart, and Wayman were present.

Pledge of Allegiance – **Sheril Garn directed the Pledge of Allegiance.**

Presentations/Reports

Recognition of Boy Scout Troops

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Mayor Applegarth recognized a Boy Scout from Troop 320 that was in attendance.

Introduction of Newly Hired Employees

City Manager Lance Blackwood introduced the following newly hired employees: Dan Woodbury, Water Resource Manager; Marty Sheidi, Master Gardener/Arborist; and Angela Trammell, Communications Manager.

Tree Removal around City Hall property

Sheril Garn, Parks and Recreation Director, explained that within the past two weeks some large branches had broken and fallen from some of the trees that are behind City Hall along 1830 West. She said the City was concerned for public safety in that area because the branches came down when there was no wind; and, upon closer examination, staff found that the branches were hollow. A request for quotation for the removal of the trees was issued and the apparent low quotation was from Diamond Tree Experts, Inc. Ms. Garn said it was staff's recommendation to enter into a contract with Diamond Tree Experts, Inc. to remove 32 trees behind City Hall along 1830 West.

Tree Dr. Mark Broadway presented information regarding the trees that grow along 1830 West behind City Hall and explained pictures of trees that are rotting and have become very hazardous He submitted the Tree Hazard Evaluation Summary to the Council Members:

> "After assessing the line of mature Siberian Elm trees, west of the Riverton City complex, I find the trees to be in moderate to poor health, structurally unsound and episodic from improver pruning, and heavy construction impact. The Windward edge structure has relatively high density flow characteristics, and major asymmetry. Many of the structural roots have been cut to accommodate road construction. Crotch areas are mostly muti stemmed, with included bark and oozing slim flux. There is exposed signs of decay, although most is internal and not visible without close professional examination. Hazard ratings are based on targets, and these trees post high. To very high hazard ratings and should be removed."

Mr. Broadway then emphasized the importance of recognizing and removing hazardous trees.

Public Comments

Mayor Applegarth explained the public comment procedure and called for public comments.

Phillip Staggs reported on weeds on 11800 South and 3200 West. Mayor Applegarth said the matter would be referred to the City's Code Enforcement Officer.

The following comments were submitted to the City Recorder via email:

Becky Skolmoski - "Through GRAMA requests and review of correspondence between City Attorney, Ryan Carter and the applicant, we are very concerned that the city attorney has overstepped his bounds and created a hostile environment for the citizens in this matter. He has even admitted that his bias is so evident that he

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could not do his job in representing the city in this matter. (Read emails here). He even recommended to the applicant one of the most aggressive local land use attorneys to represent the applicant against the city. Whose side is Mr. Carter on and who does he serve? Clearly not the citizens. We bring this up for two reasons. First, we believe the issue paper drafted by Mr. Carter was incredibly biased and designed to defend an indefensible position he wrongly advocated on behalf of this applicant when he should have been listening to the legitimate concerns of the residents. Second, we are appreciative that in the end the city attorney does not make this decision. It is made by our elected representatives who have been very attentive to our concerns and we thank them for their willingness to give ear to our concerns."

At the request of Mayor Applegarth, the Asst. City Attorney reminded the public that all comments in general should be directed at the issues and not address individuals. Mayor Applegarth said if there were concerns regarding individual staff members from the public, they should be emailed to him.

Jennifer Springer - "With regard to point #2, we could not disagree more with staff's classification of BioLife as a Medical Clinic. They simply do not fit the plain English understanding of a medical clinic. It was an attempt to fit a square peg into a round hole. In fact, the staff memo was so contradictory on its face that it should be obvious that this classification was an attempt to accommodate the applicant instead of appropriately applying the code. We find it extremely ironic that the staff found so strongly that this operation was not a Hospital or regional medical facility because it didn't treat or diagnose patients. Quoting from the staff report: The implication then is that a "hospital" would provide medical care or treatment, and the collection of blood plasma, which is the primary purpose of the proposed BioLife facility, is clearly not medical care. This is the basis of our argument. The staff report finds that the function of the BioLife facility is "clearly not medical care". If that is the finding of the staff, how can they legitimately find that it is a medical clinic if it clearly does not provide medical care? Is this the kind of plain English that the code contemplated. We think not."

Courtney Blackham - "In the Issue Report, it states Riverton Staff has performed significant research and study to provide assistance in determining what constitutes a medical clinic or medical office. Please refer to the Memorandum, dated June 17, 2014 from the Design Review Committee, in the Council's packet. The BioLife facility collects blood plasma from donors through a process that includes the removal, processing, and reinsertion of blood into the human body. These procedures require specific medical skill, and a high standard of care for the patient who donates plasma. The process to collect plasma can only be classified as a medical procedure. The term "clinic" indicates a facility that specializes in a single medical process or type of care. In reviewing the potentially applicable categories, staff determined that because the proposed BioLife facility was limited to a single procedure of facilitating donation of blood plasma, "Medical clinic" was the correct classification under Riverton City's ordinances and therefore was a permitted use in the Commercial Regional Zone. This is tortured reasoning attempting to justify the classification that this is a medical clinic. Examining the particulars of this argument shines some light on this matter. The argument asserts that removal and processing of blood requires

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specific medical skill and a high standard of care for the patient. Yet, to our knowledge there is never even a doctor on site. The majority of employees will be phlebotomists trained in drawing blood. While they may be good at their skill, it is hard justify the classification of a facility without a doctor or nurse as a medical clinic or providing a high standard of care. What happens if there is a real medical emergency? They may provide basic first aid but they will call 9-1-1 and seek professional assistance. We disagree that BioLife provides a high standard of medical care. Remember, even staff acknowledged that what BioLife does is "clearly not medical care."

Janeth Castaneda - "Further quoting from the Issue Memo, Mr. Carter attempts to rationalize the staff action by arguing that the staff used common understanding or plan language to reach its conclusion. I quote, 'There will be times, like in this matter, when the City staff must attach a reasonable degree of common understanding to what would qualify as a medical clinic or medical office. In interpreting the different category of uses, the courts have indicated that the City staff should rely on the plain language of the ordinance in order to give it meaning. This means that when "the words of a statue consist of common, daily, nontechnical speech, they are construed in accordance with the ordinary meaning such words would have to a reasonable person familiar with the usage and context of the language in questions.' Therefore, the City must ask what the common, daily meaning of medical clinic or medical office would be.

We totally agree that they must ask this question. The dictionary classifies a "clinic" as a place where people get medical help. (http://www.merriam-webster.com/dictionary/clinic). We remind you that the staff already found that Biolife does not provide any medical care. They have relied instead on a twisted interpretation that asserts this is a "medical clinic" because it provides a singular type of service which is what, in their opinion, constitutes the daily meaning of a medical clinic. Does this logic comport with common understanding or plain language or nontechnical speech? The fact a clinic may focus on backs or on eyes or on plastic surgery hardly translates into defining BioLife as a medical clinic. At such specialty clinics they use as a basis for their finding they conveniently omit the fact that these other clinics do provide medical diagnosis and treatment – real medical care!!! On the issue of common understanding or plain language, let us ask the following. Would common understanding or plain language assume that there would be doctors or nurses on staff at all times at a medical clinic? Of course. Would common understanding or plain language assume that you receive medical care at a medical clinic? Of course. Would common understanding or plain language assume that diagnosis of medical conditions would be done at a medical clinic? Of course. Are any of these functions done at BioLife? No, they are not. So where is the plain language or common understanding in classifying them as a medical clinic? There is no clinic we know of that specializes in a single medical process or procedure as does BioLife. Instead, specialty clinics focus on more narrow medical care such as a particular part of the body or a body function. But they use multiple processes and procedures for that treatment and treat all ailments associated with that specialty. Who even calls Biolife a clinic? Would anyone say, "I am going to the plasma clinic

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to have my plasma treated?" BioLife doesn't even call themselves a clinic. Their website says find your nearest "biolife plasma donation center". They are called

Biolife Plasma SERVICES. It is a SERVICE. Not a treatment. No one is getting medical care when they go to a BioLife CENTER."

Mark Skolmoski - "Staff could just as easily have found that BioLife was a laboratory. They extract and process bodily fluids sometimes for medical purposes and sometimes for other commercial uses. Labs do not provide medical care either. If anything, BioLife is more like a Lab. Our city code makes allowances for such labs as a permitted use in our M-1 Zone according to the code in section 18.95.010. This would be a more appropriate classification for BioLife than a medical clinic. Staff simply tried to force this classification into the regional commercial zone to accommodate the applicant. While we appreciate Staff's effort to be accommodating, it is clear that they erred in this particular finding."

Keven Mabey - "In conclusion, it is the responsibility of the City to interpret Riverton's ordinance using the plain meaning of the language. Riverton Staff firmly believes that a plasma donation facility reasonably falls under the category of medical clinic or medical office.

It is terribly unfortunate that staff cannot find their way to see the real plain meaning of the term medical clinic and instead stubbornly stand by a faulty interpretation in favor of an out of state developer instead of supporting an even more logical argument asserted by the residents. This is our community. Staff has erred in this matter and we ask that the Council set this right by acknowledging the flawed arguments upon which staff based their finding that this is a medical clinic and instead find that BioLife does not fit the definition of a medical clinic and should not be approved.

We know the applicant and others will try to use threats of litigation to sway your decision. But we do not believe there is any basis for such threats. The Council has not acted in an arbitrary or capricious manner. We believe we have provided sound logic, void of public clamor, to support a finding that BioLife is not a medical clinic. Furthermore, they are not being zoned out of the city. They could establish themselves in any M-1 or M-2 zone in the city as a permitted use or seek to re-zone this property to an M-1 or M-2 use. The city has no obligation to stretch its interpretation of any classification just because an applicant requests it. No entitlements have been granted to this applicant. The City Council can simply deny the application as not compliant and overturn the recommendation of staff and the planning commission. Remember, they just recommend. You grant the entitlements. Tonight those entitlements should be denied.

As citizens we have been diligent and worked hard to provide you the basis for this. We would appreciate it if you would acknowledge those efforts with a vote to deny this application on the grounds the business classification as recommended by staff and the planning commission was based on flawed logic and is an inappropriate designation for this type of business and therefore does not fit in this zone."

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Bruce Baird, Counsel for Applicant, addressed the Council and introduced representatives from BioLife. He then said that the issue for discussion was a commercial site plan not an appeal of a staff decision or what the business should be classified. He also spoke in defense of City Attorney Ryan Carter and said Mr. Carter was universally respected as a land use attorney among all factions, developers, and city attorneys.

Aaron Tarin – Counsel for Rose Crossing Homeowner's Association spoke.

Christine Jensen said they wanted to be good neighbors but asked how they could be good neighbors with the amount of neighbors that were protesting.

A man spoke in regards to the introduction of the newly hired employees and the discussion on the proposed tree removal information.

There were no further comments and Mayor Applegarth closed the Public Comment period.

Mayor Applegarth then moved to Agenda Item 3.1.

<u>Commercial Site Plan</u>, BioLife Plasma Center, 13503 South Hamilton View Road (3600 West), C-R Zone, Jason Harder, Applicant

Andrew Aagard, City Planner, explained that Jason Harder of Build To Suit, Inc. submitted an application requesting commercial site plan approval for property located at 13503 South Hamilton View Road (3600 West). The property is currently zoned C-R (Commercial Regional). The applicant is proposing the construction of a plasma donation facility for BioLife Plasma Services. This matter came before the Planning Commission, which recommended approval of the site plan application. The site plan application is now pending before the City Council.

Mr. Aagard said that during the site plan application process, area residents argued against City staff's conclusion that a plasma donation center is categorized as a medical clinic under City ordinance. At a public meeting before the City Council, held on May 20, 2014, the issue was discussed at length. At that meeting, City Council Member Johnson moved the City Council table the recommendation for site plan approval "until clarifications of the conditional use may be made or no longer than 30 days." The motion was seconded by Council Member Stewart and passed unanimously.

Recording available at this point in the meeting.

Casey Taylor, Asst. City Attorney, said that since that City Council Meeting, City staff did further research which confirmed the conclusion it had previously reached. He said the City's position was that a plasma donation facility qualifies as a medical clinic. Mr. Taylor then reviewed the following background information that was presented in an Issue Paper:

I. <u>A land use applicant is entitled to development approval if a proposal to develop complies with city ordinances in effect at the time an application is filed.</u>

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Under Utah State Code § 10-9a-509, "an applicant is entitled to approval of a land use application if the application conforms to the requirements of the municipality's land use maps, zoning map, a municipal specification for public improvements applicable to a subdivision or development, and an applicable land use ordinance in effect…" In other words, if an applicant meets all city standards and ordinance requirements, the city must approve the application. There are two exceptions to this rule: 1) there must be a finding that a compelling, countervailing public interest would be jeopardized by approving the application; or 2) the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application submitted. Neither of these exceptions applies in this matter.

When considering whether a City can rely upon the notion that approval of an application violates a "compelling, countervailing public interest," The Utah Supreme Court has reminded us that, "It is incumbent upon a city, however, to act in good faith and not to reject an application because the application itself triggers zoning reconsiderations that result in a substitution of the judgment of current city officials for that of their predecessors." Western Land Equities v. Logan, 617 P.2d 388, 396 (Utah 1980).

Under the facts of the Logan case, an applicant applied to subdivide property for residential use in an M-1 zone, which ordinarily allows for manufacturing uses alone. The trial court found the M-1 zoning designation in Logan City's code also permitted the proposed residential use at the time of the application. After the application was filed, the "city council members decided to reexamine the pertinent zoning regulation and thereafter voted to amend or "clarify" the zoning ordinance to disallow subdivisions in an M-1 zone and permit residences only by special permit," thereby halting the application's approval. Logan at 396.

In weighing the council's decision to halt the subdivision application in question, the Court ultimately found that the Council's actions "may have had a reasonable basis." As an example, the Court noted the City's concerns that fire protection would be undermined because of limited access roads, in the M-1 zone, "but it does not appear the problem would be any less serious if the unarguably-permitted manufacturing facilities were erected instead of single-family houses. Objections as to inadequate sidewalks and other problems can be handled by requiring modification of specifications that do not meet city subdivision requirements." Thus, the Court concluded that the Council's reasons for halting approval were not "so compelling as to overcome the presumption that an applicant for a building permit or subdivision approval is entitled to affirmative official action if he meets the zoning requirements in force at the time of his application." Thus, the Utah Supreme Court affirmed the decision of the trial court to permit the application to proceed. Logan, at 396.

Under the present case, the most powerful arguments which staff can discern from the public opposition relate to public safety concerns. To this question, staff has already examined the business activities of plasma donation centers operated by BioLife in two separate locations, and we have spoken to local law enforcement organizations with jurisdiction over the BioLife organizations. Staff can find no

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evidence that the plasma donation centers in two other locations present any public safety problems for the surrounding community whatsoever. Thus, staff cannot find any public safety-related issues under the present case which equal the "reasonable" public safety concerns which were present in the Logan case. Where the Court found no compelling countervailing interest outweighed approval of a land use application in the Logan case, staff is convinced that the City could not succeed in denying the applicant's proposal, against the weight of City ordinance, because of countervailing public concerns.

Nonetheless, there has been significant public opposition caused by perceived consequences of having a plasma donation facility near a residential neighborhood. Adverse public comment alone is insufficient to deny a land use application. See Ralph L. Wadsworth Construction, Inc. v. West Jordan City, 999 P.2d 1240 (2000). Therefore, as long as BioLife meets all City requirements, it is entitled to application approval.

II. City Staff has correctly applied of City Code to BioLife's development proposal to conclude that it is a permitted use under a C-R Zone and required to undergo a site plan evaluation process.

Apart from the public's general opposition to the arrival of BioLife, one basis to challenge application focuses on the question of whether a plasma donation facility qualifies as a permitted use under Riverton City Code in the first place. Riverton City Code Section 18-85-020 lists several permitted uses in commercial regional zones. Under RCC § 18-85-020(13), the ordinance recognizes that several other permitted uses are listed in a "Table of commercial uses" found in RCC § 18-90-010. The Table of commercial uses specifically lists "Physicians, dental, and other medical offices" as a permitted use. It also lists "Medical clinic" as a permitted use. However, the ordinance does not specifically give definitions for each type of use. This means that some degree of interpretation is required on the part of Riverton Staff and also the City Council.

It is important to note that in interpreting the meaning of ordinances, the standard rules of statutory construction apply. This means that the City must first look to the plain meaning of the ordinance. However, "because zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner." This means that zoning restrictions must be liberally construed to allow development when possible. See Brown v. Sandy City Bd. of Adjustment, 957 P.2d 207, 211 (Utah App. 1998).

Additionally, the fact that "medical clinic" and "medical offices" are not defined in the zoning ordinance itself does not mean the ordinance is invalid, nor does it alleviate the City from its duty to interpret the same. The Utah Court of Appeals has noted that although statutes/ordinances must contain sufficient certainty to permit conformance to law, "neither absolute exactitude of expression nor complete precision of meaning can be expected. The determinative factor is whether there is a

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reasonable degree of common understanding of what is encompassed within the general terms of prohibition." State v. Shepherd, 989 P.2d 503, 508 (Utah App. 1999). Ordinances are not always going to clearly define every term. There will be times, like in this matter, when the City staff must attach a reasonable degree of common understanding to what would qualify as a medical clinic or medical office.

In interpreting the different category of uses, the courts have indicated that the City staff should rely on the plain language of the ordinance in order to give it meaning. This means that when "the words of a statue consist of common, daily, nontechnical speech, they are construed in accordance with the ordinary meaning such words would have to a reasonable person familiar with the usage and context of the language in questions." Olsen v. Eagle Mountain City, 248 P.3d 465, 469 (Utah 2011). Therefore, the City must ask what the common, daily meaning of medical clinic or medical office would be.

Riverton Staff has performed significant research and study to provide assistance in determining what constitutes a medical clinic or medical office. Please refer to the Memorandum, dated June 17, 2014 from the Design Review Committee, in the Council's packet. The BioLife facility collects blood plasma from donors through a process that includes the removal, processing, and reinsertion of blood into the human body. These procedures require specific medical skill, and a high standard of care for the patient who donates plasma. The process to collect plasma can only be classified as a medical procedure. The term "clinic" indicates a facility that specializes in a single medical process or type of care. In reviewing the potentially applicable categories, staff determined that because the proposed BioLife facility was limited to a single procedure of facilitating donation of blood plasma, "Medical clinic" was the correct classification under Riverton City's ordinances and therefore was a permitted use in the Commercial Regional Zone.

In addition to making its own conclusions, Staff has reached out to other cities throughout Salt Lake County, to verify that Staff's interpretation of the standard term "medical clinic" is consistent with the interpretations rendered by other zoning officials. Many other these cities also rely on the term "medical clinic" in their city ordinances, meaning that this is a standard term within land use law. Riverton's City Planner has spoken with planning staff in other cities and in each case, other local zoning officials agreed with our interpretation of a medical clinic and that a plasma donation facility would qualify as such. Simply put, inclusion of a plasma donation center within the category of a "medical clinic" is a standard interpretation of a standard zoning ordinance among zoning administrators within Salt Lake County. For further explanation and detail on City Staff's research, see attached June 17 Memorandum.

In conclusion, it is the responsibility of the City to interpret Riverton's ordinance using the plain meaning of the language. Riverton Staff firmly believes that a plasma donation facility reasonably falls under the category of medical clinic or medical office. Therefore, because the site plan application meets all Riverton requirements it should be approved."

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Mr. Taylor addressed questions from Council Members.

Bruce Baird, Counsel for BioLife, said his interpretation of the City Attorney's presentation was that he was 100% correct that Utah law is clear that in case of any ambiguity, the Code is to be construed in favor of the private property owner. He said the Utah Supreme Court essentially said the right to develop private property is a "sacred" rights and it existed as a matter of common law and all reasonable inferences are to be drawn in favor of the private property owner. He then said it was utterly inarguable that City staff believes it is an appropriate classification and if that is the case then it is impossible to say that the answer is not ambiguous and if it is ambiguous in any way then his client has to prevail. He also said that whether or not there is any residential proximity to the business was irrelevant to what activity occurs within the building. He introduced Biolife representatives then said that they would completely comply with the approved plan from the Planning Commission and the imposed conditions.

Dr. Janet, Herschman, Medical Director BioLife Plasma Services, explained medical procedures that occur in a plasma collection center. She said "my staff and I, our job is to insure the safety of the donors who come to our center and of course we can't do this alone. I think there was some concern that our facilities are staffed by some phlebotomists that donor comes in we remove their plasma and send them on their way. Actually, there is a very extensive screening process. All facilities have a nurse who is licensed in the state at least one on the premises at all times. We also have a physician that is in the facility at least four hours a week and he or she is available by phone. I have a privilege of speaking to these doctors periodically and also to interview them when we open a new center and I can tell you that these are the doctors that you and I see in your community, they're often family practice doctors and they have a good relationship with the community and they understand the importance of making sure that we adequately screen our donors. The nurses exercise a lot of judgment and care in determining whether or not the procedure is safe. So unlike a laboratory where you go in a phlebotomist takes your blood based on an order from a physician and then you go on your way we are actually there insuring that the process is safe. There's an extensive set of screening guidelines and the nurses use those when they have a question, they consult with the center's physician and there's another question, they consult with me. So a significant amount of medical judgment that's exercised before we allow the donor to donate and as each subsequent donation a shortened version is done. We do check hematocrit and total protein, however a more extensive set of tests is done by an outside laboratory. We also check the donor's vital signs and weight at each donation and when there is any question that their vital signs are not satisfactory, again that decision is made by the medical staff, it is not, these folks, our donors never see the phlebotomist until they've have been through the medical department and we feel that is the way that we provide the best possible safety and care for our donors. Of course, our physicians are licensed in the state, the nurses are licensed or regulated by the FDA and we follow all their guidance who are regulated by some European authority. Overall, what I can tell you is I'm very proud of the care that we give these donors, we are appreciative for the gift of plasma that they give us and we feel in return it is our responsibility to insure that medically they are being cared for. It's not just come in lay down and give us your plasma, there's a significant amount of contemplation and medical review that is performed before we allow these donors to proceed. Thank you."

Rob Schroeder, Regional Operational Manager overseeing the Utah facilities as well as Idaho and Washington. He explained operational characteristics of how the building operates on a regular basis. He said "I actually opened up the St. George facility in February of 08 and they

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were much like the members of this community. They had their concerns because they had heard stereotypes of plasma donation centers. Where I opened up the facility in St. George was right across the street from a residential area. We built such a rapport and we had such a high level of standard, not just with the employees that we hire but for the donors that we allowed in our facility to donate and we kept such a high level of expectation standard for the exterior as well as the interior of the facility that we became very close partners with the City, not just through the way we ran the business there but also through our community involvement and what we gave back to the community. Just last year we actually made a video for our company in situations just like this that we give to the cities they can watch about BioLife and the Mayor, at the time it was Mayor McArthur, and he was very excited to be a part of our video in support of as well as other members of Dixie State University. Mayor McArthur … invites anyone to call him and talk through any of the concerns that they may have about the facility coming in. And they were just like this district coming in, they were apprehensive about us coming in and now I am happy to say that it is such a success in St. George that we are opening up our second facility in St. George in November this year right next to a residential area. Our partnership there and the way we run our business and the business model of BioLife allows us to build that relationship with the town and with the community. Speaking about the operations of the facility, we generally open with around 20 to 30 employees and then grow that to about 70 to 80 employees, those are part time full time paying jobs with benefits; I'm talking benefits for part time and full time employees. I can't tell you how many students we have paid for their schooling, as well as 401k's, stock purchase plans, all the training is paid for on site, just to list a few of the benefits. We all work Monday through Saturday. As far as what we do to industry, we are actually leaders in our industry, not just with the technology we instituted but also with our quality of work, Dr. Herschman spoke to that, we are leaders in our industry with the quality of work. We have adhered to several worldwide agencies and we have complied with those and we are actually leaders in that going back to the high levels of expectation that we have for each of our facilities. Just in closing, unless you have questions for me, we invite anyone in this room to go up to the Layton facility, we actually have the Layton center manager here for this this evening and we invite anyone to go up there unannounced; please feel free to stop by anytime and walk the center. We are happy to do tours, answer any questions that anyone may have, also to St. George, even though the weather is as warm as it is down there but anytime you want to stop by we are always giving tours to individuals who are not sure what donating plasma is all about. You wouldn't believe the number of individuals that come that are not sure about donating but ask to walk around and for us to explain what donating plasma is all about and we are happy to do that. We really commend ourselves in customer service that we can give. Any questions from an operational standpoint?"

Council Member Sheldon Stewart asked Mr. Shroeder to describe their clientele and Mr. Shroeder said their clientele was people just like the citizens sitting in the audience. He also said they offered supervised play and the center is filled from morning to evening with parents making plasma donations, as well as professionals. He said that is the expectation at their donations centers and they take a lot of pride in their company.

Council Member Trent Staggs asked if, other than the collection of plasma, there any other procedure that was done at their center. Mr. Schroeder said no, they collect, sort plasma and freeze plasma and ship it to where it can be turned into lifesaving therapeutic medication. He clarified that there was no manufacturing at their centers.

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Council Member Paul Wayman said that he had heard that a large percentage of plasma was used for cosmetics and only 10% was used for medical.

Dr. Janet, Herschman, explained that "the largest percentage of our products is immune globulin, which treats people that have immune deficiencies so that is the …. product. I know there is a portion of the product that is used for treating hemophilia and there are some of the products that are called … sealants, so if you get surgery on your lungs or different surgical procedures, it's used to stop the bleeding. As far as its use in cosmetics procedures such as Botox or something, none of our plasma is used in that segment of the medical world so to speak but our previous use is for the immune deficiency population. These are people whose immune systems are either absent or very weak and they can't find the infection and they receive an infusion of the product approximately every three or four weeks so without it they do very, very poorly and with it they do well similarly, the hemophilia population, it's used to prevent them from bleeding.

Nicole Spranger, Director of Center Operations, spoke of additional operational characteristics of the building and how it complies with a medical clinic. She said "back about a year and a half ago I came to the City of Riverton to at properties to develop. Riverton was perfect for everything that BioLife looks for. We look for demographics of individuals between ages 16 to 65 and are healthy wanting to give back. As some of you may know we're in the process of opening our 68th facility throughout the United States and we have a growth plan of opening an additional 50+ facilities to help fill our manufacturing plants in Covington, Georgia, because, like Dr. Herschman just said, there are people in … units based throughout the world looking for gamma globulin, looking for active immune globulins, looking for … or having open heart surgery. These are products that help save people's lives and this community met all the demographics, all the analytical information that we look for in a community that we want to spend 20+ years in, we want to be a part of the community and I know from Rob's experience from Amon, Idaho, we are active partners with the community, give back, we walk the talk, we help coordinate many events. What we look for from a marketing aspect is we target within five miles of our facility and that's who our donors are, within five miles. There might be individuals who are driving a little bit further but that's who we market to. Any questions?"

Bruce Baird then spoke and said they were happy to respond to any other questions explaining why they are a medical clinic, thus a permitted use and the Site Plan was appropriate.

Aaron Tarin, Counsel for Rose Creek Homeowners Association, said the interpretation discussed was not the appropriate land use interpretation. He then spoke of the Logan case previously discussed by Mr. Taylor and stated that the City ordinance was very conflicted and whether or not the use was a permitted use or not needed to be addressed.

Mr. Tarin then discussed City Ordinance 18.85.030 and said it defined conditional and permitted uses for the CR Zone. He said there was no clarity in the ordinance and there was nothing in the ordinance that obligated the City Council to approve anything. He said if the City Council denied the application it would be defensible.

Bruce Baird spoke against information presented by Mr. Tarin and said that Mr. Tarin acknowledged repeatedly that the ordinance was ambiguous. He said staff was perfectly correct in interpreting the ordinance; however; if there was an ambiguity as to whether or not BioLife

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was a medical clinic, state law is 100% clear on what happens regarding any ambiguities and the landowner prevails. He said there was no possible way BioLife was not permitted in the statute.

Mr. Tarin asked to view the table of Permitted Uses again and stated that the table could not trump what is in the statute. He said there had been prior decision on the issue and they did not need to show any countervailing public interest on the subject and he did not feel that they have met the basic standard.

Mayor Applegarth explained that the City has used retained Jody Burnette to represent the City on previous land use issues and would retain him for the BioLife issue if needed. Mr. Burnette said that the City should make a decision on the BioLife Site Plan Application. He then spoke of the Brown vs. Sandy City Board of Adjustment case that was previously mentioned, which stated the following:

> "because zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner."

Mr. Burnette then addressed the definition of laboratory and said that definition did not fit the description of BioLife.

Council Member Sheldon Stewart **MOVED the Riverton City Council approve <u>Site Plan Application</u> <u>PL14-8001</u>, as outlined by Staff with the additional conditions:**

1. **Screening for HVAC on the roof to match the building. Not chain link fencing.**
2. **Wall Height, grade of landscape. Wall behind the building should be 8 feet high, grade should allow the building to sit lower.**
3. **Trees should be 4-5 inch caliper, consistent with other trees in the area (flowering pear, maple). No pine trees, Trees should be large at planting and fast growing.**
4. **Lighting/shields. Light posts should not be right against the fence.**
5. **Earth tone colors to remain consistent with surrounding buildings.**
6. **Signage posted stating "No Loitering" and enforced by local law enforcement.**

Council Member Trent Staggs **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; Council Member Paul Wayman stated why he was voting no and said he had considered the arguments of the City, the staff and the applicant; however, he said that under the circumstances, the term medical clinic was too vague for the City as a whole to recognize all of the medical related issues which could fit under the zone term and he did not feel that a plasma donation center fit the description of a medical clinic or medical related office use. He said that the City did not contemplate that a medical clinic would include a facility such as a plasma donation center, but it would fit under medical laboratory.

Council Member Brent Johnson said that the proposed site plan had been a very divisive decision and it was his opinion that the Council should never have been put in the position they were in with ambiguities and/or interpretations. He then said that no matter the final outcome, neither was a winnable situation based on the input and the response from the residents. He assured the residents that a lot of time and preparation had gone into the issue by all parties involved. There being no further comments, Mayor Applegarth called for a Roll Call Vote. The vote was as follows: Johnson-No, Staggs-No, Stewart-Yes, and Wayman-No. **The motion failed 3 to 1.**

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Mayor Applegarth explained that the BioLife story had ended; the issue would now go before a judge and the judge would make a decision on the facts. He said that he was not a member of the Council as the Mayor but if the Council's vote had tied, he would have had to vote. He said he had researched the safety of children walking to school and he believed the children were safe. He explained that Riverton City did not currently assess a property tax but, if a judgment against the City regarding the BioLife issue was made, a property tax would be charged to the residents for payment. He then reported that he contacted Rexburg, Idaho's Chief of Police regarding the BioLife business in their city and the Chief reported there had been no problems of any kind with that business. Mayor Applegarth also referred to a case against Tooele City regarding a land use litigation issue where the City was required to pay a large amount of money as a result of the settlement. He then read the following: "Always remember that you are the government that the Bill of Rights was written to protect."

Council Member Brent Johnson said his vote was not a vote against BioLife he hoped they would be able to locate within the City at a different location.

2. PUBLIC HEARINGS

1. <u>Public Hearing</u> – Proposed rezone of .28 acres located at 12168 S Redwood Road from R-4 (Residential 10,000 square foot lots) to C-N (Commercial Neighborhood) - Steven Rosenvall, Applicant

Andrew Aagard, Planner, explained that Steven Rosenvall and Alan Carlson submitted an application requesting a General Plan amendment and zoning change for property located at 12168 South Redwood Road. He said the property was currently zoned R-4 (Residential 10,000 square foot lots); property to the north was zoned C-N (Commercial Neighborhood) and was utilized as a commercial business. He said property to the west property was zoned R-4 and to the south property was zoned R-3 (Residential 14,000 square foot lots), and on the adjacent side of Redwood Road property was zoned both R-3 and R-4.

Mr. Aagard said the applicant was the owner of the commercial property located to the north of the subject property and was seeking to acquire the subject property and convert it into additional parking for his business. He then explained that, in order for the property to be considered as part of the commercial business to the north, a rezone to commercial must occur and then a commercial site plan reviewing the new parking area for ordinance compliance must occur.

Mr. Aagard said that on June 26, 2014, the Planning Commission voted to recommend approval of the rezone application.

Mayor Applegarth opened a Public Hearing and called for public comment.

Charlie Anderson expressed his concern regarding changes that might be allowed when the current occupant moves out and next occupant moves in. He then asked about future public hearing opportunities and the Mayor explained that a public hearing would be held by the Planning Commission and public comment opportunities are available in City Council Meetings; he then explained the public hearing and public comment process.

There being no further comments, Mayor Applegarth closed the Public Hearing.

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<u>Ordinance No. 14-15</u> – Amending the General Plan Designation to Community Commercial and rezoning .28 Acres located at 12168 South Redwood Road from RR-4 (Residential 1/4 Acre Lots) to C-N (Commercial Neighborhood).

Council Member Brent Johnson **MOVED to approve <u>Ordinance No. 14-15</u> – Amending the General Plan Designation to Community Commercial and Rezoning .28 Acres located at 12168 South Redwood Road from RR-4 (Residential 1/4 Acre Lots) to C-N (Commercial Neighborhood), Steven Rosenvall & Alan Carlson, Applicants**. Council Member Paul Wayman **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; Council Member Trent Staggs said that he appreciated the business and their employees and he said he favored the rezone application. Mayor Applegarth then called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. **The motion passed unanimously.**

2. **<u>Public Hearing</u> – Proposed ordinance amendments to section 18.45.050 Area Requirements of the RM-6 Zone amending minimum parcel size requirements from 2 aces to 1.5 acres – National Commercial Properties, LLC, Applicant**

Andrew Aagard, Planner, explained that National Commercial Properties, LLC, submitted an application requesting an amendment to the RM-6 zoning code, particularly section 18.45.050 Area Requirements. The current text reads as follows:

(1) Parcel Size. Each application pursuant to this chapter shall be for a site of not less than three acres and not more than six acres.

The applicant proposed the ordinance be amended to read as follows:

(1) Parcel Size. Each application pursuant to this chapter shall be for a site of not less than one and a half acres and not more than six acres.

Mr. Aagard further explained that National Commercial Properties submitted an application to help facilitate development of an existing two acre commercially zoned parcel located at 11688 South Redwood Road. He said the parcel had some unique circumstances that have prevented its development as a commercial property. However, residentially there was more possibility, especially with a multi-family zoning designation given the surrounding property was zoned RM-8 (Residential Multi-Family 8 Units per Acre). He said even though the applicant submitted the application to facilitate development on one parcel, Riverton City must consider the impacts of the ordinance on a city wide basis.

Mr. Aagard said that on June 26, 2014, the Planning Commission voted to recommend approval of the text amendment.

Mayor Applegarth opened a Public Hearing and called for public comment; there being none, he closed the Public Hearing.

<u>Ordinance No. 14-13</u> - Amending Riverton City Ordinance 18.45.050 Area Requirements Amending Minimum Parcel Size for Development in the RM-6 Zone, National Commercial Properties, Applicant

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Council Member Sheldon Stewart **MOVED to approve <u>Ordinance No. 14-13</u> - Amending Riverton City Ordinance 18.45.050 Area Requirements of the RM-6 Zone reducing the minimum lot size for development in the zone from 3 acres to 1.5 acres**. Council Member Trent Staggs **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; there being none, he called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. **The motion passed unanimously.**

3. <u>Public Hearing</u> – Proposed rezone of approximately .5 acres located at 1640 West 13200 South be rezoned from P-OS (Park/Open Space to C-N (Commercial Neighborhood) – D.L. Rasmussen, Applicant

Andrew Aagard, Planner, explained that D.L. Rasmussen submitted an application requesting that .5 acres located at 1640 West 13200 South be rezoned from P-OS (Park and Open Space) to C-N (Commercial Neighborhood). He said the property to the north was zoned RR-22 (Rural Residential ½ acre lots) as are the properties to the west and the property to the east was zoned RR-22 but was currently vacant ground. He said that to the south property was zoned C-N and was occupied by the old Crane House, which had seen a few commercial activities come and go such as a reception center and an antiques shop.

Mr. Aagard said the applicant requested the rezone in order to incorporate the parcel into the existing commercial use as the old Crane Home. The parcel's current zoning of P-OS was a remnant zoning from the time that Riverton City owned and operated the Crane Home as a museum. At that time the parcel, the parcel occupied by the Crane Home and the parcel to the east, were all zoned P-OS. He said that since that time and due to budget constraints, Riverton City sold the Crane Home to private investors and the zoning changed to both C-N and RR-22. He said the remnant parcel had not been rezoned and had since maintained the P-OS zoning.

Mr. Aagard said that on June 26, 2014, the Planning Commission voted to recommend approval of the rezone, but to RR-22 rather than the requested C-N Zone.

Mr. Aagard addressed questions from the City Council.

Mayor Applegarth opened a Public Hearing and called for public comments.

Unidentified – spoke in opposition to a proposed Montessori School at the property location, which he felt would provide inadequate parking.

Lynn Rasmussen, property owner representative, said that he represented the applicant for the rezone not the proposed school, and spoke in favor of the RR-22 rezone.

Ryan Rudd said that he was not opposed to an RR-22 zoning designation but he was opposed to a C-N zoning designation because he did not feel a street in the area met the description previously presented.

Faith – said she attended a Planning Commission Meeting wherein the need for a traffic study was mentioned. She spoke in opposition to a school at the Crane Home location and expressed concern regarding increased traffic and parking on 13200 South.

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City Attorney Ryan Carter explained two portions to the proposed application. He then explained that a traffic study was ordered by the Planning Commission and produced for a C-N and P-OS Zones on the property.

Duane Bills expressed his concerns regarding a school and inadequate parking at the proposed location.
There being no further comments, Mayor Applegarth closed Public Hearing.

<u>Ordinance No. 14-14</u> - Amending the General Plan Designation to Estate Density Residential and rezoning .50 acres located at 1640 West 13200 South from P-OS (Park & Open Space) to C-N (Commercial Neighborhood), D.L. Rasmussen, Applicant

Council Member Brent Johnson **MOVED to deny <u>Ordinance No. 14-14</u> - Amending the General Plan Designation to Estate Density Residential and rezoning .50 acres located at 1640 West 13200 South from P-OS (Park & Open Space) to C-N (Commercial Neighborhood), D.L. Rasmussen, Applicant**. Council Member Paul Wayman **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; there being none, he called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. **The motion passed unanimously.**

Council Member Brent Johnson **MOVED to approve <u>Ordinance No. 14-14</u> - Amending the General Plan Designation to Estate Density Residential and rezoning .5 acres located at 1640 West 13200 South from P-OS (Park & Open Space) to RR-22 (Rural Residential)**. Council Member Sheldon Stewart **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; Council Member Paul Wayman spoke of the shape of the property and asked if there should be an easement. City Attorney Ryan Carter explained that the purchaser was required to realign the boundaries, which will…. We will have to bird dog this…he called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. **The motion passed unanimously.**

Mr. Aagard clarified that the proposed site plan for the property had not been to the Planning Commission; however, the neighbors would be getting a notice of the Planning Commission Meeting wherein a public hearing would be held.

4. **<u>Public Hearing</u> - IHC HEALTH SERVICES, INC. Conducting a public hearing with respect to the proposed issuance by Utah County, Utah (the "Issuer") of its hospital revenue bonds (the "Bonds") in one or more series and in an aggregate principal amount not to exceed $50,000,000 with respect to certain health care facilities of IHC Health Services, Inc. located in Riverton City, Utah, for the purpose of financing, refinancing or providing reimbursement for the acquisition, improvement and equipping of such health care facilities and considering for adoption a resolution approving the issuance of the Bonds for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended. INTERLOCAL AGREEMENT: Considering for adoption a resolution authorizing the execution and delivery by Riverton City, Utah (the "City") of an Interlocal Cooperation Agreement, which will authorize the Issuer to issue a portion of the Bonds on behalf of the City and certain other public agencies located in the State of Utah**

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Ryan Carter, City Attorney, explained First, that Riverton City would conduct a public hearing to consider proposed issuance by Utah County, Utah (the "Issuer") of its hospital revenue bonds (the "Bonds") in one or more series and in an aggregate principal amount not to exceed $50,000,000 with respect to certain health care facilities of IHC Health Services, Inc. located in Riverton City, Utah, for the purpose of financing, refinancing or providing reimbursement for the acquisition, improvement and equipping of such health care facilities and considering for adoption a resolution approving the issuance of the Bonds for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended; Second, that Riverton City would consider approval of an Interlocal Agreement by adoption of a resolution authorizing the execution and delivery by Riverton City, Utah (the "City") of an Interlocal Cooperation Agreement, which would authorize the Issuer to issue a portion of the Bonds on behalf of the City and certain other public agencies located in the State of Utah.

Mr. Carter provided the following explanation:

> "IHC Healthcare Services, Inc. desires to sell hospital revenue bonds commonly known as industrial revenue bonds. Under the Utah Industrial Facilities and Development Act, Title 11, Chapter 17 of the Utah Code, counties and municipalities are empowered to issue industrial revenue bonds to finance the acquisition of projects which protect the health and welfare of citizens of the state of Utah. As further qualification, the proposed project to be funded by industrial revenue bonds "shall be located within [the state of Utah], and … shall be located within, or partially within, the municipality or county" which authorizes issuance of the bonds. Utah Code Ann. § 11-17-3. In the present case, issuance of industrial revenue bonds is proper because the resulting funding source serves to induce IHC Health Care Services Inc. to modernize, and expand its health care network in Riverton City and elsewhere in the State of Utah." The construction, improvement, or equipping of hospitals is explicitly stated as an eligible project for industrial revenue bond funding. Utah Code § 11-17-2.
>
> Under Utah law, if a municipality or county approves the issuance of bonds to finance such projects, such bonds "shall be limited obligations of the municipality or county. Bonds and interest coupons issued under this chapter shall not constitute nor give rise to a general obligation or liability of the municipality or county or a charge against its general credit or taxing powers. Such limitation shall be plainly stated upon the face of such bonds." Utah Code Ann. § 11-17-4. Because cities are not obligated to repay the issued bonds in the event of default, they are commonly referred to as a "conduit issuer" during the course of the transaction which results in ultimate sale of the bonds on the market. To serve as a conduit issuer, municipalities are responsible (basically) for the following: 1) certifying a local project is eligible for financing under the Utah Industrial Facilities and Development Act; 2) identifying a revenue source which is reasonably capable of repaying the bonds after they are issued; 3) setting the general terms regarding the bonds, such as rate of interest, security, rate of repayment, and date of retirement; and 4) adopting a resolution which sets a final record of the foregoing.
>
> In the present transaction, the Bonds will be issued and sold to investors with the understanding that they shall be repaid by IHC Health Care Services, Inc. Thus, the

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holder of a Bond issued by adoption of the proposed resolution will not result in any financial liability to the issuer, the City, or any interlocal participant; nor will the issuance of the bond affect the bond rating of the issuer, the City, or any interlocal participant. Any failure by IHC Health Care Services Inc. to repay the bonds will result in legal claims be brought against IHC Health Care Services Inc. by bond holders and other associated financial entities. Once all sums owed for the principal and interest under the Bonds is fully paid, the bonds will be retired.

One unique feature of the bonds which are proposed to be issued is Riverton City will not be the true "conduit issuer" for this transaction. Utah County shall serve as the conduit issuer. To explain, an organization such as IHC has facilities located in several cities and counties throughout the state of Utah. Thus it may need to finance the construction or improvement of several different hospital facilities at the same time. Any of the cities or counties where an IHC facility is found may issue bonds to facilitate a hospital within that city or county's territory but when IHC needs to finance several public improvement projects simultaneously, it has basically two options as to how it should achieve bond financing. IHC can either ask several different cities independently to issue bonds for projects within their respective territories, or it can ask a single governmental entity to serve as an issuer for several projects located in several different cities. The former option would require IHC pay financing and transaction costs for each series of bonds it issues, and the latter option would enable IHC to pay financing and transaction costs for a single series of bonds. The latter option gains IHC significant savings under the economy of scale principle.

The Utah Legislature long ago recognized the financial prudence to streamlining the bond issuance process by enabling one governmental entity to serve as conduit issuer for projects in several different governmental jurisdictions. To enable this sort of transaction the Utah Legislature enacted statutes which merely require that all of the involved governmental entities enter into an interlocal agreement which identifies which entity is the issuer, which entities are participants, and further incorporates the general terms of the bonds to be issued.

Utah Code § 11-7-3 (5) (a) states, "A municipality, county, or state university may enter, either before or after the bonds have been issued, into interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more municipalities, counties, state universities, or special service districts created under Title 17D, Chapter 1, Special Service District Act, in order to accomplish economies of scale or other cost savings and any other additional purposes to be specified in the interlocal agreement, for the issuance of bonds under this chapter on behalf of all of the signatories to the interlocal agreement by one of the municipalities, counties, or state universities which is a signatory to the interlocal agreement for the financing or acquisition of projects qualifying as a project. (b) For all purposes of Section 11-13-207 the signatory to the interlocal agreement designated as the issuer of the bonds constitutes the administrator of the interlocal agreement." Thus, under the proposed transaction, Utah County has been identified as the principal issuer of the bonds to finance construction, improvement or equipping of facilities in Utah County. Riverton City, if it approves a resolution to execute an interlocal agreement with Utah County and also approves a resolution to approve bond issuance, can expect to

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receive some portion of the bond proceeds to aid in the further development or equipping of IHC facilities in Riverton. The only difference is Riverton is not the identified issuer, which has little to no legal significance in light of the Interlocal Agreement."

Mayor Applegarth opened a Public Hearing and called for public comment.

Dustin Matsumori, IHC, addressed the Council and said that IHC values their partnership with Riverton City and they desire to invest additional money into the Riverton Hospital and the proposed resolutions allow that to take place.

Mayor Applegarth then closed the Public Hearing.

Resolution No. 14-44 – approving and authorizing the execution of the Interlocal Cooperation Agreement dated as of October 1, 2012 among Utah County, Utah, Cache County, Utah, Davis County, Utah, Murray City, Utah, Riverton City, Utah, Salt Lake County, Utah, Sevier County, Utah, Summit County, Utah, Washington County, Utah and Weber County, Utah; and related matters

Council Member Paul Wayman **MOVED the City Council approve Resolution No. 14-44 –to authorize the Mayor to execute an Interlocal Agreement by adoption of a resolution authorizing the execution and delivery by Riverton City, Utah (the "City") of an Interlocal Cooperation Agreement, which will authorize the Issuer to issue a portion of the Bonds on behalf of the City and certain other public agencies located in the State of Utah.** Council Member Trent Staggs **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; there being none, he called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. **The motion passed unanimously.**

Resolution No. 14-48 - approving the proposed issuance by Utah County, Utah of its hospital revenue bonds in one or more series, in an aggregate principal amount not to exceed $50,000,000 with respect to facilities in Riverton City, Utah

Council Member Sheldon Stewart **MOVED the City Council approve Resolution No. 14-48 - authorizing the issuance and sale by Utah County of its hospital revenue bonds, in one or more series and in an aggregate principal amount not to exceed $50,000,000 with respect to the health care facilities of Intermountain located in Riverton City, (the "Bonds") and the loan of the proceeds thereof to IHC Health Services, Inc. as provided by City Staff.** Council Member Trent Staggs **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; there being none, he called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. **The motion passed unanimously.**

3. DISCUSSION/ACTION ITEMS

Single Phase Subdivision, Kenadi Cove 2, 11978 South Redwood Road, 11 Lots, R-4 Zone, Mark Newman, Applicant

Andrew Aagard, Planner, explained an application for an 11 lot single phase subdivision to be located at 11978 South Redwood Road. He said the property was zoned R-4, which is a single

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family residential designation allowing a minimum ¼ acre lot and the property to the south and the northwest was also zoned R-4. He said the property to the north and west was zoned R-3, and the property to the east was zoned Commercial Neighborhood.

Mr. Aagard said the property would connect to an existing stub road to the south in the Kenadi Cove 1 Subdivision and to the recently approved Manchester Fields development to the northwest. He said this would allow for access to this and adjacent developments from Redwood Road and also from 11800 South through the existing road network there. As the newer developments to the north were approved, he said the connection was shown and the additional traffic had been accounted for in the reviews of traffic flow and road layout for the area. He said access to Redwood Road had been approved through UDOT, which controls access to and from state roads such as Redwood Road.

Mr. Aagard said that on June 26, 2014, the Planning Commission voted to recommend approval of the subdivision application with the following conditions:

1. Solid masonry fencing at a minimum of eight (8) feet in height shall be installed along the east property line adjacent to the existing commercial zoning.
2. The full right-of-way improvements, including curb, gutter, sidewalk, and park strip, be installed for the length of the internal rights-of-way, including where right-of-way is installed adjacent to existing and approved subdivision lots.
3. Storm drainage systems and installation shall comply with Engineering Department requirements and standards.
4. Any and all irrigation ditches associated with the property be addressed, with disposition of the irrigation systems approved by Riverton City and the proper irrigation company or users.
5. The subdivision comply with any and all applicable Riverton City standards and ordinances, including the International Building and Fire Codes.

Council Member Trent Staggs **MOVED the City Council approve Application #13-1016, the Kenadi Cove 2 Single Phase Subdivision, located at approximately 11978 South Redwood Road with the conditions outlined in the Staff Report**. Council Member Brent Johnson **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; there being none, he called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. **The motion passed unanimously.**

<u>Commercial Site Plan</u>, Sprinkler Supply Riverton Store, 13727 South Redwood Road, C-G Zone, Mike Canning, Applicant

Andrew Aagard, Planner, explained that Mike Canning of Sprinkler Supply retail has submitted an application requesting commercial site plan approval for a second irrigation parts retail store. The first being located at 11654 South Redwood Road. The property is zoned C-G (Commercial Gateway) and is currently vacant ground. To the north property is zoned C-G and is occupied by a credit union. Property to the south is zoned C-G and C-PO EHOV (Commercial Professional Office with Elderly Housing Overlay). To the east property is zoned R-1 (Residential 1 acre lots). To the west property is zoned C-G.

The property is .79 acres and the applicant proposes that the building be constructed on the western half closer to Redwood Road with parts and supplies stored behind the building on the

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eastern half. Access into the site will be shared with the Cyprus Credit Union building to the north. No new accesses are planned as part of this application. However, amendments to the access may be required and if this is the case Redwood Road is a UDOT controlled highway and any and all requirements would come from the State.
Mr. Aagard said that on July 10, 2014, the Planning Commission voted to recommend approval of the rezone application with the following conditions:

1. Storm drainage systems and accommodation comply with Riverton City standards and ordinances, and with the recommendations for the Riverton City Engineering Division.
2. An interim storm drainage and erosion control plan and an access management plan be approved by the City prior to any construction or grading on the site.
3. The site and structures comply with any and all applicable Riverton City standards and ordinances, including the International Building and Fire Codes.
4. Lighting, both on the building and in the site shall be designed and installed to minimize impacts to the surrounding properties.
5. Obtain and maintain a UDOT access permit for any amendments to the access onto Redwood Road.
6. Material storage areas shall be screened with an architecturally pleasing fence that resembles the building in color and appearance. Storage area gates shall be solid metal or vinyl.
7. Eight foot solid masonry fencing shall be installed along the eastern boundary line.
8. The southern wall of the building must be constructed with a one hour fire wall rating.
9. All rooftop mechanical equipment be screened from view with parapet walls.

Council Member Brent Johnson **MOVED the City Council approve the Sprinkler Supply Riverton Store Commercial Site Plan to be located at 13727 South Redwood Road, with the conditions outlined in the Staff Report**. Council Member Paul Wayman **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; there being none, he called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. **The motion passed unanimously.**

<u>Resolution No. 14-47</u> – Authorizing the Mayor to enter into an Interlocal Agreement with Salt Lake County to receive the services of the County Clerk during the 2015 Primary and General Municipal Elections as an entirely absentee ballot (Vote By Mail) election

Mayor Applegarth explained that Utah Code 20A-3-302 states that an election officer may administer an election entirely by absentee ballot. The Salt Lake County Elections Division recommends holding an entire Vote by Mail election, having one voting center in Riverton City on Election Day.

Mayor Applegarth explained that Cottonwood Heights City and West Jordan City held city-wide Vote by Mail elections in 2013 and they both doubled their voter turnout and decreased their costs from their 2009 city-wide traditional election.

Mayor Applegarth said the Salt Lake County Elections Division of the Clerk's Office administers Riverton City's elections and has encouraged us, along with the other 16 cities in Salt Lake County to hold an entirely absentee ballot election (Vote by Mail). Salt Lake County is

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continually refining their process and procedures for elections to make them more cost effective for all the contract cities. A Vote by Mail ballot is mailed to every registered voter, which is more accommodating for the voters and it produces a higher ballot return rate. Ballot boxes would still be placed at locations within the City accommodating easy drop off for voters. One voting center would be centrally located within Riverton City on Election Day for anyone wanting to vote by machine, return their mail in ballot, or for any other unforeseen reason i.e. lost ballot, change of address, etc.

Council Member Paul Wayman **MOVED the City Council approve <u>Resolution No. 14-47</u> – Authorizing the Mayor to enter into an Interlocal Agreement with Salt Lake County to receive the services of the County Clerk during the 2015 Primary and General Municipal Elections as an entirely absentee ballot (Vote By Mail) election**. Council Member Sheldon Stewart **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; there being none, he called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. **The motion passed unanimously.**

<u>Resolution No. 14-49</u> – Authorizing the Mayor to rename 13400 South Street, from 1300 West to 5600 West, to include the phrase "Roy Tingey Parkway"

Trace Robinson, Public Works Director, explained that on June 12, 2014, Councilmember Roy Tingey passed away during his term of office. He was widely regarded as a public servant who served the citizens of Riverton City with love, dedication and integrity. Originally, in honor of Councilmember Tingey, the City Council directed staff to determine the cost and feasibility of renaming 13400 South from 1300 to 5600 West to Roy Tingey Parkway-13400 South. However, he said explained a proposal of renaming 13400 South from Bangerter Highway to 5600 West. He said the Attorney's office determined that renaming the street can be done through Resolution by the City Council. Mr. Robinson said the name change would be a "Commemorative" name change and the City would be required to follow the standards for sign design and posting.

Council Member Sheldon Stewart **MOVED the City Council approve <u>Resolution No. 14-49</u> – authorizing the Mayor to take actions necessary to rename 13400 South from Bangerter Highway through 5600 West to Roy Tingey Parkway-13400 South**. Council Member Brent Johnson **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; Council Member Paul Wayman stated the following: "I fundamentally disagree with ceremonially renaming streets, especially arterial streets. It is illogical to name just part of a street. It makes it confusing to new people for visitors to the area. I respect and honor Roy Tingey. I feel like there are other ways that we can honor him and his service to Riverton City. I feel that renaming a street is not a good precedent to set. Danny Crump died 5 years ago this coming Monday doing his job in Riverton City. We have instituted new safety protocols since then, but what have we done to honor his name. It would be a good idea to table this item for a month so we can set up the protocol for honoring Riverton citizens who have done a lot for Riverton City." Mayor Applegarth then called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-No. **The motion passed 3 to 1.**

4. CONSENT AGENDA

Mayor Applegarth presented the following Consent Agenda:

Pending Minutes

1. Minutes: RCCM 07-01-14
2. Bond Releases:
   1. Summerwood Estates Phase 3 – 100%
   2. Young Family Dental – 100%
3. Resolution No. 14-45 – Authorizing the City to enter into a contract with Diamond Tree Experts, Inc. to remove 32 trees behind City Hall along 1830 West

Council Member Paul Wayman removed Item No. 4.3 from the Consent Agenda for further discussion.

Council Member Paul Wayman then **MOVED the City Council approve the Consent Agenda excluding Item 4.3.** Council Member Sheldon Stewart **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; there being none, he called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. **The motion passed unanimously.**

4.3 **Resolution No. 14-45 – Authorizing the City to enter into a contract with Diamond Tree Experts, Inc. to remove 32 trees behind City Hall along 1830 West**

Council Member Paul Wayman asked for clarification regarding the tree removal process and if stump removal would be included when the trees are removed. Mrs. Garn assured the Council that stump removal was included in the process.

Council Member Paul Wayman **MOVED the City Council approve the Consent Agenda Item 4.3.** Council Sheldon Stewart **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; there being none, he called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. **The motion passed unanimously.**

5. STAFF REPORTS

City Manager Lance Blackwood – called for the following Staff Reports:
Safety Training

City Attorney Ryan Carter reported that the City's safety culture and current protocol is due to Council Member Roy Tingey. He reviewed a report from the Utah Local Governments Trust's reporting the number of claims and loss history for Riverton City from 2009 to 2013.

6. ELECTED OFFICIAL REPORTS

Mayor Bill Applegarth – reported that a decision as to whether or not South Jordan City would withdraw from the Jordan School District to create their own school district would be decided by August 4th. He said there was the possibility that West Jordan City would do the same.

Mayor Applegarth, due to his extensive time commitments as Mayor, he nominated Council Member Trent Staggs to fill his term as the City's representative to the Salt Lake Valley Law

Pending Minutes

Enforcement Service Area (SLVLESA) and the Unified Police Department (UPD) Governing Boards.

<u>Resolution No. 14-46</u> - Appointing a City Representative to the Salt Lake Valley Law Enforcement Service Area (SLVLESA) and the Unified Police Department (UPD) Governing Boards

Council Member Sheldon Stewart **MOVED the City Council approve <u>Resolution No. 14-46</u> - Appointing Trent Staggs to the Salt Lake Valley Law Enforcement Service Area (SLVLESA) and the Unified Police Department (UPD) Governing Boards**. Council Member Brent Johnson **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; there being none, he called for a Roll Call Vote. The vote was as follows: Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. The motion passed unanimously.

Council Member Brent Johnson – No report.

Council Member Trent Staggs – No report.

Council Member Sheldon Stewart – expressed appreciation to the staff for their work and support in the recent processes the Council had been through.

Council Member Paul Wayman – No report.

7. UPCOMING MEETINGS

Mayor Applegarth reviewed the following upcoming meetings:

1. August 5, 2014 - Regular City Council Meeting/Work Session – 6:30 p.m.
2. August 19, 2014 - Regular City Council Meeting – 6:30 p.m.
3. August 26, 2014 - Work Session – 6:30 p.m.

Interviews for Council District 2 Vacancy

Interviews for the Council District 2 Vacancy previously held by Council Member Roy Tingey, which expires in January 2016, were conducted of the following applicants:

Jason R. Best, Terry Leslie Clawson – withdrew earlier in the meeting per Paul Wayman, Fred Law, BJ Mendenhall, Matthew Robison, and Patricia R. Tingey

The following questions were addressed by each applicant:

1. Have you reviewed the recently passed 2014-2015 budget? If yes, is there an area of the budget with which you disagree and shy? An area where you strongly agree and why?
2. What is your view on Riverton's water quality? Are there any changes you would like to see t either culinary or secondary water in Riverton?
3. Are you satisfied or dissatisfied with the level of business activity in Riverton? What would you do differently to promote the level of economic development you would like to see in Riverton?

Pending Minutes

4. What is your view on the current zoning and general land use in Riverton? Would you like to see higher or lower residential densities in some areas, and if so, where?
5. What is the number one issue you see that is facing Riverton residents?
6. In review of the strategic plan set forth by the City Council expand upon what areas you agree with and why and the areas that you disagree with and why?

Ballots were distributed and a vote of the City Council was taken, which resulted in a 2 to 2 vote with Council Members Staggs and Wayman voting for Jason Best and Council Members Johnson and Stewart voting for Patricia Tingey. A second ballot for a vote of the two candidates receiving the highest number of votes (Jason Best and Patricia Tingey) was distributed, which resulted in the same 2 to 2 vote. The two names, Jason Best and Patricia Tingey, were put into a box and the name of Patricia Tingey was drawn by resident Wyoma Darlington.

9. ADJOURN

Council Member Sheldon Stewart **MOVED to adjourn the City Council Meeting**. Council Member Brent Johnson **SECONDED** the motion. Mayor Applegarth called for discussion on the motion; there being none, he called for a vote. The vote was as follows: Council Member Johnson-Yes, Staggs-Yes, Stewart-Yes, and Wayman-Yes. **The motion passed unanimously**. Mayor Applegarth declared the meeting adjourned at 11:20 p.m.

_____

Virginia Loader, MMC
Recorder

Approved: Not yet approved

Pending Minutes

Item No. 4.3

Issue Paper

Presenter/Submitted By:	Craig Calvert, Purchasing Manager

Subject: Ratify prior approval of change order #6 given to Peck Ormsby Construction allowing them to continue working on the Police Precinct Project.	**Meeting Date:** August 5, 2014 **Fiscal Impact:** $140,228.93 **Funding Source:** 74-54-702

Background:

The City contracted with Peck Ormsby Construction to complete the Police Precinct Project. Prior to the approval of change order #6 approval of change orders 1 through 5 had been given. According to the city procurement ordinance if a change order or multiple change orders cause the contract to exceed 10% of the original contract amount, the project will be presented again to City Council for approval. Change order #6 causes the contract to exceed 10% of the original contract amount. The adjusted contract amount is now $1,408,028.93. Because work could not continue without addressing some of the issues in change order #6 the City's Project Manager has approved this change order allowing Peck Ormsby Construction to continue working.

Recommendation:

Staff's recommendation is to ratify the approval of change order #6 given to Peck Ormsby Construction allowing them to continue working on the Police Precinct Project.

Recommended Motion:

"I the City Council approve Resolution No. 14-46 - ratifying the approval of Change Order #6 given to Peck Ormsby Construction allowing them to continue working on the Police Precinct Project."

RIVERTON CITY, UTAH
RESOLUTION NO. 14-46

A RESOLUTION RATIFYING THE APPROVAL OF CHANGE ORDER #6 GIVEN TO PECK ORMSBY CONSTRUCTION ALLOWING THEM TO CONTINUE WORKING ON THE POLICE PRECINCT PROJECT

WHEREAS, Riverton City is required by ordinance to approve any change order that exceeds 10% of the original contract amount in a public meeting; and,

WHEREAS, City staff has determined that items on this change order is needed.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF RIVERTON CITY AS FOLLOWS:

Section 1. Riverton City ratifies prior approval of change order #6 given to Peck Ormsby Construction allowing them to continue working on the Police Precinct Project.

Section 2. This resolution shall ratify prior approval given upon passing.

PASSED AND ADOPTED by the City Council of Riverton, Utah, this 5th day of August the following vote:

Council Member Brent Johnson	____ Yes	____ No
Council Member Trent Staggs	____ Yes	____ No
Council Member Sheldon Stewart	____ Yes	____ No
Council Member Paul Wayman	____ Yes	____ No
Council Member Tricia Tingey	____ Yes	____ No

RIVERTON CITY

[SEAL]

_____
Bill Applegarth, Mayor

ATTEST:

_____
Virginia Loader, MMC
City Recorder

Item No. 4.4

Issue Paper

Presenter/Submitted By:	Trace Robinson, Public Works Director

Subject: Approve a Resolution authorizing the execution of a Settlement Agreement between Riverton City, Wadsworth Brothers Construction Company, Inc., and Utah Department of Transportation for work associated with 13400 South street from 4000 West to the Mountain View Corridor identified under Federal Aid Project No. F-LC35(199).	**Meeting Date:** August 5, 2014 **Fiscal Impact:** $98,000.00 **Funding Source:** 44-60-450

Background:

In February 2012, the Utah Department of Transportation ("UDOT") awarded Wadsworth Brothers Construction Company, Inc. ("Wadsworth") the contract to reconstruct and widen 13400 South Street from 4000 West to the Mountain View Corridor, which was identified under Federal Aid Project No. F-LC35(199) ("the Project").

The Project was funded in part by Federal Highway Authority funding obtained by the City, the use of which was authorized to fund the Project. The funds were managed by UDOT, and through collateral agreements between UDOT and City, the Project was also managed by UDOT. The City was a third party beneficiary of the contract between Wadsworth and UDOT for construction of the Project.

The Agreement between UDOT and the City required the City to pay any additional costs associated with the Project which overrun Wadsworth's bid amount. Under construction schedules established between UDOT and Wadsworth, the Project was scheduled to complete construction on or before July 9, 2012. Wadsworth was not able to complete the Project until June 17, 2013. Under the terms of the contract for the Project, failure to complete the Project on time would cause Wadsworth to experience delay damages which could exceed $700,000 in liquidated damages, unless the delays in completion are attributed to circumstances which are not Wadsworth's responsibility.

Wadsworth does not dispute the fact that the Project was not completed on time, but asserts delays were attributed to several factors which were not Wadsworth's responsibility. These factors include, without limitation, the failure of utility companies to adhere to their respective construction schedules as they reconstructed utility systems which were located under 13400 South Street. For example, Special Provision Section 00727M 1.8 N.3 of the contract for the projects states "Questar Gas High Pressure will up size their existing 16-Inch HP gas line with a 20-inch HP gas. Questar will complete this relocation work by April 2012". This work was not completed by Questar until July 2, 2012, 92 calendar days beyond their contractual deadline. Wadsworth relied on this statement in the contract to schedule the phasing of the work. Questar's failure to complete their work by the proposed date of April 2012 created a domino effect that ultimately required Wadsworth to re-phase their schedule and approach to the Project.

Wadsworth further asserts that Questar's extensive delay created a scheduling conflict with the availability of a portable concrete batch plant that was assigned to the Project. When the Project was delayed and Wadsworth could not pave during the scheduled window, this equipment had to be mobilized to a different project to ensure that that project was not delayed. As it became apparent the paving could not be placed per the original schedule and resources would not be available, Wadsworth determined that it was necessary to obtain concrete which was able to withstand winter conditions during installation, which was more expensive.

Wadsworth asserts that because concrete installation was pushed into the fall and winter of 2012-2013, the weather conditions during these months made this work difficult and further delayed the Project during the days in which work could not be performed because of winter conditions. Wadsworth estimates that the delays in construction and need to purchase additional materials to complete the delayed project has increased Wadsworth's cost to complete the Project by a margin of approximately $900,000, and views the foregoing sum as due and owing to Wadsworth under the contract for the Project.

The parties have negotiated the above described matters at length and determined that settlement of the above described issues in accordance with the terms described in this Agreement would be preferable to maintaining this dispute through litigation, which would result in needless additional costs all parties involved. As a result of those negotiations, the City has agreed to pay Wadsworth an amount of $524,820.90 in order to settle this matter. To cover this cost, the City went back to the Wasatch Front Regional Council and obtained an additional $300,000 in STP project funding. The City also approached UDOT and obtained a reimbursement of approximately $40,000 for work completed for the CFI which was completed as part of the 13400 South project. UDOT has also indicated that there is approximately $87,000 of unused project funding which will be applied to the settlement. This leaves Riverton City owing the remainder of $98,000.

The City is working with, and submitting claims to the Utility Companies that caused the delays to recoup some of the costs associated with the settlement.

Recommendation:

Approve a Resolution authorizing the execution of a settlement agreement between Riverton City, Wadsworth Brothers Construction Company, Inc., and Utah Department of Transportation for work associated with 13400 South street from 4000 West to the Mountain View Corridor identified under Federal Aid Project No. F-LC35(199).

Recommended Motion:

"I move the City Council approve Resolution No. 14-47 - authorizing the execution of the Settlement Agreement between Riverton City, Wadsworth Brothers Construction Company, Inc., and Utah Department of Transportation for work associated with 13400 South street from 4000 West to the Mountain View Corridor identified under Federal Aid Project No. F-LC35(199)."

RIVERTON CITY, UTAH
RESOLUTION NO. 14-47

A RESOLUTION APPROVING A SETTLEMENT AGREEMENT BETWEEN RIVERTON CITY, WADSWORTH BROTHERS CONSTRUCTION COMPANY, INC., AND UTAH DEPARTMENT OF TRANSPORTATION FOR WORK ASSOCIATED WITH 13400 SOUTH STREET FROM 4000 WEST TO THE MOUNTAIN VIEW CORRIDOR IDENTIFIED UNDER FEDERAL AID PROJECT NO. F-LC35(199)

WHEREAS, in February 2012, the Utah Department of Transportation ("UDOT") awarded Wadsworth Brothers Construction Company, Inc. ("Wadsworth") the contract to reconstruct and widen 13400 South Street from 4000 West to the Mountain View Corridor, which was identified under Federal Aid Project No. F-LC35(199) ("the Project"); and

WHEREAS, the Project was funded in part by Federal Highway Authority funding obtained by Riverton City (the "City"). The funds were managed by UDOT, and through collateral agreements between UDOT and the City, the Project was also managed by UDOT; and

WHEREAS, the City was a third party beneficiary of the contract between Wadsworth and UDOT for construction of the Project, and the agreement between UDOT and City required the City to pay any additional costs associated with the Project which overrun Wadsworth's bid amount; and

WHEREAS, Wadsworth was unable to complete the Project according to the established construction schedule and asserts delays were attributed to several factors which were not Wadsworth's responsibility. These factors include, without limitation, the failure of utility companies to adhere to their respective construction schedules as they reconstructed utility systems which were located under 13400 South Street; and

WHEREAS, under the terms of the contract for the Project, failure to complete the Project on time would cause Wadsworth to experience liquidated damages, unless the delays in completion were attributed to circumstances which were not Wadsworth's responsibility; and

WHEREAS, Wadsworth estimates that the delays in construction and need to purchase additional materials to complete the delayed project increased their cost to complete the Project; and

WHEREAS, the parties have negotiated the increased costs by Wadsworth in order to complete the Project and have determined that settlement of the issues in accordance with the terms described in the attached Settlement Agreement would be preferable to maintaining this dispute through litigation, which would result in needless additional costs all parties involved; and

WHEREAS, the City has agreed to approve settlement with Wadsworth an amount not to exceed $524,686.24 as settlement for this matter.

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF RIVERTON CITY AS FOLLOWS:

1. The Mayor is authorized to execute the Settlement Agreement for and on behalf of Riverton City, subject to approval of the final form of the Agreement by the City Attorney.

2. The City is authorized to pay Wadsworth an amount not to exceed $98,000 upon final execution of the Settlement Agreement by all parties.

3. The Resolution shall take effect immediately.

PASSED AND ADOPTED by the City Council of Riverton, Utah, on this 5th day of August 2014 by the following vote:

Council Member Brent Johnson	____ Yes	____ No
Council Member Trent Staggs	____ Yes	____ No
Council Member Sheldon Stewart	____ Yes	____ No
Council Member Tricia Tingey	____ Yes	____ No
Council Member Paul Wayman	____ Yes	____ No

RIVERTON CITY

[SEAL]

_____
Bill Applegarth, Mayor

ATTEST:

_____
Virginia Loader, MMC
City Recorder

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT the ("Agreement") entered into this 6th day of August, 2014 by and between Wadsworth Brothers Construction Company, Inc., a Utah corporation ("Wadsworth") and Utah Department of Transportation, a Utah state agency, ("UDOT"), and Riverton City, a Utah political subdivision ("City"), (City and UDOT shall collectively be referred to as the "Government Parties").

RECITALS:

A. In December of 2011, UDOT published a Notice to Contractors announcing that it will receive sealed proposals from prequalified contractors to reconstruct and widen 13400 South Street, from 4000 West to the Mountain View Corridor, in Riverton City, Utah. The Project was identified under Federal Aid Project No. F-LC35(199) through bidding documents which provided all general specifications and special provisions of the same (hereinafter referred to as the "Project").

B. Through ordinary bidding processes undertaken by UDOT, Wadsworth was selected to undertake and complete the Project. By the date of February 16, 2012, UDOT and Wadsworth executed all the documents used to establish the contract.

C. The Project was funded in part by Federal Highway Authority funding obtained by Riverton City, the use of which was authorized to fund the Project. Federal Highway Authority funds were managed by UDOT. Through collateral agreements between UDOT and City, the Project was also managed by UDOT. City was a third party beneficiary of the contract between Wadsworth and UDOT for construction of the Project. The Agreement between UDOT and City required the City to pay any additional costs associated with the Project which overrun Wadsworth's bid amount.

D. Under construction schedules established between UDOT and Wadsworth, the Project was scheduled to complete construction on or before July 9, 2012. Wadsworth was not able to complete the Project until June 17, 2013.

E. Under the terms of the contract for the Project, failure to complete the Project on time within the times would cause Wadsworth to experience delay damages which could exceed $700,000 in liquidated damages, unless the delays in completion are attributed to circumstances which are not Wadsworth's responsibility.

F. Wadsworth does not dispute the fact that the Project was not completed on time, but asserts delays were attributed to several factors which were not Wadsworth's responsibility. These factors include, without limitation, the failure of utility companies to adhere to their respective construction schedules as they reconstructed utility systems which were located under 13400 South Street. For example, Special Provision Section 00727M 1.8 N.3 of the contract for the projects states "Questar Gas High Pressure will up size their existing 16-Inch HP gas line with a 20-inch HP gas. Questar will complete this

relocation work by April 2012". This work was not completed by Questar until July 2, 2012, 92 calendar days beyond their contractual deadline. Wadsworth relied on this statement in the contract to schedule the phasing of the work. Questar's failure to complete their work by the proposed date of April 2012 created a domino effect that ultimately required Wadsworth to re-phase their schedule and approach to the Project.

G. Wadsworth further asserts that Questar's extensive delay created a scheduling conflict with the availability of a portable concrete batch plant that was assigned to the Project. When the Project was delayed and Wadsworth could not pave during the scheduled window, this equipment had to be mobilized to a different project to ensure that that project was not delayed. As it became apparent the paving could not be placed per the original schedule and resources would not be available, Wadsworth determined that it was necessary to obtain concrete which was able to withstand winter conditions during installation, which was more expensive.

H. Finally, Wadsworth asserts that because concrete installation was pushed into the fall and winter of 2012-2013, the weather conditions during these months made this work difficult and further delayed the Project during the days in which work could not be performed because of winter conditions. Wadsworth estimates that the delays in construction and need to purchase additional materials to complete the delayed project has increased Wadsworth's cost to complete the Project by a margin of approximately $900,000, and views the foregoing sum as due and owing to Wadsworth under the contract for the Project.

I. The parties have negotiated the above described matters at length and determined that settlement of the above described issues in accordance with the terms described in this Agreement would be preferable to maintaining this dispute through litigation, which would result in needless additional costs all parties involved.

AGREEMENT

NOW, THEREFORE, in consideration of the recitals specified above which recitals shall be deemed to be a substantive part of this agreement, and in consideration of the mutual covenants, promises, undertakings, agreements, representations and warranties specified in this agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, with the intent to be obligated legally and equitably, the parties do hereby covenant, promise, agree, represent and warrant as follows:

1. **Settlement Amount.** Within _____ days following execution of this Agreement by all Parties hereto, the Government Parties shall pay to Wadsworth as a mediated and global settlement the amount of $524,686.24 ("Settlement Amount"). Riverton City's out-of-pocket share of the Settlement Amount shall equal the sum of $98,000.00, with the balance to be obtained from funding provided by the Wasatch Front Regional Council and remaining project funds. The Government Parties represent and warrant that they have undertaken or will undertake all steps necessary to obtain the

balance of the Settlement Amount from the Wasatch Front Regional Council, and funds are ready to be transferred upon request from the Government Parties. The Settlement Amount represents a negotiated sum to settle the disputed claims brought by the Government Parties arising from Wadsworth's delay in performance of this project, and Wadsworth's claims for reimbursement for increased costs to complete the Project as a result of delays which were not the responsibility of Wadsworth.

2. **Mutual Release.** Upon payment of the Settlement Amount:

   a. Wadsworth for itself and its successors and assigns and all other persons or entities asserting any claim by, through or under Tower hereby releases and forever discharges and fully and completely releases the Government Parties and their respective officers, employees, insurers, agents, independent contractors, representatives in their individual and official capacities, of and from any and all manner of action or actions, causes or causes of action, in law or in equity, and any suits, debts, liens, claims complaints, obligations, demands, losses, costs, or expenses, of any nature whatsoever, fixed or contingent, whether known or unknown that Wadsworth now has or may have against the Government Parties by reason of any matter, cause, or thing whatsoever arising out of, based upon, or in any way related to the Property. The claims released herein include, without limitation, any claim(s) against the Government Parties arising under the United States Constitution (including Amendments thereto) and associated statutes created thereunder, the Utah Constitution and any associated statutes created thereunder, and any claims related to the Project or the associated contract executed between UDOT and Wadsworth to undertake said Project.

   b. Each of the Government Parties for itself and its successors and assigns and all other persons or entities asserting any claim by, through or under any of the Government Parties hereby releases and forever discharges and fully and completely releases Wadsworth and it's respective officers, employees, insurers, agents, independent contractors, representatives in their individual and official capacities, of and from any and all manner of action or actions, causes or causes of action, in law or in equity, and any suits, debts, liens, claims complaints, obligations, demands, losses, costs, or expenses, of any nature whatsoever, fixed or contingent, whether known or unknown that any of the Government Parties now has or may have against Wadsworth by reason of any matter, cause, or thing whatsoever arising out of, based upon, or in any way related to the Project or the contract executed between UDOT and Wadsworth to undertake said Project. Each of the Government Parties hereby certifies that it is duly authorized to enter into this Agreement without any further vote, approval or any other official action.

3. **General Provisions.**

a. *Entire Agreement*. This Agreement constitutes the entire understanding between the Parties hereto with respect to the subject matter hereof and this Agreement, supersedes all negotiations, representations, prior discussions and preliminary agreements between the Parties hereto relating to the subject matter hereof, and all Parties have made such investigation of the facts pertaining to this Agreement and of all matters pertaining thereto as they deem necessary, and in executing this Agreement, they do not rely on any inducement, promises or representations of the other Party, other than the terms and conditions specifically set forth in this Agreement.

b. *Cooperation*. Each Party hereto agrees to execute and deliver such additional documents and instruments and to perform such additional acts as any Party may reasonably request or as may be reasonably necessary or appropriate to effectuate, consummate or perform any of the terms, provisions or conditions of this Agreement.

c. *Successors.* This Agreement shall inure to and bind the successors, assigns, heirs, devisees, executors, administrators, and personal representatives of the respective Parties hereto.

d. *Modification.* This Agreement may not be modified, waived, amended or changed unless the same is in writing and signed by the Party against whom the enforcement of such modification, waiver, amendment or change is sought.

e. *Interpretation of Agreement.* This Agreement shall be interpreted and construed as if equally drafted and prepared by all Parties hereto.

f. *Governing Law*. This Agreement shall be interpreted, construed, and enforced in accordance with, and shall be governed by, the laws of the State of Utah, without giving effect to any conflict of laws provisions.

g. *Attorneys' Fees and Costs.* All Parties to this Agreement shall respectively bear their own attorneys' fees and costs incurred. If any Party is required to bring or maintain any action in law or equity to enforce any provision of this Agreement, the prevailing Party in that litigation shall be entitled to all costs and attorney fees incurred as a result of such litigation.

h. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, including any signature delivered by facsimile, but all of which together shall constitute one and the same agreement, even though all Parties hereto do not sign the same counterpart, and even though one or more counterparts are delivered by facsimile.

i. *Compromise of Disputed Claims.* It is expressly understood and agreed that this Settlement Agreement is a compromise and settlement of disputed claims and has been freely and voluntarily entered into by the parties indicated herein, and that execution of this Settlement Agreement shall not be construed as an admission of liability by either party. It is further understood and agreed that no promises, warranties, representations or understandings have been made other than those which are expressly contained or referred to herein, and the Settlement Agreement contains the entire agreement between the parties and its terms are contractual and not a mere recital.

[This section intentionally left blank.]

DATED this ____ day of _____, 2014.

Wadsworth Brothers Construction
Company, Inc.
A Utah corporation.

_____
By:_____

DATED this ____ day of _____, 2014.

Utah Department of Transportation

_____
By:_____
Its:_____

DATED this ____ day of _____, 2014.

Riverton City

_____
By:_____
Its:_____

Riverton City Cemetery Discussion

Riverton Cemetery Rules and Regulations

Decorations:

•April 1st through October 31st grave decorations will be removed during the mowing season for general maintenance. All grave decorations or arrangements, real or artificial, shall be allowed until such time as they become faded, worn, weathered, or otherwise unsightly after which they will be removed and disposed of by cemetery personnel. Holiday Decorations will be removed as weather permits

•Glass, porcelain or other breakable containers are not allowed. Placement of decorations shall be **limited to locations on head stones or in places which do not interfere with lawn mowing maintenance operations of Riverton City.**

Vases:

•All permanent vases must be placed in the monument or base and must be recessed to ground level when not in use. Because of the potential for theft and /or vandalism, the installation of removable vases is discouraged.

City's Right to Remove Non-Conforming Objects:

•The City has the right to remove such and decorations of any kind. Additionally, the City may remove any unauthorized plantings that do not conform to the rules and regulations of the Cemetery.

Private Improvements Prohibited:

•It shall be unlawful for any person to erect or maintain any structure, fence, corner post, coping, or hedge of any kind upon any lot, street or driveway in the cemetery.

Planting:

•It shall be unlawful for any person to plant shrubs, trees, lawns, flowers, etc., place decorative stones, monuments or markers, benches, or other permanent items or structures upon any lot in the cemetery without approval and direction from the City.

Damage/Theft:

•The City shall not be responsible or liable for flowers, grave decorations, or other personal property left on the headstone, on the burial lot or anywhere in the cemetery

Headstones/Grave Markers/Monuments:

•Raised headstones are allowed in the cemetery. No benches are allowed. The owners or relatives of a deceased person interred in the cemetery are required to erect and maintain, in a manner satisfactory to the City, and at the expense of the plot owner or relatives of the deceased, only.

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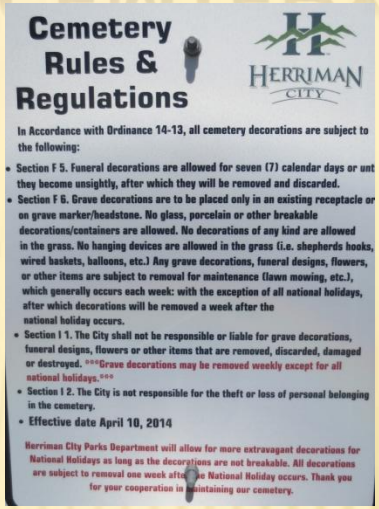
PUBLIC OWNED/MANAGED CEMETERIES

- Herriman City
- Bluffdale City
- South Jordan City
- Draper City
- West Jordan City

PRIVATE SECTOR CEMETERIES

- Wasatch Lawn-Riverton
- Memorial Estates-West Jordan/Taylorsville
- Larkin Sunset

HERRIMAN CITY CEMTERY



Cemetery Rules & Regulations

HERRIMAN CITY

In Accordance with Ordinance 14-13, all cemetery decorations are subject to the following:

- Section F 5. Funeral decorations are allowed for seven (7) calendar days or unt they become unsightly, after which they will be removed and discarded.
- Section F 6. Grave decorations are to be placed only in an existing receptacle or on grave marker/headstone. No glass, porcelain or other breakable decorations/containers are allowed. No decorations of any kind are allowed in the grass. No hanging devices are allowed in the grass (i.e. shepherds hooks, wired baskets, balloons, etc.) Any grave decorations, funeral designs, flowers, or other items are subject to removal for maintenance (lawn mowing, etc.), which generally occurs each week: with the exception of all national holidays, after which decorations will be removed a week after the national holiday occurs.
- Section I 1. The City shall not be responsible or liable for grave decorations, funeral designs, flowers or other items that are removed, discarded, damaged or destroyed. ***Grave decorations may be removed weekly except for all national holidays.***
- Section I 2. The City is not responsible for the theft or loss of personal belonging in the cemetery.
- Effective date April 10, 2014

Herriman City Parks Department will allow for more extravagant decorations for National Holidays as long as the decorations are not breakable. All decorations are subject to removal one week after the National Holiday occurs. Thank you for your cooperation in maintaining our cemetery.

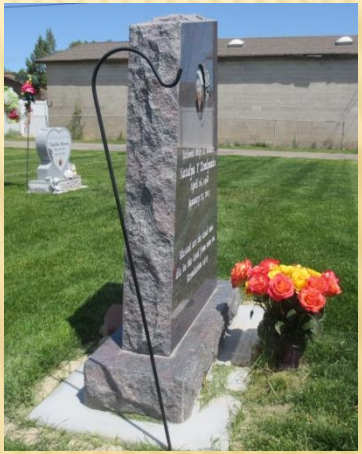
BLUFFDALE CITY CEMETERY

DRAPER CITY CEMETERY

SOUTH JORDAN CEMETERY

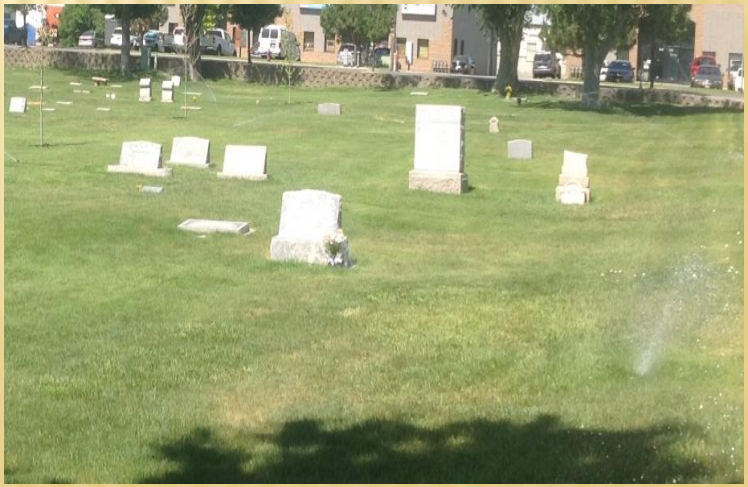
- One set of all the rules were posted

- Special Holiday cleanup sign posted at each entrance of the Cemetery



WEST JORDAN CEMETERY

- Rules are posted and appeared to be enforced



MEMORIAL ESTATES (PRIVATE)

A variety of signs were placed in the cemetery however there was little enforcement of the rules

WASATCH LAWN-RIVERTON (PRIVATE)

•No signage posted on the premise

•I checked on the Web Site and could find no information as to what was allowed or not allowed

LARKIN SUNSET CEMETERY (PRIVATE)

DISCUSSION AND RECOMMENDATIONS