CITY OF TAYLORSVILLE UTAH

LEGAL MEMORANDUM

TO: Mayor Kristie S. Overson and the City Council
FROM: Taylorsville City Attorney's Office
DATE: November 18, 2024
SUBJECT: Role of Government and Separation of Powers

Well-established law has long recognized the concept of dividing government into separate branches to prevent the concentration of power, to prevent the abuse of power, and to provide for checks and balances of power.[1] The Utah constitution likewise follows this principle by separating the government into three distinct branches: the legislative branch, the executive branch, and the judicial branch.[2] Each branch is charged with certain powers, and *no person charged with exercising the powers of one branch shall exercise any power belonging to either of the other two branches*.[3] The separate branches of government are likewise applied at the municipal level as well. The legislative branch is responsible for enacting the laws and appropriating the money necessary to operate the government; the executive branch is responsible for implementing and administering the public policy enacted and funded by the legislative branch; the judicial branch is responsible for interpreting the constitution and laws and applying its interpretations to controversies brought before it.

In Taylorsville's council-mayor form of government, the legislative powers of government have been entrusted to the City Council and its staff.[4] The City Council has the authority to adopt ordinances, resolutions, and policies, to set appropriate tax levies for general city services, to adopt the city budget, and to set other general tax and services rates.[5] The City Council also has the authority to supervise, appoint, and direct *its own staff*.[6] The City Council may also review and monitor the city administration, conduct public hearings, and perform all other duties and responsibilities authorized or required by state law.[7] The City Council may also consider and give

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[1] UTAH CONST. art. V, §1.
[2] *Id.*
[3] *Id.*
[4] TAYLORSVILLE MUNICIPAL CODE § 2.08.030.
[5] *Id.* at § 2.12.010.
[6] *Id.* The City Council's authority to supervise, appoint, and direct staff is expressly limited to doing so for the Council's own staff; this authority does not extend to supervising, appointing, or directing other City staff in the executive or judicial branches.
[7] *Id.* Although City ordinances give the City Council, as the legislative branch, the authority to review and monitor the City administration, this authority does not include supervising, appointing, or directing staff in the City administration. A City Council member directing City administration staff in any way would extend beyond the scope of that Council member's

its advice and consent to the Mayor on all proposed appointments to city boards, commissions, committees, or other bodies established to provide advice or assistance to the operation of city government.[8]

The executive powers of government have been entrusted to the elected mayor of the city and the administrative services department of the city, together with department and division heads, officers, and employees.[9] The mayor is designated as the chief executive and administrative officer of the city, and has the authority to (1) enforce the laws and ordinances of the city; (2) execute the policies of the City Council; (3) appoint and remove administrative assistants; (4) appoint department heads, all statutory officers, commissions, boards and committees of the city with the advice and consent of the City Council; (5) remove department heads and officers and employees, commissions, boards, and committees; (6) *exercise control of all departments, divisions, and bureaus within the city government;*[10] (7) attend and take part in all City Council meetings; (7) appoint a budget officer; (8) provide budget reports to the City Council; and (9) execute agreements within certified budget appropriations on behalf of the city.

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legislative authority. *See also* UTAH CODE ANN. § 10-3b-203(1)(b)(iii); § 10-3b-203(1)(c)(iii). Although City Council members *may* make suggestions or recommendations to a subordinate of the mayor, a City Council member *may not* publicly or privately give orders to a subordinate of the mayor.

[8] *Id.*

[9] TAYLORSVILLE MUNICIPAL CODE § 2.08.030.

[10] Pursuant to this ordinance, it is the mayor of the city who has the authority to direct city staff in all departments of the city, excluding City Council staff members. A mayor directing a City Council staff member in any way would extend beyond the scope of that mayor's executive authority.