

**TAYLORSVILLE CITY COUNCIL
AGENDA ITEM SUMMARY**

MEETING DATE: October 21, 2015

AGENDA ITEM: Resolution 15-28: A Resolution of the City of Taylorsville Requesting Recertification of the City of Taylorsville Municipal Justice Court

PUBLIC HEARING REQUIRED: YES _____ NO X

RESOLUTION/ORDINANCE REQUIRED:

ORDINANCE__ **RESOLUTION** X **NONE**_____

PRESENTER: Tracy Cowdell, City Attorney

ISSUE SUMMARY: State statutes require that each municipal justice court in Utah be recertified by the Utah Judicial Council (the "Council") every four years. The Taylorsville Municipal Justice Court needs to recertify with the Utah Judicial Council, as the Court's current certification is set to expire in February 2016. State statutes and the Council have set certain minimum requirements that each court must satisfy in order to qualify for certification. To apply for recertification, the City must send four documents to the Council: 1) a Court Certification Affidavit completed and signed by the justice court judge(s); 2) a copy of a written opinion from the City Attorney advising the City of all requirements for the operation of the justice court and the feasibility of maintaining the court; 3) a copy of a resolution passed by the city council requesting recertification of the court and affirming the entity is willing to meet all requirements for the operation of the court during the certification period; and 4) a copy of the court's security plan.

STAFF RECOMMENDATION: The City Attorney's Office recommends the council approve the resolution requesting recertification of the Taylorsville Municipal Justice Court.

CITY ATTORNEY (Approved as to form): Tracy Cowdell

ACTION REQUIRED.

ATTACHMENTS:

1. Resolution 15-28: A Resolution of the City of Taylorsville Requesting Recertification of the City of Taylorsville Municipal Justice Court
2. City Attorney Opinion Letter
3. Certification Affidavit
4. Security Plan

CONTACT FOR FURTHER INFO:

Tracy Cowdell
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TAYLORSVILLE, UTAH
RESOLUTION NO. 15-28

**A RESOLUTION OF THE CITY OF TAYLORSVILLE REQUESTING THE
RECERTIFICATION OF THE CITY OF TAYLORSVILLE MUNICIPAL
JUSTICE COURT**

WHEREAS, the Taylorsville City Council (the "Council") met in regular session on October 21, 2015, to consider, among other things, requesting the recertification of the City of Taylorsville Municipal Justice Court (the "Court"); and

WHEREAS, the provisions of UTAH CODE ANN. § 78A-7-103(1)(b)(i) require that municipal justice courts be recertified by the Utah Judicial Council at the end of each four-year term; and

WHEREAS, the term of the present Court shall expire in February 2016; and

WHEREAS, the Council has received an opinion letter from Tracy Cowdell, the City Attorney, which sets forth the requirements for the operation of a municipal justice court and the feasibility of continuing to maintain the Court; and

WHEREAS, the Council has determined that it is in the best interests of the health, safety, and welfare of the citizens of Taylorsville (the "City") to continue to provide for a justice court.

NOW, THEREFORE, BE IT RESOLVED that the Taylorsville City Council hereby requests recertification of the City of Taylorsville Municipal Justice Court by the Justice Courts Standards Committee and the Utah Judicial Council.

BE IT FURTHER RESOLVED that the Taylorsville City Council hereby affirms its willingness to continue to meet all requirements set forth by the Judicial Council for continued operation of the City of Taylorsville Municipal Justice Court for the next four-year term of court, except as to any requirements waived by the Utah Judicial Council.

This Resolution, assigned Resolution No. 15-28, shall take effect immediately upon passage and acceptance as provided herein.

PASSED AND APPROVED by the Taylorsville City Council this _____ day of _____, 2015.

TAYLORSVILLE CITY COUNCIL

By: _____
Kristie S. Overson, Chairman

SEAL

VOTING:

Dama Barbour	Yea	___	Nay	___
Ernest Burgess	Yea	___	Nay	___
Dan Armstrong	Yea	___	Nay	___
Kristie S. Overson	Yea	___	Nay	___
Brad Christopherson	Yea	___	Nay	___

PRESENTED to the Mayor of the City of Taylorsville for approval this ___ day
_____, 2015.

APPROVED this ___ day of _____, 2015.

By: _____
Mayor Lawrence Johnson

ATTEST:

Cheryl P. Cottle, City Recorder

DEPOSITED in the office of the City Recorder this ___ day of _____,
2015.

RECORDED this ___ day of _____, 2015.

COWDELL & WOOLLEY, P. C.

ATTORNEYS AT LAW

TRACY SCOTT COWDELL
RYAN RICHARDS
MIKE BARKE
MARCUS GILSON

STEPHEN K. AINA
NIEL H. LUND
STEPHANIE A. NATE
SAMANTHA SMITH
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October 15, 2015

Mayor Lawrence Johnson
Taylorsville City Council
CITY OF TAYLORSVILLE
2600 West Taylorsville Blvd.
Taylorsville, Utah 84129

Re: Recertification of the Taylorsville Justice Court

Dear Mayor Johnson and City Council Members:

I am the duly appointed and acting City Attorney for the City of Taylorsville in Salt Lake County, Utah (the "City"). In my capacity as City Attorney, and for purposes of this opinion, I have reviewed the following items:

1. UTAH CODE ANN. §§ 78A-7-103, *et seq.*;
2. Requirements established by the Utah Judicial Council;
3. Resolution No. 15-28 adopted by the Taylorsville City Council (the "Council") on October 21, 2015, requesting recertification of the Taylorsville Justice Court (the "Court"); and
4. Court Certification Affidavit dated October 6, 2015.

In addition to the foregoing items, I have reviewed such other documents, made such further investigations (except where such investigations are expressly disclaimed in this opinion) and examined such questions of law, as I have deemed appropriate in order to render this opinion. Further, in rendering this opinion I have assumed that all documents that have been submitted to me as originals are authentic; all documents that have been submitted to me as copies conform to originals; all signatures are genuine; and (except for the signers on behalf of the City) all signers of the documents have the necessary capacities to execute and deliver such documents on behalf of the entities for whom they signed.

Any alteration of the aforementioned facts or assumptions may adversely affect the opinions rendered herein. Further, I have reviewed the items referred to above and have made such inquiries as are specified herein.

Based upon the foregoing, but subject to the qualifications, assumptions, and exceptions herein stated, as of the date of this letter, I have found that:

1. All official Court business is conducted in a courtroom or an office located in a public facility which is conducive and appropriate to the administration of justice;
2. The Court is open and judicial business is transacted every day as provided by law and as appropriate for the classification of the Court, although the judges are not always present during all hours that the Court is open;
3. The hours that the Court is open are posted conspicuously at the Court;
4. The judges and the clerk of the Court are available to attend the Court and conduct Court business as needed and attend Court during regularly scheduled times;
5. The City provides and compensates the judges and clerical personnel to conduct the business of the Court;
6. The City assumes the expenses of travel, meals, and lodging for the judges to attend required judicial education and training;
7. The City assumes the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council;
8. The City provides a sufficient staff of public prosecutors to attend the Court and perform the duties of prosecution;
9. The City provides adequate funding for attorneys where persons are indigent as provided by law;
10. The City provides sufficient local law enforcement officers to attend Court when required and provide security for the Court;
11. The City pays witness and jury fees as required by law;
12. Fines, surcharges, or assessments that are payable to the State are forwarded to the State as required by law;
13. The City pays the judges of the Court a fixed compensation within the range provided by statute;
14. The Court is held within the jurisdiction of the Court, except as provided by law;
15. The City provides and keeps current for the Court a copy of the Utah Code, the Justice Court Manual, state laws affecting local governments, Utah Court Rules Annotated, local ordinances, and other necessary legal reference material as required under §78A-7-103;
16. All required reports and audits are filed as required by law or by rule of the Judicial Council pursuant to §78A-7-215;
17. The Court uses a common case management system and disposition reporting system as specified by the Judicial Council;

18. The Court is open for at least one hour each day that the Court is required to be open as provided by law;
19. The judges are available to attend Court and conduct Court business as needed;
20. The Court has the following furnishings: a desk and chair for the judge (on a six-inch riser); a desk and chair for the court clerk, chairs for witnesses, separate tables and appropriate chairs for plaintiffs and defendants, a Utah state flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate area or room for victims and witnesses which is separate from the public, a judicial robe, a gavel, current bail schedules, a copy of the Code of Judicial Administration, and necessary forms and supplies. Office space for the judge and clerk are also provided and include a desk for the judges and a desk for the clerk, secure filing cabinets for the judges and the clerk, a telephone for the judge and a telephone for the clerk, appropriate office supplies to conduct Court business, a cash register or secured cash box, a typewriter or word processor, and access to a copy machine;
21. A clerk is present during the time the Court is open each day and during Court sessions, as required by the judges;
22. The Court has at least one peace officer (which is contracted);
23. A Court security plan has been submitted that appears to be consistent with C.J.A. Rule 3-414;
24. The Court has at least one computer with access to the Internet, and appropriate software and security/encryption technology to allow for electronic reporting and access to Driver License Division and the Bureau of Criminal Identification, as defined by the reporting and retrieval standards promulgated by the Department of Public Safety. Monthly reports are also electronically submitted to the Administrative Office of the Courts monthly. The Court also uses the CORIS case management system;
25. The Court reports required case disposition information to DLD, BCI and the Administrative Office of the Courts electronically;
26. Both judges are employed on a full-time basis;
27. The appropriate number of clerks, as required by the classification of the Court, is present during the time the Court is open each day and as needed during Court sessions;
28. The Court is open full-time during regular business hours;
29. The courtroom is dedicated for exclusive use of the Court and meets the master plan guideline adopted by the Utah Judicial Council;
30. The judges' chambers, clerk's office and courtroom are in the same building;
31. The judges share private chambers;

32. Except as provided above, the judges' chambers and the clerk's office are not shared by another entity;

33. 501 or more citations or cases are filed in the Taylorsville Justice Court each month;

I hereby advise the City of Taylorsville that the above-referenced items are all requirements for the operation of a justice court. Based on my findings with respect to the above-referenced items, it is my opinion that the Taylorsville Justice Court meets or exceeds all requirements imposed by state statutes and by the Utah Judicial Council. It is further my opinion that the continued operation of the Taylorsville Justice Court is feasible under applicable law.

This opinion is rendered solely for the benefit of the addressees listed above. This opinion is a legal opinion only and is not a guaranty or warranty of the matters discussed herein.

If you would like to discuss the recertification process further, please contact me.

Respectfully Submitted,

Tracy S. Cowdell
Attorney at Law
Cowdell & Woolley, P.C.
32 East Main Street, Sandy, Utah 84070
(801) 550-9864
tcowdell@me.com

COURT CERTIFICATION AFFIDAVIT

Court Location: City of Taylorsville Municipal Justice Court

Judge: Marsha C. Thomas / Michael W. Kwan

Address: 2600 Taylorsville Blvd.

Taylorsville, UT 84129

Telephone: 801-963-0268

Level of Court (Circle one): I II III IV

Average Case Filings Per Month: 850

Daily Court Hours: 8 a.m. – 5 p.m.

Number of Full-time Clerks: 9

Hours Worked Per Week Per Clerk: 40

Number of Part-time Clerks: 1

Hours Worked Per Week Per Clerk: 32

This form is divided into two parts. Section I contains those requirements that are statutory and are **not** waivable. Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived pursuant to the procedure set forth in the instructions to applicant included with the application for certification.

Comes now Judge Marsha C. Thomas,

Justice Court Judge for City of Taylorsville Municipal Justice Court

_____ and,

except as specifically noted below, certifies as follows:

SECTION I

**THE FOLLOWING ITEMS ARE STATUTORY AND CANNOT BE WAIVED.
CERTIFICATION WILL NOT BE GRANTED UNLESS EACH REQUIREMENT IS MET.**

Please indicate **Yes or No** to each of the following:

1. All official court business is conducted in a public facility. yes
2. Court is open daily. yes
3. The hours of court operation are posted conspicuously. yes
4. The judge and the clerk attend court at regularly scheduled times based on the level of the court. yes
5. The judge is compensated at a fixed rate, within the statutory range. yes
6. The responsible governmental entity provides and compensates sufficient clerical personnel necessary to conduct the business of the court. yes
7. The responsible governmental entity assumes the expenses of the travel of the judge for purposes of required judicial education. yes
8. The responsible governmental entity assumes the expenses of the travel of each clerk for the purposes of attending training sessions conducted by the Judicial Council. yes
9. The responsible governmental entity provides the Court with:
 - a. Sufficient prosecutorial support yes
 - b. Funding for attorneys for indigent defendants, as appropriate yes
 - c. Sufficient local law enforcement officers to attend court as provided by statute yes
 - d. Security for the court as provided by statute yes
 - e. Witness and juror fees yes
 - f. Appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances and other necessary legal reference materials yes

10. Fines, surcharges and assessments which are payable to the state are forwarded as required by law. yes
11. Court is held within the jurisdiction of the court, except as provided by law (78A-7-212).
yes
12. All required reports and audits are filed as required by law or Rule of the Judicial Council.
yes

SECTION II

Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived or an extension granted pursuant to the procedure set forth in the instructions to applicant included with this application for recertification.

Please indicate **YES or NO** to each of the following:

1. Court is open each day as appropriate for the classification of the court. yes
2. The judge is available to attend court and to conduct court business as needed. yes
3. Minimum furnishings in the courtroom include:
 - a. Desk and chair for the judge yes
 - b. A six inch riser yes
 - c. Desk and chair for the court clerk yes
 - d. Chairs for witnesses yes
 - e. Separate tables and appropriate chairs for plaintiffs and defendants yes
 - f. A Utah State flag yes
 - g. A United States flag yes
 - h. A separate area and chairs for at least four jurors yes
 - i. A separate area with appropriate seating for the public yes
 - j. An appropriate room for jury deliberations yes
 - k. An appropriate area or room for victims and witnesses which is separate from the public yes
 - l. A judicial robe yes
 - m. A gavel yes
 - n. Current bail schedules yes
 - o. A copy of the Code of Judicial Administration yes

- p. Necessary forms and supplies yes
 - q. Office space for the judge yes
 - r. Office space for the court clerk yes
 - s. Secure filing cabinets yes
 - t. Appropriate office supplies yes
 - u. A cash register or secured cash box yes
 - v. At least one computer with internet access yes
 - w. Access to a copy machine yes
4. The appropriate number of clerks as required by the classification of the court are present during the time court is open each day and as needed during court sessions. yes
5. Does the applicant have a law enforcement department? contracted
6. If the applicant does not have a law enforcement department, identify the law enforcement agency which will provide law enforcement services for the applicant: Salt Lake County Sheriff
-
7. A security plan has been filed consistent with C.J.A. Rule 3-414. yes
8. The court electronically reports to the Driver License Division, the Bureau of Criminal Identification and the Administrative Office of the Courts as required. yes
9. If the court is a **Class I** court:
- a. Judge is employed on a full-time basis yes
 - b. Dedicated courtroom which meets the master plan guidelines adopted by the Judicial Council yes
 - c. Court has a jury deliberation room yes
 - d. Judge's chambers, clerk's office, and courtroom are in the same building yes
 - e. Judge has his or her own private chambers Two judges share chambers.
 - f. Clerk's office is separate from any other entity yes

- g. Court is open during normal business hours yes
10. If the court is a **Class II** court:
- a. Court is open (check one)
- _____ 1. 201-300 average monthly filings: at least 4 hrs./day
_____ 2. 301-400 average monthly filings: at least 5 hrs./day
_____ 3. 401-500 average monthly filings: at least 6 hrs./day
- b. Trial calendar is set at least weekly _____
- c. Courtroom configuration is permanent _____
- d. Courtroom, judge's chambers, and clerk's office are within the same building _____
- e. Judge has his or her own private chambers _____
11. If the court is a **Class III** court:
- a. Trial calendar is set at least every other week _____
- b. Court is opened (check one):
- _____ 1. 61-150 average monthly filings: at least 2 hrs./day
_____ 2. 151-200 average monthly filings: at least 3 hrs./day
12. If the court is a **Class IV** court:
- a. Trial calendar is set at least monthly _____
- b. Court is open at least 1 hour per day _____
13. **If you have responded with a "no" to any item in Section II above, you must request a waiver or extension below and justify that request.** If waiver or extension of any requirement is requested, please specify each requirement and indicate factors which demonstrate a need for the waiver or extension. For any requested extension, please include the requested extension period. (To receive a waiver or extension of any requirement, the information requested in this section must be provided. Remember that statutory requirements cannot be waived or extended).

I am familiar with the minimum operational standards for this court, and except as noted above, those standards are currently met or exceeded. During the current term of the court, I have met with the appropriate governing body of the City to review the budget of the court, review compliance with the minimum requirements and operational standards, and discuss other items of common concern.

DATED this 6 day of October, 2015.


Justice Court Judge

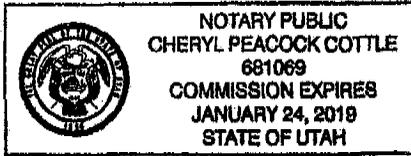
I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Executed on this 6 day of October, 2015.

ACKNOWLEDGEMENT

State of Utah
County of Salt Lake

On this 6 day of October, 2015, Marsha Thomas personally appeared before me,
 who is personally known to me,
_____ whose identity I verified on the basis of _____,
_____ whose identity I verified on the oath/affirmation of _____,
a credible witness,
to be the signer of the foregoing document, and he/she acknowledged that he/she signed it.



Cheryl Peacock Cottle
Notary Public (signature)

Attribution Clause: This Certificate is prepared for, and exclusively belongs to, the accompanying document entitled Court Certification Affidavit which consists of 8 page(s) and is dated 10/16/15.
If this Certificate is appropriated to any document other than the one described herein, it shall be deemed null and void.